



A G E N D A

FOR THE

SPECIAL COUNCIL MEETING

To Be Held

Wednesday, 10th of July 2024
Commencing at 5.00pm

At

ADMINISTRATION CENTRE EATON
1 Council Drive - EATON

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NOTICE OF AN SPECIAL COUNCIL MEETING

Dear Council Member

A Special Meeting of the Shire of Dardanup Council will be held on Wednesday, the 10th of July 2024 at the Administration Centre Eaton, 1 Council Drive, Eaton – Commencing at 5.00pm.

MR ANDRÉ SCHÖNFELDT

Chief Executive Officer

Date: 5th July 2024

Note: If interested persons would like to make comment on any items in this agenda, please email records@dardanup.wa.gov.au or hand deliver written comment to the Shire of Dardanup – Administration Centre Eaton, 1 Council Drive, Eaton. To be included in the meeting comments are to be delivered no later than 48 hours prior to the meeting.

The Chief Executive Officer will use his discretion as to whether the written comments are relevant and applicable to the meeting before approving their inclusion in the meeting.

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

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

DISCLAIMER

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

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

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

RISK ASSESSMENT

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

RISK CATEGORY CONSEQUENCE TABLE - GUIDELINE

Rating (Level)	Health	Financial Impact	Service Interruption	Legal and Compliance	Reputational	Environmental	Property
Insignificant (1)	Near miss Minor first aid injuries	Less than \$10,000	No material service interruption - backlog cleared < 6 hours	Compliance - No noticeable regulatory or statutory impact. Legal - Threat of litigation requiring small compensation. Contract - No effect on contract performance.	Unsubstantiated, low impact, low profile or 'no news' item. Example: Gossip, Facebook item seen by limited persons.	Contained, reversible impact managed by on site response.	Inconsequential or no damage.
Minor (2)	Medical type injuries	\$10,001 - \$50,000	Short term temporary interruption – backlog cleared < 1 day	Compliance - Some temporary non compliances. Legal - Single minor litigation. Contract - Results in meeting between two parties in which one party expresses concern.	Substantiated, low impact, low news item. Example: Local paper / Industry news article, Facebook item seen by multiple groups.	Contained, reversible impact managed by internal response.	Localised damage rectified by routine internal procedures.
Moderate (3)	Lost time injury <30 days	\$50,001 - \$300,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Compliance - Short term non-compliance but with significant regulatory requirements imposed. Legal - Single moderate litigation or numerous minor litigations. Contract - Receive verbal advice that, if breaches continue, a default notice may be issued.	Substantiated, public embarrassment, moderate impact, moderate news profile. Example: State-wide paper, TV News story.	Contained, reversible impact managed by external agencies.	Localised damage requiring external resources to rectify.
Major (4)	Long-term disability/ multiple injuries Lost time injury >30 days	\$300,001 - \$1.5 million	Prolonged interruption of services – additional resources; performance affected < 1 month	Compliance - Non-compliance results in termination of services or imposed penalties. Legal - Single major litigation or numerous moderate litigations. Contract - Receive/issue written notice threatening termination if not rectified.	Substantiated, public embarrassment, high impact, high news profile, third party actions. Example: Australia wide news stories. Regulatory / Political commentary involvement.	Uncontained, reversible impact managed by a coordinated response from external agencies.	Significant damage requiring internal & external resources to rectify.
Catastrophic (5)	Fatality, permanent disability	More than \$1.5 million	Indeterminate prolonged interruption of services – non-performance > 1 month	Compliance - Non-compliance results in litigation, criminal charges or significant damages or penalties. Legal - Numerous major litigations. Contract - Termination of contract for default.	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions. Example: Worldwide news, Focused articles (e.g. 60 minutes). Regulatory / Political oversight and involvement.	Uncontained, irreversible impact.	Extensive damage requiring prolonged period of restitution. Complete loss of plant, equipment & building.

