

AGENDA

FOR THE

SPECIAL COUNCIL MEETING

To Be Held

Wednesday, 13th of August 2025 Commencing at 4.30pm

Αt

ADMINISTRATION CENTRE EATON

1 Council Drive - EATON

This document is available in alternative formats such as:

~ Large Print

~ Electronic Format [emailed]

Upon request.



NOTICE OF AN SPECIAL COUNCIL MEETING

Dear Council Member

A Special Meeting of the Shire of Dardanup Council, will be held on Wednesday, the 13th of August 2025 at the Administration Centre Eaton, 1 Council Drive, Eaton – Commencing at 4.30pm. The meeting is for Council to consider the Café Space (Lease) at the Shire of Dardanup Administration, Library & Community Building

MR ANDRÉ SCHÖNFELDT Chief Executive Officer

Date: 8th August 2025

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."

TABLE OF CONTENTS

1	DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS	1
2	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED	2
	2.1 Attendance	2
	2.2 Apologies	2
	2.3 Leave of Absence	2
	2.4 Previous Meetings	2
3	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	3
4	PUBLIC QUESTION TIME	3
5	APPLICATIONS FOR LEAVE OF ABSENCE	3
6	PETITIONS/DEPUTATIONS/PRESENTATIONS	3
7	CONFIRMATION OF MINUTES OF PREVIOUS MEETING	3
	7.1 Ordinary Council Meeting Held on the 23 rd of July 2025	3
8	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	3
9	ANNOUNCEMENTS OF MATTERS FOR WHICH MEETING MAY BE CLOSED	4
10	QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	4
11	DECLARATION OF INTEREST	4
12	REPORTS OF OFFICERS AND COMMITTEES	5
12.1	EXECUTIVE REPORTS	5
12.2	SUSTAINABLE DEVELOPMENT DIRECTORATE REPORTS	5
12.3	INFRASTRUCTURE DIRECTORATE REPORTS	5
12.4	CORPORATE & GOVERNANCE DIRECTORATE REPORTS	5
	12.4.1 Title: Café Lease – Shire of Dardanup Library, Administration and Community Building	5
12.5	COMMITTEES	11
13	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	11
14	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	11
15	PUBLIC QUESTION TIME	11
16	MATTERS BEHIND CLOSED DOORS	11
17	CLOSURE OF MEETING	11

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 When Council determines an application/matter that directly affects a

person's rights and interests. The Judicial character arises from the obligations

to abide by the principles of natural justice.

Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g.: under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the

State Administrative Tribunal.

DISCLAIMER

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

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

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

	RISK ASSESSMENT
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	Project risk has two main components:
	• Direct refers to the risks that may arise as a result of project, which may prevent the Council from meeting its objectives.

outcomes.

Indirect refers to the risks which threaten the delivery of project

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	temporary interruption – backlog cleared < compliances. Legal - Single minor litigation. Contract - Results in meeting between two parties in which one party expresses		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)	permanent I ' I ' I ' ' I		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
		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 13TH OF AUGUST 2025, AT ADMINISTRATION CENTRE EATON, 1 COUNCIL DRIVE, EATON, COMMENCING AT 4.30PM.

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.

Recording of Meetings

In accordance with Section 5.23A of the Local Government Act 1995, and Part 2A of the Local Government (Administration) Regulations 1996, video or audio recordings of Council meetings apply to all Ordinary and Special Council Meetings of the Shire of Dardanup.

All recordings will be retained as part of the Shire of Dardanup records and will be made available to the public via the Shire of Dardanup Website, excluding recordings of matters that Council take Behind Closed Doors.

