



Shire of Dardanup

**CONFIRMED**

**MINUTES**

**SPECIAL  
COUNCIL MEETING**

Held

25<sup>th</sup> October 2023

At

Shire of Dardanup  
ADMINISTRATION CENTRE EATON  
1 Council Drive - EATON

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~ Electronic Format [emailed]  
Upon request.

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## **VISION STATEMENT**

“The Shire of Dardanup is a healthy, self-sufficient and sustainable community, that is connected and inclusive, and where our culture and innovation are celebrated.”

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## COUNCIL ROLE

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

## DISCLAIMER

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

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

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

## RISK ASSESSMENT

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

**SHIRE OF DARDANUP**

**MINUTES FOR THE SHIRE OF DARDANUP SPECIAL COUNCIL MEETING HELD ON WEDNESDAY, THE 25TH OF OCTOBER 2023, AT ADMINISTRATION CENTRE EATON, 1 COUNCIL DRIVE, EATON, COMMENCING AT 5.00PM.**

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

*[Local Government Act 1995 Schedule 2.3 (3) – CEO to preside: The CEO is to preside at the meeting until the office (of President) is filled.]*

The Chief Executive Officer, Mr André Schönfeldt declared the meeting open at 5.00pm, welcomed those in attendance, referred to the Disclaimer, Acknowledgement of Country, Emergency Procedure and the Affirmation of Civic Duty and Responsibility on behalf of Councillors and Officers:

*Acknowledgement of Country*

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

*Emergency Procedure*

*In the event of an emergency, please follow the instructions of the Chairperson who will direct you to the safest exit route. Once outside, you will be directed to an appropriate Assembly Area where we will meet (and complete a roll call).*

*Affirmation of Civic Duty and Responsibility*

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

*Note: Chief Executive Officer, Mr André Schönfeldt acknowledged and thanked retiring Councillors Cr. Mick Bennett, Cr. Peter Robinson and Cr. Patricia Perks, for their individual contributions and as part of council. Mr André Schönfeldt declared his privilege to welcome the returning councillors, Cr. S Gillespie and Cr. M R Hutchinson and the four new councillors, Cr. T Bell, Cr. J Manoni, Cr. T Janour and Cr. A Webster.*

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

### 2.1 Attendance

|                      |   |  |
|----------------------|---|--|
| Cr. Tyrrell Gardiner | - | Elected Member                         |
| Cr. Ellen Lilly      | - | Elected Member                         |
| Cr. Luke Davies      | - | Elected Member                         |
| Cr. Mark Hutchinson  | - | Elected Member                         |
| Cr. Stacey Gillespie | - | Elected Member                         |
| Cr. Jack Manoni      | - | Elected Member                         |
| Cr. Tony Jenour      | - | Elected Member                         |
| Cr. Annette Webster  | - | Elected Member                         |
| Cr. Taneta Bell      | - | Elected Member                         |
| Mr André Schönfeldt  | - | Chief Executive Officer                |
| Mr Chris Murray      | - | Acting Director Corporate & Governance |
| Mr Theo Naudé        | - | Director Infrastructure                |
| Mr Ashwin Nair       | - | Director Sustainable Development       |
| Mrs Susan Oosthuizen | - | Director Special Projects              |
| Mrs Donna Bailye     | - | Manager Governance                     |
| Ms Cathy Lee         | - | Manager Human Resources                |
| Mrs Brooke Sudbury   | - | Executive Support Officer              |
| Ms Tahnia Creedon    | - | Communications Officer                 |
| Mrs Natalie Hopkins  | - | Manager Financial Services             |

### 2.2 Apologies

None.

### 2.3 Leave of Absence –

None.

### 2.4 Previous Meetings

This is the first meeting of the new Council.

## 3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

None.

**4 PUBLIC QUESTION TIME**

None.

**5 APPLICATIONS FOR LEAVE OF ABSENCE**

*Note: Chief Executive Officer, Mr André Schönfeldt advised that this matter would be deferred as Elected Members had yet to be sworn in and taken the oath. [The matter was dealt with later in the meeting – Refer to page 23 of these Minutes].*

|  |
|--|
| <b>6 PETITIONS/DEPUTATIONS/PRESENTATIONS</b> |
|--|

### 6.1 Title: Swearing In / Declaration by Councillors

|                             |   |
|-----------------------------|---|
| <b>Reporting Department</b> | Executive                                     |
| <b>Responsible Officer</b>  | Mr André Schönfeldt - Chief Executive Officer |
| <b>Reporting Officer</b>    | Mrs Donna Bailye – Manager Governance         |
| <b>Legislation</b>          | Local Government Act 1995                     |
| <b>Attachments:</b>         | Appendix SCM: 6.1 – Risk Assessment           |

#### **Overview**

Chief Executive Officer, Mr André Schönfeldt to preside over the swearing in and the signing of the Declarations of the newly Elected Members [*Local Government (Constitution) Regulations 1998, Part 3, r3*] and [*Oaths, Affidavits and Statutory Declarations Act 2005, Schedule 2. Item 21*].

#### **Background**

Following the 21st of October 2023 Election, the first task is for newly elected Councillors to complete their Declarations of Office.

#### **Legal Implications**

Compliance with:

- *Local Government (Constitution) Regulations 1998, Form 7.* [[Form 7 - Declaration by Councillor](#)]
- *Local Government Act 1995 Schedule 2.3*
  3. CEO to preside
 

*The CEO is to preside at the meeting until the office (of President) is filled.*
- *Local Government Act 1995 Section 2.29.*
  - 2.29. Declaration
    - (1) *A person elected as an elector mayor or president or as a councillor has to make a declaration in the prescribed form before acting in the office.*
    - (2) *A person elected by the council as mayor, president, deputy mayor or deputy president has to make a declaration in the prescribed form before acting in the office.*
    - (3) *A declaration required by this section is to be taken or made before a prescribed person.*
    - (4) *A person who acts in an office contrary to this section commits an offence.*  
*Penalty: \$5,000 or imprisonment for one year.*

#### **Council Plan**

13.1 - Adopt best practice governance.

13.1 - Adopt best practice governance.

14.1 - Increase community awareness, knowledge and understanding of Shire activities and key messages.

14.2 - Ensure equitable, inclusive and transparent engagement and decision- making.

**Environment** - None.



**Precedents**

Ordinary election processes take place every two years.