RISK - LIKELIHOOD TABLE

LEVEL	RATING	DESCRIPTION	FREQUENCY
5	Almost Certain	The event is expected to occur in most circumstances	The event is expected to occur more than once per year
4	Likely	The event will probably occur in most circumstances	The event will probably occur at least once per year
3	Possible	The event should occur at some time	The event should occur at least once in 3 years
2	Unlikely	The event could occur at some time	The event could occur at least once in 10 years
1	Rare	The event may only occur in exceptional circumstances	The event is not expected to occur more than once in 15 years

LEVEL OF RISK GUIDE

CONSEQUENCE		Insignificant	Minor	Moderate	Major	Catastrophic
LIKELIHOOD		1	2	3	4	5
Almost Certain	5	Moderate (5)	Moderate (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	Moderate (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

SHIRE OF DARDANUP

AGENDA FOR THE SHIRE OF DARDANUP SPECIAL COUNCIL MEETING TO BE HELD ON WEDNESDAY, THE 10th OF JULY 2024, AT ADMINISTRATION CENTRE EATON, 1 COUNCIL DRIVE, EATON, COMMENCING AT 5.00PM.

1 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding Member to declare the meeting open, welcome those in attendance, refer to the Disclaimer, Acknowledgement of Country, Emergency Procedure and the Affirmation of Civic Duty and Responsibility on behalf of Councillors and Officers:

Acknowledgement of Country

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

Emergency Procedure

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

Affirmation of Civic Duty and Responsibility

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

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

2.1 Attendance

2.2 Apologies

2.3 Leave of Absence

2.4 Previous Meetings

DATE	TYPE	CR. T BELL	CR. L W DAVIES	CR. T G GARDINER	CR. S L GILLESPIE	CR. A C JENOUR	CR. E P LILLY	CR. M R HUTCHINSON	CR. J D MANONI	CR. A L WEBSTER
APRIL 2024										
3/04/24	CF	Ap	✓	✓	✓	✓	LoA	✓	✓	✓
17/04/24	AF	✓	NA	✓	LoA	✓R	LoA	✓	LoA	✓
24/04/24	OCM	✓	✓	✓	LoA	✓	LoA	✓	LoA	✓
May 2024										
15/05/24	AF	✓	NA	✓	✓	✓R	LoA	✓	✓	✓
22/05/24	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
29/05/24	SCM	✓	✓	✓	✓	✓R	✓	✓	✓	✓
June 2024										
05/06/24	CF	Ap	NA	✓	Ap	✓	✓	✓	Ap	Ap
19/06/24	AF	✓	NA	✓	✓	✓	✓	✓	✓	✓
26/06/24	OCM	✓	✓	✓	✓	✓R	✓	✓	✓	✓
July 2024										
10/07/24	SCM									
17/07/24	AF									
24/07/24	SCM									

TYPE LEGEND	
AF	Agenda Forum
CF	Concept Forum
OCM	Ordinary Council Meeting
SCM	Special Council Meeting
WS	Workshop

ATTENDANCE LEGEND	
✓	Attendance
✓R	Remote Attendance
Ap	Apology
LoA	Leave of Absence
NA	Non Attendance

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

None.

4 PUBLIC QUESTION TIME

5 APPLICATIONS FOR LEAVE OF ABSENCE

COUNCIL RESOLUTION

THAT be granted leave of absence for the Ordinary Council Meeting to be held on the 24th of July 2024.

Note: Cr. A C Jenour was granted a Leave of Absence for the Ordinary Council Meeting to be held on the 24th of July 2024 (Res: 154-24)

6 PETITIONS/DEPUTATIONS/PRESENTATIONS

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

The Minutes of the Ordinary Council Meeting [OCM] held on the 26th of June 2024 will be presented to the OCM to be held on 24th of July 2024 for confirmation.

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION
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<p>9 ANNOUNCEMENTS OF MATTERS FOR WHICH MEETING MAY BE CLOSED</p>

None.

<p>10 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN</p>

None.

<p>11 DECLARATION OF INTEREST</p>

“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.

12 REPORTS OF OFFICERS AND COMMITTEES

12.1 CORPORATE & GOVERNANCE DIRECTORATE REPORTS

12.1.1 Title: Sale of Lot 31 (2) Sanford Way, Eaton

Reporting Department	<i>Corporate & Governance Directorate</i>
Responsible Officer	<i>Mr Phil Anastasakis - Deputy Chief Executive Officer</i>
Reporting Officer	<i>Mrs Rebecca Hobby - Personal Assistant to Deputy Chief Executive Officer</i>
Legislation	<i>Local Government Act 1995</i>
Council Role	<i>Executive/Strategic.</i>
Voting Requirement	<i>Simple Majority.</i>
Attachments	<i>12.1.1A – Public Notice 12.1.1B – Risk Assessment</i>

Overview

This report seeks Council's endorsement for the execution of the Sale of Lot 31 (2) Sanford Way, Eaton to 2 Sanford Way Unit Trust – trading as "Bush Kids Child Care & Early Education".