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	Түре	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
MAY 2025		•							
30/04/25	CF	NA	✓	Ар	√R	✓	✓	Ар	Ар
14/05/25	AF	Ар	✓	✓	√R	✓	✓	✓	Ар
21/05/25	OCM	✓	√	√	✓	√	✓	✓	Ар
28/05/25	SCM	√	√	Ар	√R	√	√	√R	NA
JUNE 2025						ı			
04/06/25	CF	NA	√	√	✓	✓	✓	√R	√
18/06/25	AF	Ар	√	√	√	√	✓	✓	√
25/06/25	ОСМ	✓	√	√R	√R	✓	✓	✓	✓
JULY 2025		I.							
09/07/25	SCM	NA	√	√	√R	√R	✓	✓	✓
16/07/25	AF	NA	√	Ар	Ар	Ар	Ар	✓	NA
23/07/25	OCM	✓	√	√	✓	√R	√	✓	✓

TYPE LE	Type Legend				
AF	Agenda Forum				
CF	Concept Forum				
OCM	Ordinary Council Meeting				
SCM	Special Council Meeting				
WS	Workshop				

ATTENDAN	ATTENDANCE LEGEND				
✓	Attendance				
√R	Remote Attendance				
Ар	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 27th of August 2025.

6 PETITIONS/DEPUTATIONS/PRESENTATIONS

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 Ordinary Council Meeting Held on the 23rd of July 2025

The Minutes of the Ordinary Meeting of Council held on the 23rd of July 2025 will be confirmed at the Ordinary Council Meeting being held on the 27th August 2025.

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

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.

12 REPORTS OF OFFICERS AND COMMITTEES

12.1 EXECUTIVE REPORTS

None.

12.2 SUSTAINABLE DEVELOPMENT DIRECTORATE REPORTS

None.

12.3 INFRASTRUCTURE DIRECTORATE REPORTS

None.

12.4 CORPORATE & GOVERNANCE DIRECTORATE REPORTS

<u>12.4.1 Title: Café Lease – Shire of Dardanup Library, Administration and Community</u> Building

Reporting Department Corporate & Governance Directorate

Legislation Local Government Act 1995

Council Role Executive/Strategic.
Voting Requirement Simple Majority.

Attachments 12.4.1 – Risk Assessment

Overview

This report seeks Council's endorsement for the execution of the Lease for the Café space in the Shire of Dardanup Library, Administration and Community Building to TCC Bakehouse Pty Ltd trading as Townhouse Coffee Co and Café.

OFFICER RECOMMENDED RESOLUTION

THAT Council:

- 1. In accordance with section 3.58 of the *Local Government Act 1995*, notes that the 14 day public advertising period inviting submissions concluded on 1st August 2025.
- Notes that no public submissions were received on the proposed lease conditions with TCC Bakehouse Pty Ltd, trading as Townhouse Coffee Co and Café.
- Supports the proposed establishment of a 5+2+2 year lease agreement to TCC Bakehouse Pty Ltd trading as Townhouse Coffee Co and Café for the Café area in the Shire of Dardanup Library, Administration and Community Building.
- 4. Authorises the Chief Executive Officer to negotiate and enter into a contract with a Real Estate company to execute and manage the Café lease for a 12month period from the commencement date of the lease.
- Authorises the Chief Executive Officer to re-negotiate and execute any future arrangement for management of the Café Lease to TCC Bakehouse Pty Ltd trading as Townhouse Coffee Co and Café.

Change to Officer Recommendation

No Change. OR:

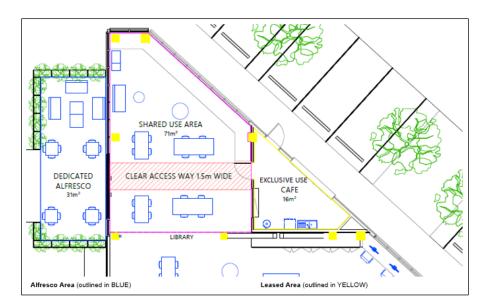
As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

Background

At the Special Council Meeting held on 9th July 2025, Council endorsed [Res 194-25] the submission received from TCC Bakehouse Pty Ltd trading as Townhouse Coffee Co and Café, and for it to progress to the 14 day advertising period.

The advertising period concluded on 1st August 2025; no submissions were received.

Location Plan



Legal Implications

Leasing of Council property falls under Section 3.58 of the *Local Government Act 1995* "Disposing of Property".

- 3.58. Disposing of property
 - (1) In this section
 - dispose includes to sell, <u>lease</u>, 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) <u>A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —</u>
- (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 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.
- (5) After the last day for submissions, the local government is to consider any submissions made and may decide* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.
 - * Absolute majority required.
- (10) For the purposes of this section, regulations may—
 - (a) prescribe any land transaction to be an exempt land transaction;
 - (b) prescribe any trading undertaking to be an exempt trading undertaking.