**Budget Implications** - None.

**Budget – Whole of Life Cost** - None.

**Council Policy Compliance** - None.

**Risk Assessment**

The Risk Management Governance Framework has been considered in arriving at the officer recommendation. (Appendix SCM: 6.1)

| <b>TIER 1 – No discernible Inherent Risk has been identified (no Risk Theme or Consequence).</b> |  |
|--|--|
| Risk Event   | Swearing In / Declaration by Councillors                         |
| Inherent Risk Rating (prior to treatment or control)   | Low (1 - 4)  |
| Risk Action Plan (treatment or controls proposed)  | As the Inherent Risk Rating is below 12, this is not applicable. |
| Residual Risk Rating (after treatment or controls)   | As the Inherent Risk Rating is below 12, this is not applicable. |

**Officer Comment**

The following two Councillors two year terms will run from the 21st of October 2023 to 17<sup>th</sup> of October 2025:

1. Cr. J D Manoni
2. Cr. A L Webster

The following four Councillors four year terms will run from the 21st of October 2023 to the 15<sup>th</sup> of October 2027:

1. Cr. T Bell
2. Cr. S L Gillespie
3. Cr. A C Jenour
4. Cr. M R Hutchinson

**PROCESS:**

*Chief Executive Officer, Mr André Schönfeldt to preside over the swearing in of the following Councillors who are to read aloud and sign a Declaration of Office form [Local Government (Constitution) Regulations 1998, Form 7]:*

**Form 7. Declaration by elected member of council [r. 13(1)(c)]***Local Government Act 1995**Local Government (Constitution) Regulations 1998**Declaration by elected member*

*I, (insert name), of (insert residential address), having been elected to the office of Councillor of the Shire of Dardanup, declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the Code of Conduct adopted by the Shire of Dardanup under section 5.104 of the Local Government Act 1995.*

*Declared at: 1 Council Drive, Eaton on Wednesday the 21st of October 2023*

*By: [Signature of Councillor]*

*Before me: [Signature] Mr André Schönfeldt – Chief Executive Officer, Shire of Dardanup  
Authorised Person [Oaths, Affidavits and Statutory Declarations Act 2005,  
Schedule 2. Item 21].*

### SWEARING IN

The following Councillors, read aloud and signed the Declaration by Elected Member of Council (Form 7), Local Government (Constitution) Regulations 1998, section 13(1)(c); and were formally Sworn In, as witnessed by Chief Executive Officer, Mr André Schönfeldt.

|                                    |   |
|------------------------------------|---|
| Councillor Annette Webster         | [Form 7 Signed Declaration to be attached with minutes] |
| Councillor Jack Manoni             | [Form 7 Signed Declaration to be attached with minutes] |
| Councillor Anthony Charles Jenour  | [Form 7 Signed Declaration to be attached with minutes] |
| Councillor Mark Richard Hutchinson | [Form 7 Signed Declaration to be attached with minutes] |
| Councillor Stacey Gillespie        | [Form 7 Signed Declaration to be attached with minutes] |
| Councillor Taneta Bell             | [Form 7 Signed Declaration to be attached with minutes] |

## 6.2 Title: Election of Shire President

|                             |   |
|-----------------------------|---|
| <b>Reporting Department</b> | Executive                                     |
| <b>Responsible Officer</b>  | Mr André Schönfeldt - Chief Executive Officer |
| <b>Reporting Officer</b>    | Mrs Donna Bailye – Manager Governance         |
| <b>Legislation</b>          | Local Government Act 1995                     |
| <b>Attachment</b>           | Appendix SCM: 6.2                             |

### **Overview**

To elect the Shire President for the Council of the Shire of Dardanup for the ensuing 2 years.

### **Background**

Following the 21st of October 2023 Election, the first task is for newly elected Councillors to complete their Declarations of Office, then the new Council is to elect a Shire President and a Deputy Shire President.

### **Legal Implications**

Compliance with:

- Local Government (Constitution) Regulations 1998, Form 7. [[Form 7 - Declaration by President](#)]
- Local Government Act 1995 Section 2.29.

#### *2.29. Declaration*

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

- Local Government Act 1995 – Schedule 2.3

*Schedule 2.3 — When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council [Sections 2.11(1)(b) and 2.15] – Division 1 — Mayors and presidents*

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

- (1) *The office is to be filled as the first matter dealt with —*
  - (a) *at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*
  - (b) *at the first meeting of the council after an extraordinary vacancy occurs in the office.*
- (2) *If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.*

#### **4. How mayor or president is elected**

- (1) *The council is to elect a councillor to fill the office.*
- (2) *The election is to be conducted by the CEO in accordance with the procedure prescribed.*

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

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

**Council Plan**

13.1 - Adopt best practice governance.

13.1 - Adopt best practice governance.

14.1 - Increase community awareness, knowledge and understanding of Shire activities and key messages.

14.2 - Ensure equitable, inclusive and transparent engagement and decision- making.

**Environment** - None.

**Precedents**

The Shire President is elected following each Ordinary Election held every 2 years.

**Budget Implications** - None.

**Budget – Whole of Life Cost** - None.

**Council Policy Compliance** - None.

**Risk Assessment**

The Risk Management Governance Framework has been considered in arriving at the officer recommendation. (Appendix SCM: 6.2)

| <b>Tier 2 – ‘Low’ or ‘Moderate’ Inherent Risk.</b>   |  |
|--|--|
| Risk Event   | Election of Shire President                                      |
| Inherent Risk Rating (prior to treatment or control) | Low (1 - 4)  |
| Risk Action Plan (treatment or controls proposed)    | Not required.  |
| Residual Risk Rating (after treatment or controls)   | As the Residual Risk Rating is below 12, this is not applicable. |

### **Officer Comment**

The following process will take place:

- The Chief Executive Officer to call for nominations for the office of Shire President for the ensuing two year term.
- Nominations for the Office of President are to be given to the Chief Executive Officer in writing.
- The position of Shire President runs from the 21st of October 2023 until the next Local Government elections in 2025. The office of President is for a two year term – expires at the time when the mayor or president is next elected at or after the local government’s next ordinary elections (*Local Government Act 1995 2.28(2) Item 11*).
- If there is only one nominee, the Nominee to accept the nomination in writing to the position of Shire President, read aloud and sign a Declaration of Office for Shire President.
- If there is more than one nomination received in writing, a secret ballot will take place.
- A draw is to be conducted for the order of names on the ballot paper and the position numbers and names recorded.
- Each Councillor to make a short statement in support of their respective nominations.
- A ballot paper is to be prepared and issued to Councillors with the back of each ballot paper being initialled by Chief Executive Officer.
- All Councillors are to complete their ballot paper behind a secluded booth and lodge their ballot paper in a sealed ballot box.
- The Chief Executive Officer to count the votes, overseen by Deputy Chief Executive Officer and Manager Governance.
- Preferential voting will be undertaken in accordance with *Schedule 4.1 – How to count votes and ascertain the result of an election* of the Local Government Act 1995
- The Elected Shire President, to be sworn in then to take over the position of Chairperson.

### **Legal Implications**

Chief Executive Officer, Mr André Schönfeldt to preside over the swearing in and the signing of the Declarations of the newly elected Shire President [*Local Government (Constitution) Regulations 1998, Part 3, r3*] and [*Oaths, Affidavits and Statutory Declarations Act 2005, Schedule 2. Item 21*].

Compliance with the Local Government Act 1995 Schedule 2.3

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

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

- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.*

### **Voting Requirements**

By secret ballot (Schedule 2.3 4. (5)) (Schedule 4.1) "The candidate that receives the greater number of votes is elected."