OFFICER RECOMMENDED RESOLUTION

THAT Council:

1. In accordance with section 3.58 of the *Local Government Act 1995*, notes that following the 14 day public advertising period, no public submissions were received on the proposed sale of the former Shire of Dardanup Senior Citizen Centre/Library building (being Lot 31 [2] Sanford Way, Eaton, Certificate of Title Volume 1409 Folio 932) to 2 Sanford Way Unit Trust – trading as "Bush Kids Child Care & Early Education".
2. Authorises the Chief Executive Officer to finalise the sale and signing of contracts with 2 Sanford Way Unit Trust – trading as "Bush Kids Child Care & Early Education".

Change to Officer Recommendation

No Change. **OR:**

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

Background

Lot 31 (2) Sanford Way, Eaton, assessment number A2989 Certificate of Title Volume 1409 Folio 932 is owned by the Shire of Dardanup as a freehold property. The property has a total area of 2,345 square metres.

The property is zoned 'Other Community' use under the Shire of Dardanup current Local Planning Scheme (TPS3) and will be zoned 'Mixed Use' under the draft Local Planning Scheme (LPS9).



At its Ordinary Council Meeting (OCM) held on 31st of January 2024 Council resolved [15-24]:

THAT Council:

1. *Acknowledge receipt of the offer from the "Applicant" as identified in email correspondence dated 31st January 2024. (Confidential Attachment "A" provided Under Separate Cover Tardis Link: [R0001426648](#)).*
2. *Request the Chief Executive Officer advise the "Applicant" that their offer has not been accepted.*
3. *Authorise the Chief Executive Officer to list Lot 31 (2) Sanford Way, Eaton (Senior Citizen Centre) for public sale through a local Real Estate Agent for the current market value obtained on 8 December 2023 from Acumentis; and*
4. *Allocates funds received from the sale of Lot 31 (2) Sanford Way, Eaton to the Building Maintenance Reserve.*

Following this resolution, Summit Realty were appointed in February 2024 as agents for the sale of Lot 31 (2) Sanford Way, Eaton. A Registration of Interest process was commenced seeking offers above \$750,000 as per the valuation provided on 8th of December 2023 by Acumentis Property Valuers. During the marketing period Summit Realty received a number of enquires, with four formal submissions being received.

An evaluation was undertaken of the four submissions by Council officers, with Council considering a report at the 22nd of May 2024 Ordinary Council Meeting. The matter was taken Behind Closed Doors and Council resolved (140-24):

THAT Council:

1. *Receives the Registration of Interest submission for Lot 31 (2) Sanford Way, Eaton, received from "Respondent A", as detailed in [Confidential Attachment A Tardis Link OCM: EOI-R1577481] Confidential Attachment and referred to as "Submission A";*
2. *Receives the Registration of Interest submission for Lot 31 (2) Sanford Way, Eaton, received from "Respondent B", as detailed in [Confidential Attachment B Tardis Link OCM: EOI-R1577483] Confidential Attachment and referred to as "Submission B";*
3. *Receives the Registration of Interest submission for Lot 31 (2) Sanford Way, Eaton, received from "Respondent C", as detailed in [Confidential Attachment C Tardis Link OCM: EOI-R1577487] Confidential Attachment and referred to as "Submission C";*
4. *Receives the Development Proposal for Lot 31 (2) Sanford Way, Eaton, received from "Respondent D", as detailed in [Confidential Attachment D Tardis Link OCM: EOI-R1577491] Confidential Attachment and referred to as "Submission D";*
5. *Supports the submission made by "Respondent A" [Confidential Attachment A Tardis link: EOI-R1577481] for the sale of Lot 31 (2) Sanford Way, Eaton;*
6. *Authorises a 14-day advertising period (local public notice) inviting public comment on the proposed sale to "Respondent A" in accordance with section 3.58 of the Local Government Act 1995; and*
7. *Requests that any submissions received following the giving of local public notice be presented to the next available Ordinary Council Meeting for consideration and a final decision.*

Item 6 and 7 of the above Council resolution have now been completed, with this report advising Council that no public submissions were received on the proposed sale, and seeking Council's final decision on the sale of Lot 31 (2) Sandford Way Eaton to 2 Sanford Way Unit Trust – trading as "Bush Kids Child Care & Early Education".