30. Dispositions of property excluded from Act s. 3.58

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if—
 - (a) the land is disposed of to an owner of adjoining land (in this paragraph called the transferee) and
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;

0ľ

- (b) the land is disposed of to a body, whether incorporated or not
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;
- (3) A disposition of property other than land is an exempt disposition if—
 - (a) its market value is less than \$20 000; or
 - (b) the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75,000.

Commercial Tenancy (Retail Shops) Agreements Act 1985 (Retail Shops Act) will apply to the café. The Retail Shops Act imposes rights and obligations on parties to a "retail shop lease". In regard to the café, Section 3 of the Retail Shops Act defines a "retail shop lease" to mean a lease that provides for the occupation of a retail shop, being:

- any premises situated in a retail shopping centre that are used wholly or predominantly for the carrying on of a business; or
- any premises not situated in a retail shopping centre that is used wholly or predominantly for the carrying on of a retail business, by a business that wholly or predominantly involves the sale of goods by retail or a specified business, subject to certain exceptions.

Part II of the Retail Shops Act relates specifically to the café tenancy and the requirement to provide the café tenant a disclose statement on the prescribed form.

- 6. Disclosure statement, tenant's rights if not given by landlord etc.
- (4) A disclosure statement given for the purposes of this section shall be in the prescribed form duly completed and signed by or on behalf of the landlord and the tenant and shall contain a statement notifying the tenant that he should seek independent legal advice.

Council Plan

- 9.1 Strengthen the vibrancy of our town centres.
- 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 have leased facilities to community groups in the past, however Commercial and Retail tenancy agreements have not occurred to date.

Budget Implications

TCC Bakehouse Pty Ltd trading as Townhouse Coffee Co and Café are proposing \$35,000 per annum (Excl GST), payable monthly in advance as well as 2 months free rent.

The proponents have also requested a Shire contribution of \$12,000 (Excl GST) towards the fit out of the building, which includes a dishwashing sink, hand washing basin, benches and splashbacks. The 25/26 annual budget includes a carry forward amount of \$311,339 (subject to final end of year costings) for the Eaton Library, Administration and Community Building, with the carried forward project and additional works to be included within this budget provision.

It is proposed to engage a registered commercial real estate agent to manage the lease for a 12 month period, conditional to a management fee of 6% on gross revenue, and a \$12 monthly disbursement fee. This will result in a total fee payable of \$2,442.00 (Incl GST) for the first 12 months. Further terms may be negotiated at the conclusion of the initial 12 month period.

Budget – Whole of Life Cost

Lease revenue will be received over several financial years and will subsequently impact the Shire of Dardanup's Long Term Financial Plan.

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: 12.4.1) for full assessment document.

TIER 2 – 'Low' or 'Moderate' Inherent Risk.					
Risk Event	Café Lease – Shire of Dardanup Library, Administration and Community Building				
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.				
	Financial	Failure to establish a Lease Agreement could lead to financial implications to the Shire.			
	Legal and Compliance	Failure to establish a lease could lead to implications to the Shire.			
Risk Category Assessed Against	Reputational	Council may be seen in a negative light if they failed to capitalise on revenue raising opportunities.			
	Property	Failure to lease the space may incur ongoing maintenance expenses to the Shire.			

Officer Comment

In accordance with section 3.58 of the Local Government Act 1995, a Public Notice on the disposition of property for the Café space in the Shire of Dardanup Library and Administration and Community Building was advertised in the South Western Times on Thursday 17th July 2025. The public notice was also displayed on the Shire of Dardanup website, and placed on the Shire of Dardanup's Public Notice Board at the Main Administration Office Building and Libraries.

The Public Notice invited submissions on the proposed disposition until 4pm Friday 1st August 2025. At the conclusion of the public submission period, no submissions were received.

It is therefore recommended that Council proceed with the lease to TCC Bakehouse Pty Ltd trading as Townhouse Coffee Co and Café, including engaging an experienced real estate agent to manage the lease for an initial 12 month period.

END REPORT



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

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 27th of August 2025, 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.