### **PROCESS**

*Chief Executive Officer, Mr André Schönfeldt called for nomination for the position of Shire President.*

*Cr. J D Manoni and Cr. L W Davies provided nomination forms, nominating Cr. T G Gardiner for the position of Shire President. Cr. T G Gardiner accepted Cr. J D Manoni and Cr. L W Davies nominations.*

*Chief Executive Officer, Mr André Schönfeldt called for any further nominations. No nominations were presented.*

*As there were no further nominations received, and only one Nominee the Chief Executive Officer, Mr André Schönfeldt declared Cr T G Gardiner Shire President of the Shire of Dardanup.*

*Cr T G Gardiner read aloud the Declaration by Shire President.*

#### **DECLARATION BY SHIRE PRESIDENT**

The Chief Executive Officer, Mr André Schönfeldt declared Cr. T G Gardiner as Shire President for the ensuing two year term, expiring at the next Ordinary Election to be held on the 18<sup>th</sup> of October 2025.

Cr. T G Gardiner was duly sworn in as Shire President by making the Declaration of Office of the President; and

Assumed the role of Chairperson being the newly elected Shire President [5.22pm].

[Form 7 Signed Declaration - attached with minutes.]

### **DECLARATION**

**Following due process as per Section 5.12 and Schedule 2.3 of the Local Government Act 1995 the following person is declared Shire President of the Shire of Dardanup:**

- **Cr. Tyrrell G Gardiner**

*Discussion: Cr. T G Gardiner thanked the new Councillors and advised that he was looking forward to working with all of them, noting it is now a new multi generation Council. Cr. T G Gardiner advised that there was a degree of trepidation in his taking on the President role as he was following in footsteps of ex Cr. Mick T Bennett. Cr. T G Gardiner stated that he hoped he can carry out the role with the same humility and efficiency as ex Cr Bennett.*

*Discussion:* Chief Executive Officer, André Schönfeldt advised that Shire President, Cr T G Gardiner was to assume the Chair for the remainder of the meeting.

*Cr. T G Gardiner requested that the Chief Executive Officer, Mr André Schönfeldt carry out the process for election of the Deputy Shire President [5.23pm].*

### 6.3 Title: Election of Deputy Shire President

|                             |   |
|-----------------------------|---|
| <b>Reporting Department</b> | Executive                                     |
| <b>Responsible Officer</b>  | Mr André Schönfeldt - Chief Executive Officer |
| <b>Reporting Officer</b>    | Mrs Donna Bailye – Manager Governance         |
| <b>Legislation</b>          | Local Government Act 1995                     |
| <b>Attachments</b>          | Appendix ORD: 6.3                             |

#### **Overview**

To elect the Deputy President for the Council of the Shire of Dardanup for the ensuing 2 years.

#### **Background**

Following the 21<sup>st</sup> of October 2023 Election, the first task is for newly elected Councillors to complete their Declarations of Office, then the new Council is to elect a President and a Deputy President.

#### **Legal Implications**

*Compliance with:*

- *Local Government (Constitution) Regulations 1998, Form 7. [\[Form 7 - Declaration by Deputy President\]](#)*
- *Local Government Act 1995 Section 2.29.*

##### *2.29. Declaration*

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

Compliance with the Local Government Act 1995 Section 2.29.

##### *2.29. Declaration*

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

## Local Government Act 1995 – Schedule 2.3

*Schedule 2.3 – When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council [Sections 2.11(1)(b) and 2.15] – Division 1 – Mayors and presidents*

### **7. When council elects deputy mayor or deputy president**

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

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

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

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

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

- (1) *If, when the votes cast under clause 8(5) are counted, there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and, not more than 7 days later, a special meeting of the council is to be held.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the special meeting is held.*



- (3) *When the special meeting is held the council members are to vote again on the matter by secret ballot as if they were voting at an election.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, under Schedule 4.1 as if those votes were votes cast at an election.*

**Council Plan**

- 13.1 - Adopt best practice governance.
- 14.1 - Increase community awareness, knowledge and understanding of Shire activities and key messages.
- 14.2 - Ensure equitable, inclusive and transparent engagement and decision- making.

**Environment** - None.

**Precedents**

The Deputy Shire President is elected following each Ordinary Election held every 2 years.

**Budget Implications** - None.

**Budget – Whole of Life Cost** - None.

**Council Policy Compliance** - None.

**Risk Assessment**

The Risk Management Governance Framework has been considered in arriving at the officer recommendation. (Appendix SCM: 6.3)

| Tier 2 – ‘Low’ or ‘Moderate’ Inherent Risk.          |  |
|--|--|
| Risk Event   | Election of Deputy Shire President                               |
| Inherent Risk Rating (prior to treatment or control) | Low (1 - 4)  |
| Risk Action Plan (treatment or controls proposed)    | Not required.  |
| Residual Risk Rating (after treatment or controls)   | As the Residual Risk Rating is below 12, this is not applicable. |

**Officer Comment**

The following process will take place:

- The Shire President (or Chief Executive Officer if the Shire President is not present), to call for nominations for the office of Deputy Shire President for the ensuing two year term.
- Nominations for the Office of Deputy Shire President are to be given to the Chief Executive Officer in writing.
- The position of Deputy Shire President runs from the 21st of October 2023 until the next Local Government elections in 2025. The office of Deputy President is for a two year term – expires at the start of the first meeting of the council after the local government’s next ordinary elections (*Local Government Act 1995 2.28(2) Item 12*).

- If there is only one nominee, the Nominee to accept the nomination in writing to the position of Deputy Shire President, read aloud and sign a Declaration of Office for Deputy Shire President.
- If there is more than one nominations received in writing, a secret ballot will take place.
- A draw is to be conducted for the order of names on the ballot paper and the position numbers and names recorded.
- Each Councillor to make a short statement in support of their respective nominations.
- A ballot paper is to be prepared and issued to Councillors with the back of each ballot paper being initialled by Chief Executive Officer.
- All Councillors are to complete their ballot paper behind a secluded booth and lodge their ballot paper in a sealed ballot box.
- The Chief Executive Officer to count the votes, overseen by Deputy Chief Executive Officer and Manager Governance.
- Preferential voting will be undertaken in accordance with *Schedule 4.1 – How to count votes and ascertain the result of an election* of the Local Government Act 1995
- The Elected Deputy Shire President, to be sworn in.

### **Legal Implications**

Compliance with the Local Government Act 1995 Schedule 2.3

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

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

### **Voting Requirements**

By secret ballot (Schedule 2.3 4. (5)) (Schedule 4.1) "The candidate that receives the greater number of votes is elected."