Legal Implications

Disposal of Council property falls under Section 3.58 of the Local Government Act 1995

3.58. Disposing of property

(1) In this section —

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to —

(a) the highest bidder at public auction; or

(b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

(a) it gives local public notice of the proposed disposition —

(i) describing the property concerned; and

(ii) giving details of the proposed disposition; and

(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

and

(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

(4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —

(a) the names of all other parties concerned; and

(b) the consideration to be received by the local government for the disposition; and

(c) the market value of the disposition —

(i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or

(ii) as declared by a resolution of the local government on the basis of a valuation carried out not more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.

Council Plan

11.1 - Support industry and business growth.

13.2 - Manage the Shire's resources responsibly.

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

Environment - None.

Precedents

Council has previously been involved with the sale of land and land development. Council previously sold land in Mitchell Way, Dardanup to Access Housing for the purpose of Community Housing.

Budget Implications

The Summit Realty Marketing fee of \$1,095, property valuation cost of \$2,000 and septic inspection cost of \$121 has been incurred by Council towards the disposal of Lot 31 (2) Sanford Way, Eaton in the 2023/24 financial year. The proceeds of sale are included in the 2024/25 budget, with the net proceeds (after sales commission of 3.0% is deducted) allocated to the Building Maintenance Reserve which will assist with future building maintenance costs.

Budget – Whole of Life Cost

Lot 31 (2) Sanford Way, Eaton is currently a Council asset that is maintained through Council's annual budget – J11655. The estimated average cost to maintain the building is \$11,403 per annum. The sale of this asset would remove the cost of this asset maintenance.

Council Policy Compliance - None.

Risk Assessment

The Risk Management Governance Framework has been considered in arriving at the officer recommendation. Please refer to (Appendix ORD: 12.1.1B) for full assessment document.

TIER 2 – 'Low' or 'Moderate' Inherent Risk.		
Risk Event	Sale of Lot 31 (2) Sanford Way, Eaton – Proposed Disposal	
Inherent Risk Rating (prior to treatment or control)	Moderate (5 - 11)	
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	Financial	The proceeds of a disposal would have a positive impact on Council's cash Reserves.
	Legal and Compliance	The disposal process needs to be undertaken in accordance with the Local Government Act and Regulations.
	Reputational	Council would be viewed in a negative light if a breach of the Local Government Act and Regulations were to occur.

Officer Comment

In accordance with section 3.58 of the *Local Government Act 1995*, a Public Notice on the proposed disposition of property was advertised in the South Western Times on Thursday 13th of June 2024 (Appendix ORD: 12.1.1A). The notice was also posted on the Shire of Dardanup website, and placed on the Shire of Dardanup's Public Notice Board at the Main Administration Building and Libraries.

The Public Notice [S3.58(4)] required the full disclosure of the following details of the preferred submission:

- name(s) of all parties concerned – 2 Sanford Way Unit Trust – trading as Bush Kids Child Care & Early Education
- the market value of the property - \$750,000 plus GST; and
- what the respondent is proposing to pay - \$770,000 plus GST

The Public Notice invited submissions on the proposed disposition until 4.00pm on Thursday 27th of June 2024.

At the close of the public submission period, no submissions were received. It is therefore recommended that Council proceed with the disposition/sale to Bush Kids Child Care & Early Education.

END REPORT

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

16 MATTERS BEHIND CLOSED DOORS

None.

17 CLOSURE OF MEETING

The Presiding Officer advises that the date of the next:

- Ordinary Meeting of Council will be Wednesday, the 24th of July 2024, commencing at 5.00pm at the Shire of Dardanup - Administration Centre Eaton.

There being no further business the Presiding Officer to declare the meeting closed.