## **PROCESS**

*Chief Executive Officer, Mr André Schönfeldt called for nominations for the position of Deputy Shire President.*

*Cr. L W Davies provided a nomination form for Cr. S L Gillespie for the position of Deputy Shire President. Cr. S L Gillespie also nominated herself for the position of Deputy Shire President. Cr. S L Gillespie accepted the nomination.*

*Cr. M R Hutchinson provided a nomination form for Cr. E P Lilly for the position of Deputy Shire President. Cr. E P Lilly accepted the nomination.*

*As no further nominations were received, the Chief Executive Officer undertook a ballot by random draw for voting positions on the Ballot Paper. Cr E P Lilly was drawn as position one and Cr S L Gillespie was drawn as position two on the ballot paper.*

*Each of the nominees were allowed an opportunity to speak in support of their nomination. Both Cr. E P Lilly and Cr. S L Gillespie addressed Council providing reasons for their standing for the role of Deputy Shire President.*

*Ballot Papers were then distributed to all Elected Members and a vote was conducted.*

*Chief Executive Officer, André Schönfeldt and Manager Human Resources, Cathy Lee opened the ballot box and the ballot papers were counted in view of Council and the gallery. Following the Count the Chief Executive Officer, Mr André Schönfeldt announced the results of the vote -*

- *Votes for Cr. E P Lilly - 6*
- *Votes for Cr. S L Gillespie - 3*

*Chief Executive Officer, Mr André Schönfeldt declared that as a majority vote had been achieved in the count, Cr E P Lilly was declared as Deputy Shire President of the Shire of Dardanup.*

*Cr E P Lilly read aloud the Declaration by Deputy Shire President.*

#### **DECLARATION BY DEPUTY SHIRE PRESIDENT**

The Chief Executive Officer, Mr André Schönfeldt declared Cr. E P Lilly as Deputy Shire President for the ensuing two year term, expiring at the next Ordinary Election to be held on the 18<sup>th</sup> of October 2025.

Cr. E P Lilly was sworn in as Deputy Shire President by making the Declaration of Office of the Deputy Shire President [5.44pm].

[Form 7 Signed Declaration attached with minutes.]

#### **DECLARATION**

**Following due process as per Section 5.12 and Schedule 2.3 of the Local Government Act 1995 the following person is declared Deputy Shire President of the Shire of Dardanup:**

- **Cr. Ellen P Lilly -**

*Discussion: Chief Executive Officer, André Schönfeldt requested that Council suspend standing order to enable the taking of official photos.*

**SUSPENSION OF STANDING ORDERS****COUNCIL RESOLUTION**

259-23            MOVED -            Cr. T G Gardiner                            SECONDED -            Cr. E P Lilly

**THAT Council suspend Standing Orders [5.45pm] in order to take a short break to have official photographs taken of the new Council.**

CARRIED  
9/0

**COUNCIL RESOLUTION**

260-23            MOVED -            Cr. T G Gardiner                            SECONDED -            Cr. S L Gillespie

**THAT Council resumes Standing Orders [5.50pm].**

CARRIED  
9/0

*Note: All meeting attendees were present when the meeting was resumed. Shire President, Cr. T G Gardiner resumed the chair.*

**STANDING ORDERS RESUMED**

## 6.4 Title: Allocation of Seats

|                             |  |
|-----------------------------|--|
| <b>Reporting Department</b> | <i>Executive</i>                                     |
| <b>Responsible Officer</b>  | <i>Mr André Schönfeldt - Chief Executive Officer</i> |
| <b>Reporting Officer</b>    | <i>Mrs Donna Bailye - Governance Coordinator</i>     |
| <b>Legislation</b>          | <i>Local Government Act 1995</i>                     |
| <b>Attachments</b>          | <i>Appendix SCM: 6.4 – Risk Assessment Tool</i>      |

### **Overview**

According to Standing Orders Local Law 2014 S7.2 (2), the Chief Executive Officer will conduct a ballot for the allocation of seating in the Council Chambers.

### **PROCESS**

*Chief Executive Officer, Mr André Schönfeldt conducted a ballot for the seating of elected members. It was noted that the Shire President and the Deputy Shire President positions at seats one and two were already declared. Cr. M R Hutchinson's request to be seated at Seat Six was accepted. The ballot was drawn for the remaining six seats and the councillors assumed their seats accordingly.*

**Change to Officer Recommendation** - No Change.

### **OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION**

261-23      MOVED -      Cr. T G Gardiner      SECONDED –      Cr. S L Gillespie

**THAT Council endorses the following seating arrangements for Council Chambers:**

| <b>SEAT</b> | <b>NAME OF ELECTED MEMBER</b>            |
|-------------|--|
| One         | Shire President – Cr Tyrell G Gardiner   |
| Two         | Deputy Shire President – Cr. Ellen Lilly |
| Three       | Cr. Taneta Bell                          |
| Four        | Cr. Luke Davies                          |
| Five        | Cr. Tony Jenour                          |
| Six         | Cr. Mark Hutchinson                      |
| Seven       | Cr. Annette Webster                      |
| Eight       | Cr. Stacey Gillespie                     |
| Nine        | Cr. Jack Manoni                          |

CARRIED  
9/0

**Legal Implications**

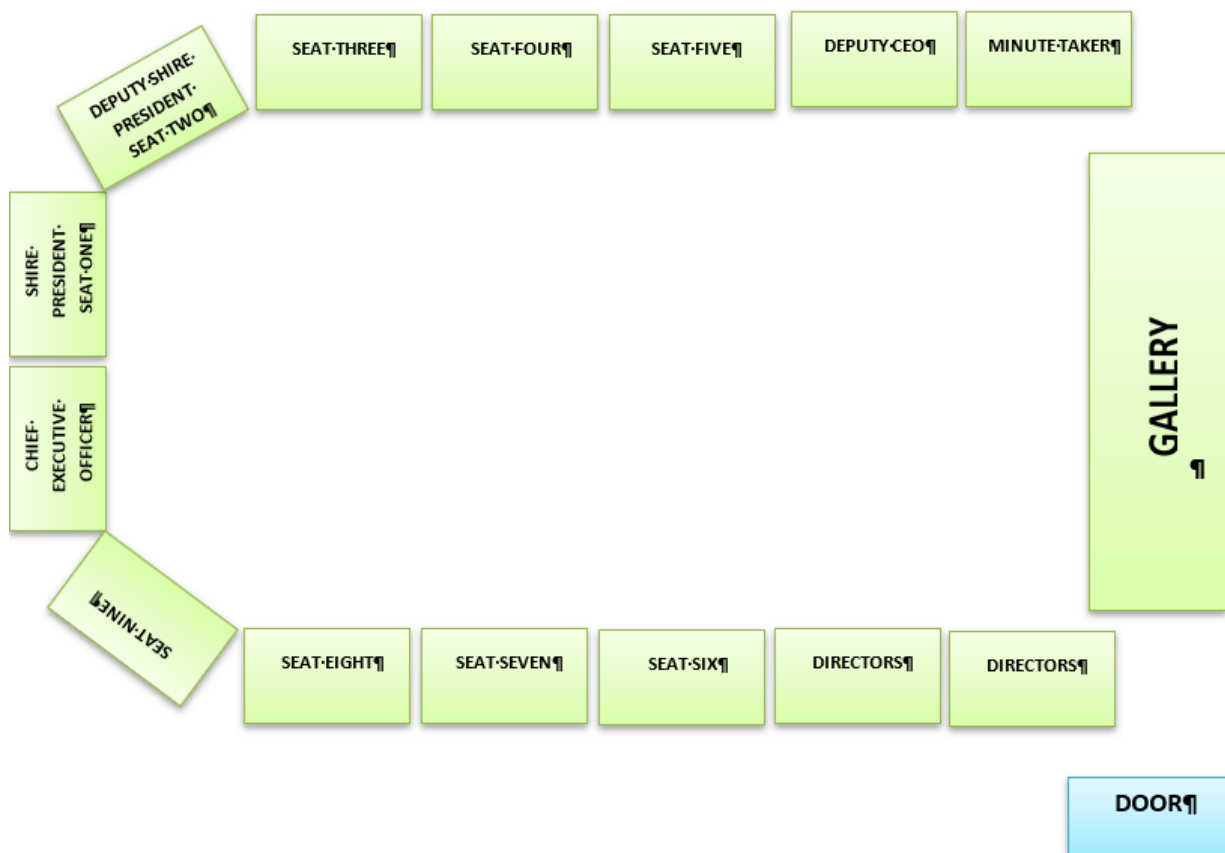
*Standing Orders Local Law 2014, Section 7.2 (2)*

7.2 *Members to occupy own seats*

- (1) *At meetings of the Council each member is to occupy the place assigned to that member within the Council Chamber.*
- (2) *At the first meeting held after each ordinary elections day, the CEO is to allot by random draw, a position at the Council table to each Councillor and the Councillor is to occupy that position when present at meetings of the Council until such time as there is a call by a majority of Councillors for a re-allotment of positions.*

**Officer Comment**

The following seating arrangement option for the Council Chambers is presented below:



**PROCESS:**

Elected members to vacate their seats and await the outcome of the ballot for seats three to nine.

The Chief Executive Officer is to draw a ballot for the seating as per the Shire of Dardanup Standing Orders.

END REPORT

**7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING****7.1 Ordinary Council Meeting Held on the 18th of October 2023**

*Note: The Minutes of the Ordinary Council Meeting held on Wednesday, 18th of October 2023 will be confirmed at the next Ordinary Council Meeting on Wednesday, 22<sup>nd</sup> November 2023.*

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

None.

*Note: Returned to Applications for Leave of Absence [6.02pm].*

**5 APPLICATIONS FOR LEAVE OF ABSENCE****COUNCIL RESOLUTION**

262-23      MOVED -      Cr. T G Gardiner      SECONDED –      Cr. E P Lilly

**THAT Cr. S L Gillespie be granted leave of absence for the Ordinary Council Meeting to be held on the 22<sup>nd</sup> of November 2023.**

CARRIED  
9/0

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

None.

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

None.

## 11 DECLARATION OF INTEREST

“Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.”

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

*Note: Chairperson to ask Councillors and Staff if there are any Declarations of Interest to be declared.*

- *Chief Executive Officer, Mr André Schönfeldt declared an impartiality Interest in item 12.1 “Appointment of Councillors, Staff and Department Representatives to Council Committees” as it directly relates to his employment with the Shire of Dardanup.*

## 12 REPORTS OF OFFICERS AND COMMITTEES

### 12.1 Title: Appointment of Councillors, Staff and Department Representatives to Council Committees

|                             |  |
|-----------------------------|--|
| <b>Reporting Department</b> | <i>Executive</i>                                     |
| <b>Responsible Officer</b>  | <i>Mr André Schönfeldt - Chief Executive Officer</i> |
| <b>Reporting Officer</b>    | <i>Mrs Donna Bailye – Manager Governance</i>         |
| <b>Legislation</b>          | <i>Local Government Act 1995</i>                     |
| <b>Council Role</b>         | <i>Legislative.</i>                                  |
| <b>Voting Requirement</b>   | <i>Absolute Majority.</i>                            |
| <b>Attachments</b>          | <i>Appendix SCM: 12.1 – Risk Assessment</i>          |

### DECLARATION OF INTEREST

Chief Executive Officer, Mr André Schönfeldt declared an Impartiality Interest in this item.

Please refer to Part 11 ‘Declaration of Interest’ for full details.

### **Overview**

This report to Council provides for the appointment and endorsement of Councillors, staff, Community and Department Representatives to the Shire of Dardanup Council Committees for the period October 2021 to October 2023.

### **Change to Officer Recommendation**

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



- Council appointed the Chief Bush Fire Control Officer to the Local Emergency Management Committee

## OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION

263-23                      MOVED -                      Cr. E P Lilly                      SECONDED –                      Cr. M R Hutchinson

**THAT Council endorse the following Elected Members, Staff and Department Representatives to the following Council Committees [Note: that all appointments expire on the day prior to the next ordinary local government election to be held in October 2025 or in accordance with Section 5.11 of the Local Government Act 1995.**

### **Bushfire Advisory Committee**

Terms of Reference: [2023 - ToR - Bushfire Advisory Committee](#)

- Cr. A C Jenour
- Cr. T G Gardiner
- Cr. T Bell [Proxy]
- Chief – Bush fire Control Officer
- Fire Control Officer – Waterloo District
- Fire Control Officer – Eaton Townsite District
- Fire Control Officer – Upper Ferguson District
- Fire Control Officer – Joshua/Crooked Brook District
- Fire Control Officer – West Dardanup District
- Fire Control Officer – Ferguson District
- Fire Control Officer – Wellington Mill District
- Fire Control Officer – Burekup District
- Fire Control Officer – Dardanup Central
- Fire Weather Officer
- Representative – Department of Parks and Wildlife
- Representative – Department of Fire & Emergency

### **Integrated Planning Committee – all**

Terms of Reference: [2023 - ToR - Integrated Planning Committee](#)

- Cr. T G Gardiner
- Cr. E P Lilly
- Cr. T Bell
- Cr. J D Manoni
- Cr. M R Hutchinson
- Cr. E P Lilly
- Cr. L W Davies
- Cr. A L Webster
- Cr. A C Jenour

**Local Emergency Management Committee**Terms of Reference: [2023 - ToR - Local Emergency Management Committee](#)

- Cr. T G Gardiner
- Cr. E P Lilly
- Cr. A C Jenour [Proxy]
- Cr. M R Hutchinson [Proxy]
- Representative – Local Recovery Coordinator
- Representative – WA Police [Deputy Chairperson]
- Representative – Department of Child Protection & Family Services
- Representative – Department of Agriculture & Food WA
- Representative – Department of Parks & Wildlife
- Representative – Department of Health
- Representative – Main Roads WA
- Representative – Department of Fire & Emergency Services - Fire
- Representative – Department of Fire & Emergency Services – Natural Hazards
- Representative – Public Transport Authority
- Representative – Water Corporation
- Representative – Harvey Water
  
- Representative – Western Power
- Representative – Aqwest
- Representative – St John Ambulance WA
- Representative – Telstra Australia
- Representative – Australian Railroad Group

**Audit & Risk Committee**Terms of Reference: [2023 - ToR - Audit and Risk Committee](#)

- Cr. T G Gardiner
- Cr. E P Lilly
- Cr. S L Gillespie
- Cr. M R Hutchinson

**CEO Review Committee**Terms of Reference: [2023 - ToR - CEO Review Committee](#)

- Cr. E P Lilly
- Cr. M R Hutchinson
- Cr. T G Gardiner

**Shire of Harvey & Shire of Dardanup Joint Town Planning Scheme No. 1 Committee**Terms of Reference: [2023 - ToR - SoH and SoD Joint Town Planning Scheme No. 1 Committee](#)

- Cr. Cr T G Gardiner
- Cr. S L Gillespie
- Cr. A L Webster
- Cr. J D Manoni [Deputy]

**Behaviour Complaints Committee - all**Terms of Reference: [2023 - ToR - Behaviour Complaints Committee](#)

- Cr. T G Gardiner
- Cr. E P Lilly
- Cr. T Bell
- Cr. J D Manoni
- Cr. A L Webster

**Deputy Members:**

- Cr. A C Jenour
- Cr. L W Davies
- Cr. S L Gillespie
- Cr. M R Hutchinson

CARRIED  
9/0

By Absolute Majority

**Background**

In accordance with section 5.8, 5.9 and 5.10 of the Local Government Act, Council is empowered to establish committees and elect persons to serve on those committees.

In accordance with Section 5.11 of the Local Government Act 1995, tenure to the committee membership continues until:

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) *the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or*
  - (b) *the person resigns from membership of the committee;*  
*or*
  - (c) *the committee is disbanded; or*
  - (d) *the next ordinary elections day, whichever happens first.*

**Legal Implications**

The following Local Government Act requirements apply to the business before Council in relation to committees.

5.8. Establishment of committees

*A local government may establish\* committees of 3 or more persons to assist the Council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

*\* Absolute majority required.*

5.9. Types of committees

- (1) *In this section —*

**“other person”** *means a person who is not a Council member or an employee.*

- (2) *A committee is to comprise —*
- (a) *Council members only;*
  - (b) *Council members and employees;*
  - (c) *Council members, employees and other persons;*
  - (d) *Council members and other persons;*
  - (e) *employees and other persons; or*
  - (f) *other persons only.*

#### 5.10. Appointment of committee members

- (1) *A committee is to have as its members —*
- (a) *persons appointed\* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
  - (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*  
\* *Absolute majority required.*
- (2) *At any given time each Council member is entitled to be a member of at least one committee referred to in section 5.9(2) (a) or (b) and if a Council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that Council member in the persons appointed under subsection (1) (a) to at least one of those committees as the local government decides.*
- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*
- (4) *If at a meeting of the Council a local government is to make an appointment to a committee that has or could have a Council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the Council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
- (a) *to be a member of the committee; or*
  - (b) *that a representative of the CEO be a member of the committee,*  
*the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.*

#### 5.11. Tenure of committee membership

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) *the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;*
  - (b) *the person resigns from membership of the committee;*
  - (c) *the committee is disbanded; or*
  - (d) *the next ordinary elections day, Which ever happens first.*

### **Council Plan**

13.1 - Adopt best practice governance.

13.1 - Adopt best practice governance.

14.1 - Increase community awareness, knowledge and understanding of Shire activities and key messages.

14.2 - Ensure equitable, inclusive and transparent engagement and decision- making.

**Environment** - None.

### **Precedents**

Council endorses Council Committees and member nominations following each election.

### **Budget Implications**

The administration of committees requires significant resources to prepare Agenda's, Notes, Report and Minutes. In addition to the administration, staff time is also taken up with queries from committee members, attendance to meetings and workshops.

At some meetings up to five staff members may be in attendance. It is estimated that the administration of a single Committee could cost as much as \$16,000 per annum in staff productivity and time.

It is therefore important that Committees are run efficiently and effectively to assure maximum benefit is achieved. It should be noted however, that Committees and Working Groups play an important part in Community Engagement and allows great opportunities for community members to be actively involved in Local Government activities and initiatives.

**Budget – Whole of Life Cost** - None.  
**Council Policy Compliance** - None.

### **Risk Assessment**

The Risk Management Governance Framework has been considered in arriving at the officer recommendation.(Appendix SCM: 12.1)

| <b>Tier 2 – 'Low' or 'Moderate' Inherent Risk.</b>   |  |
|--|--|
| Risk Event   | Appointment of Councillors, Staff and Department Representatives to Council Committees |
| Inherent Risk Rating (prior to treatment or control) | Low (1 - 4)  |
| Risk Action Plan (treatment or controls proposed)    | Not required.  |
| Residual Risk Rating (after treatment or controls)   | As the Residual Risk Rating is below 12, this is not applicable.                       |

### **Officer Comment**

At its Ordinary Council Meeting held on the 18<sup>th</sup> of September 2023, Council noted and/or endorsed the updated Terms of Reference for the following Committees:

- Bush Fire Advisory Committee
- Integrated Planning Committee
- Local Emergency Management Committee
- Audit and Risk Committee
- CEO Review Committee
- Shire of Harvey & Shire of Dardanup Joint Town Planning Scheme No. 1 Committee

- Behaviour Complaints Committee

For the period of October 2021 to the elections held on the 21<sup>st</sup> of October 2023, the following Councillors were members of the respective Committees:

**Bushfire Advisory Committee**

- Cr. T Gardiner
- Cr. M T Bennett [Deputy]
- Cr. S L Gillespie - Proxy

**Integrated Planning Committee**

- Cr. M T Bennett
- Cr. P Robinson
- Cr. L Davies
- Cr. T G Gardiner
- Cr. E P Lilly
- Cr. P R Perks
- Cr. S L Gillespie
- Cr. M R Hutchinson
- Cr. J Dow

**Local Emergency Management Committee**

- Cr. M T Bennett [Chairperson]
- Cr. E P Lilly
- Cr. P R Perks - Proxy

**Audit & Risk Committee**

- Cr. M T Bennett
- Cr. P R Perks
- Cr. E P Lilly
- Cr. T G Gardiner
- Cr. M R Hutchinson

**CEO Review Committee**

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

**Shire of Harvey & Shire of Dardanup Joint Town Planning Scheme No. 1 Committee**

- Cr. M T Bennett
- Cr. P R Perks
- Cr. T G Gardiner
- Cr. P Robinson [Deputy]

**Behaviour Complaints Committee**

- Cr. Michael Bennett
- Cr. Tyrrell Gardiner
- Cr. Patricia Perks
- Cr. Ellen Lilly
- Cr. Luke Davies

**Deputy Members:**

- Cr Peter Robinson
- Cr Mark Hutchinson
- Cr Stacey Gillespie

END REPORT

**12.2 Title: Appointment of Delegates and Representatives to Various Community & Regional Committees**

|                             |  |
|-----------------------------|--|
| <b>Reporting Department</b> | <i>Executive</i>                                     |
| <b>Responsible Officer</b>  | <i>Mr André Schönfeldt - Chief Executive Officer</i> |
| <b>Reporting Officer</b>    | <i>Mrs Donna Bailye - Manager Governance</i>         |
| <b>Legislation</b>          | <i>Local Government Act 1995</i>                     |
| <b>Council Role</b>         | <i>Executive/Strategic.</i>                          |
| <b>Voting Requirement</b>   | <i>Absolute Majority.</i>                            |
| <b>Attachments</b>          | <i>Appendix SCM: 12.2 – Risk Assessment</i>          |

***Overview***

This report to Council provides for the appointment and endorsement of Delegates and Representatives to Various Community and Regional Committees for the period October 2023 to October 2025.

***Change to Officer Recommendation*** - No Change.

**OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION**

264-23      MOVED -      Cr. L W Davies      SECONDED –      Cr. A L Webster

**THAT Council:**

1. **Endorse the following Councillors as delegates to the following Community, External Committees, Boards and Associations and Ministerial Appointments:**

**Regional Road Group**

- Cr. T G Gardiner [Delegate]  
Cr. A C Jenour [Deputy Delegate]

**South West WALGA Zone**

- Cr. T G Gardiner [Delegate]  
Cr. E P Lilly [Deputy Delegate]

**Bunbury Geographe Group of Councils**

- Cr. T G Gardiner [Delegate]  
Cr. S L Gillespie [Deputy Delegate]

**Note: All appointments expire on the day prior to the next ordinary local government election date in October 2021 or in accordance with Section 5.11 of the Local Government Act 1995, with the exception of those appointed by the relevant Minister.**

2. **Notes that the Shire President is to be Council's representative on the Bunbury Geographe Economic Alliance (BGEA) with the Deputy Shire President to attend if the Shire President is not able to attend, as per the BGEA Constitution.**

CARRIED  
9/0

*By Absolute Majority*

***Background***

Council endorses representatives for external groups following each ordinary council election or as required.

**Regional Road Group**

- Cr. M T Bennett [Delegate]
- Cr. P S Robinson [Deputy Delegate]



Bunbury Geographe Economic Alliance

- Cr. M T Bennett [Delegate]
- Cr. T G Gardiner [Deputy Delegate]

South West WALGA Zone

- Cr. M T Bennett [Delegate]
- Cr. T G Gardiner [Deputy Delegate]

**Legal Implications** - None.

**Council Plan**

13.1 - Adopt best practice governance.

13.1 - Adopt best practice governance.

14.1 - Increase community awareness, knowledge and understanding of Shire activities and key messages.

14.2 - Ensure equitable, inclusive and transparent engagement and decision- making.

**Environment** - None.

**Precedents**

Council endorses representatives for external groups following each ordinary council election or as required.

**Budget Implications** - None.

**Budget – Whole of Life Cost** - None.

**Council Policy Compliance** - None.

**Risk Assessment**

The Risk Management Governance Framework has been considered in arriving at the officer recommendation. (Appendix SCM: 12.2)

| <b>TIER 1 – No discernible Inherent Risk has been identified (no Risk Theme or Consequence).</b> |   |
|--|---|
| Risk Event   | Appointment of Delegates and Representatives to Various Community & Regional Committees |
| Inherent Risk Rating (prior to treatment or control)   | Low (1 - 4)   |
| Risk Action Plan (treatment or controls proposed)  | As the Inherent Risk Rating is below 12, this is not applicable.                        |
| Residual Risk Rating (after treatment or controls)   | As the Inherent Risk Rating is below 12, this is not applicable.                        |

**Officer Comment**

In addition to Council Committees, Community and Regional Committees request the nomination of Elected Members to their respective Committees/Boards/Associations. The following Committees have requested nominations by Council on behalf of the Shire.

- **REGIONAL ROAD GROUP**

There are 10 Regional Road Groups (RRG) in WA, established under the State Road Funds to Local Government Agreement which is overseen by a State Advisory Committee (SAC). The RRGs make recommendations to SAC in relation to the Annual Local Government Roads Program for their Region and any other relevant issues. The RRGs are comprised of elected representatives from each Local Government within the road group. Most groups are supported by a technical committee comprised of Local Government staff. Administrative support is provided by Main Roads WA.

- **BUNBURY GEOGRAPHE ECONOMIC ALLIANCE**

The Bunbury Geographe Economic Alliance (BGEA) is a unique partnership encompassing community leadership through the six local governments of the Bunbury Wellington sub-region, industry leadership in the resources, energy, transport, engineering, construction, water supply, timber processing, telecommunications, education, consulting and accounting sectors, and the regional leadership of the South West Development Commission.

- As per the Bunbury Geographe Economic Alliance Constitution the Shire President is to represent Council at Bunbury Geographe Economic Alliance meetings -

*The Local Government Executive Committee will consist of ONE (1) natural person representing (and nominated by) each Local Government Member who must at the time of their appointment and throughout their tenure each be the Mayor or President of the Local Government Member or their nominee approved by the Board.*

- **SOUTH WEST WALGA ZONE**

The operational structure of WALGA is comprised of internal business units who undertake both policy and advocacy work on behalf of the Local Government sector, or offer services to assist Local Governments to perform their duties. From within here zones are created within WA. Zones are groups of geographically aligned Member Councils who are responsible for direct elections of State Councillors, providing input into policy formulation and providing advice on various matters. A request has been forwarded by Mr Nick Sloan, Chief Executive Officer of WALGA requesting Council delegates by Friday 3<sup>rd</sup> of November 2023.

END REPORT

### 12.3 Title: Nominations of Delegates for the Regional Joint Development Assessment Panel [DAP]

|                             |   |
|-----------------------------|---|
| <b>Reporting Department</b> | <i>Sustainable Development Directorate</i>  |
| <b>Responsible Officer</b>  | <i>Mr Ashwin Nair - Director Sustainable Development</i>                                    |
| <b>Reporting Officer</b>    | <i>Mr Ashwin Nair – Director Sustainable Development</i>                                    |
| <b>Legislation</b>          | <i>Planning and Development Act 2005</i>  |
| <b>Council Role</b>         | <i>Legislative</i>  |
| <b>Voting Requirement</b>   | <i>Simple Majority.</i>   |
| <b>Attachments</b>          | <i>Appendix SCM: 12.3A – Correspondence</i><br><i>Appendix SCM: 12.3B – Risk Assessment</i> |

#### **Overview**

The purpose of this report is to seek Councillor Nominations for membership to the Regional Joint Development Assessment Panel (DAP) for the term ending on the 26<sup>th</sup> of January 2024.

The purpose of this report is for Council to consider nominating Local Government Representatives for the Minister for Planning's consideration to become Development Assessment Panel (DAP) members to sit on the Regional Joint Development Assessment Panel (JDAP).

**Change to Officer Recommendation** - No Change.

#### **OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION**

265-23      MOVED -      Cr. S Gillespie      SECONDED –      Cr. M R Hutchinson

**THAT Council advise the Government of Western Australia (Development Assessment Panels) that:**

- The following two Councillors are nominated as local members of the Development Assessment Panel to represent the Shire of Dardanup:**
  - Nominee: Cr. S L Gillespie**
  - Nominee: Cr. T G Gardiner**
- The following two Councillors are nominated as alternate local members of the Development Assessment Panel to represent the Shire of Dardanup:**
  - Nominee: Cr. E P Lilly**
  - Nominee: Cr. A L Webster**

CARRIED  
9/0

## **Background**

On the 1<sup>st</sup> of July 2011, DAPs came into operation in order to determine development applications that meet a certain threshold value. In the case of the Shire of Dardanup for development applications with an estimated cost of \$10 million or more, it is mandatory that they are determined by a DAP. For applications \$2 million or more and less than \$10 million, the applicant has the option of having the application determined by a DAP or the local government.

Each DAP comprises 5 members (3 specialist members, one of which is the presiding member, and 2 local government members). Appointments of all current local government DAP members expire on the 26<sup>th</sup> of January 2022.

The Director General of the Western Australia Planning Commission has written [Appendix SCM: 12.3 A] to all local governments on 28<sup>th</sup> of September 2023. The letter notes that changes to DAP membership may be required as a result of changes to Council following the 2023 local government elections.

The letter seeks DAP member nominations, noting the current terms of DAP members expires on 26<sup>th</sup> of January 2024. Accordingly, new membership is requested for a term ending 26<sup>th</sup> of January 2026. DAP replacement nominations are required to be forwarded to the DAP Secretariat by no later than 24<sup>th</sup> of November 2023.

Officers recommend Council nominate the necessary DAP members for Ministerial consideration to ensure the Shire has its full membership on the DAP. This being two local council members and two alternate local council members.

## **Legal Implications**

Part 11A of the *Planning and Development Act (2005)* introduced Development Assessment Panels into the Act and this is supported by the *Planning and Development (Development Assessment Panels) Regulations 2011*.

## **Council Plan**

8.1 - Support responsible planning and development.

**Environment** - None.

**Precedents** -

Council have nominated representatives since the commencement of the DAPs. The existing representatives for the Shire are Cr. M T Bennett and Cr. P S Robinson (local members) with Cr. S L Gillespie and Cr. T G Gardiner (alternate local members).

**Budget Implications** - None.

**Budget – Whole of Life Cost** - None.

**Council Policy Compliance** - None.

### **Risk Assessment**

The Risk Management Governance Framework has been considered in arriving at the officer recommendation. Please refer to [Appendix SCM: 12.3B] for full assessment document.

| <b>TIER 2 – ‘Low’ or ‘Moderate’ Inherent Risk.</b>   |  |
|--|--|
| Risk Event   | Nominations of Delegates for the Regional Joint Development Assessment Panel [DAP]   |
| Inherent Risk Rating (prior to treatment or control) | Low (1 - 4)  |
| Risk Action Plan (treatment or controls proposed)    | As the Inherent Risk Rating is below 12, this is not applicable.   |
| Residual Risk Rating (after treatment or controls)   | As the Inherent Risk Rating is below 12, this is not applicable.   |
| Risk Category Assessed Against                       | Reputational<br>By not nominating a representative to the DAP local interests would not be represented in future DAP determinations. |

### *Officer Comment*

Representation of local interests is a key aspect of the DAPs system. Council is requested to nominate 4 elected members (comprising 2 local members and 2 alternate local members) to sit on the DAP as required. Once nominations are received, the Minister will appoint local government members for the term ending on the 26<sup>th</sup> of January 2026.

As part of the current State Government’s commitment to OnBoardWA, which looks to increase the diversity of Government boards and committees along with the total number of women representatives, they encourage Council to consider the diversity of representation when putting forward local government nominations to the DAP.

All appointed local members will be placed on the local government member register and advised of DAP training dates and times. It is a mandatory requirement, pursuant to the DAP regulations, that all DAP members attend training before they can sit on a DAP and determine applications. Local government representatives who have previously been appointed to a DAP and have received training are not required to attend further training.

Local DAP members are entitled to be paid for their attendance at DAP training and DAP meetings unless they are Federal, State or local government employees, active or retired judicial officers and employees of public institutions. DAP members are entitled to a payment for successful completion of training and a sitting fee, in accordance with Premier’s Circular 2010/02.

All local governments have been requested to provide nominations by Friday 24<sup>th</sup> November 2023 and therefore deferring the matter is not recommended.

END REPORT

**12.1 EXECUTIVE REPORTS**

None.

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

None.

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

None.

**15 PUBLIC QUESTION TIME**

None.

**16 MATTERS BEHIND CLOSED DOORS**

None.

**17 CLOSURE OF MEETING**

The Presiding Officer advised that the date of the next:

- Ordinary Meeting of Council will be Wednesday, the 22<sup>nd</sup> of November 2023, commencing at 5.00pm at the Shire of Dardanup - Administration Centre Eaton.

There being no further business the Presiding Officer declared the meeting closed at 6.07pm.

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**Addendum to Unconfirmed Minutes of Special Council Meeting**

Due to clerical error Resolution 263-23 has the following amendments:

**Audit & Risk Committee**

Terms of Reference: [2023 - ToR - Audit and Risk Committee](#)

- Cr. T G Gardiner
- Cr. E P Lilly
- Cr. S L Gillespie
- Cr. M R Hutchinson
- **Cr. J D Manoni**



## CONFIRMATION OF MINUTES

**“As the person presiding at the meeting at which these minutes were confirmed on the 22<sup>nd</sup> of November 2023, I certify that these minutes have been confirmed as a true and accurate record of proceedings”.**

Signature:

A handwritten signature in black ink, appearing to read "Tyrrell Gardiner", with a long horizontal flourish extending to the right.

Email: [Tyrrell.Gardiner@dardanup.wa.gov.au](mailto:Tyrrell.Gardiner@dardanup.wa.gov.au)



# Shire of Dardanup

## Addendum to Minutes of Special Council Meeting

|   |   |
|---|---|
| <b>At its Meeting Held:</b>                             | 22 <sup>nd</sup> November 2023  |
| <b>By Resolution:</b>                                   | 267-23  |
| <b>Council Amended the Minutes of the Meeting Held:</b> | 25 <sup>th</sup> of October 2023  |
| <b>Regarding Item:</b>                                  | 12.1 - Appointment of Councillors, Staff and Department Representatives to Council Committees   |
| <b>Page Number:</b>                                     | 21  |
| <b>Resolution Reference:</b>                            | 263-23  |
| <b>Amendment Details:</b>                               | <p>Cr J Manoni was endorsed by Council at the meeting on the 25<sup>th</sup> of October 2023 to be a member of the Audit and Risk Committee. An administrative error resulted in the omission from the Minutes.</p> <p><b>THAT the Minutes of the Special Meeting of Council held on the 25th of October 2023, be confirmed as true and correct subject to the following correction:</b></p> <ul style="list-style-type: none"> <li>• <b>Page: 21 – Resolution 263 -23. Amend membership to include Cr J Manoni to the Audit and Risk Committee.</b></li> </ul> |

By signing this document, I declare this to be a true and correct amendment as per Council decision:




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**Cr. T G Gardiner**  
Shire President