



CONFIRMED

MINUTES

FOR THE

SPECIAL

COUNCIL MEETING

Held

13th of August 2025

At

ADMINISTRATION CENTRE EATON
1 Council Drive - EATON

This document is available in alternative formats such as:
~ Large Print
~ Electronic Format [emailed]
Upon request.

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	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. • Indirect refers to the risks which threaten the delivery of project outcomes.

SHIRE OF DARDANUP

MINUTES OF THE SHIRE OF DARDANUP SPECIAL COUNCIL MEETING 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, Cr T G Gardiner declared the meeting open at 4.32pm, 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.

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

Cr Tyrrell Gardiner	-	Shire President - Chairperson
Cr Ellen Lilly	-	Deputy Chairperson (Via Teams)
Cr Tony Jenour	-	Elected Member
Cr Stacey Gillespie	-	Elected Member
Cr Mark Hutchinson	-	Elected Member
Cr Annette Webster	-	Elected Member
Mr André Schönfeldt	-	Chief Executive Officer
Mrs Natalie Hopkins	-	Director Corporate & Governance
Mr Ashwin Nair	-	Director Sustainable Development
Mr Theo Naudé	-	Director Infrastructure
Mrs Susan Oosthuizen	-	Director Community & Economic Development
Mrs Donna Bailye	-	Manager Governance
Mrs Cindy Barbetti	-	Corporate Excellence & Compliance Officer
Mrs Jolene Roots	-	Executive Support Officer
Mrs Tahniah Creedon	-	Marketing Officer

2.2 Apologies

Cr Jack Manoni	-	Elected Member
Cr Luke Davies	-	Elected Member

2.3 Leave of Absence

None

2.4 Previous Meetings

DATE	TYPE	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	✓	Ap	✓R	✓	✓	Ap	Ap
14/05/25	AF	Ap	✓	✓	✓R	✓	✓	✓	Ap
21/05/25	OCM	✓	✓	✓	✓	✓	✓	✓	Ap
28/05/25	SCM	✓	✓	Ap	✓R	✓	✓	✓R	NA
JUNE 2025									
04/06/25	CF	NA	✓	✓	✓	✓	✓	✓R	✓
18/06/25	AF	Ap	✓	✓	✓	✓	✓	✓	✓
25/06/25	OCM	✓	✓	✓R	✓R	✓	✓	✓	✓
JULY 2025									
09/07/25	SCM	NA	✓	✓	✓R	✓R	✓	✓	✓
16/07/25	AF	NA	✓	Ap	Ap	Ap	Ap	✓	NA

DATE	TYPE	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
23/07/25	OCM	✓	✓	✓	✓	✓R	✓	✓	✓
AUGUST 2025									
13/08/25	SCM	Ap	✓	✓	✓	✓R	✓	Ap	✓

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

4.1 Mr Edward Shepherd – Council Process

Mr Edward Shepherd forwarded the following question via email prior to the meeting

Dear Mr Schönfeldt,

Please accept the following questions for Public Question Time at the Special Council Meeting on Wednesday, 13 August 2025.

These questions are submitted following an invitation from Deputy Shire President Ellen Lilly to attend the meeting and put questions directly to councillors.

- 1. Given the public only sees decisions in open council, can you confirm whether full debates and disagreements in Agenda Forums and workshops are recorded and accessible?*
- 2. Do councillors have the option to reject or amend an officer's recommendation, and can you cite an example of when this last occurred?*

I request these be read aloud and answered during Public Question Time. I will be attending in person.

*Kind regards,
Edward Shepherd
Eaton, WA*

Mr Shepherd spoke to the question at the meeting and requested further information on how many officer recommendations have been rejected or significantly amended and what was the most recent example.

Chief Executive Officer Response

Chief Executive Officer, Mr André Schönfeldt advised that as the second question asked at the meeting was slightly different to the question submitted, the second part to the question would be taken on notice.

Mr André Schönfeldt then responded to the written question as below.

Council has a policy - Exec CP088- Forums of Council – Concept Forums, Agenda Forums and Workshops. As per the policy, officers provide Councillors with agenda briefing documents the Friday prior to the Wednesday Agenda Forum briefing session.

In accordance with the Policy:

Agenda Forums shall not be open to the public and therefore no debate on the items shall be entered into during the Agenda Forum. There shall be no opportunity for a collective Council decision or implied decision that binds the local government. Fundamental to this decision is that any debate shall be held at Council meetings so as to ensure the public in attendance at a Council meeting can see and hear the decisions and debate around Council decisions.

At the Agenda Forum Councillors are encouraged to ask questions and also provide alternative motions that they may wish to move should they not agree with the officer's recommendation

Mr André Schönfeldt advised that this is Council Policy and there is not intent to change the policy at this point in time.

In regards to your section the short answer is yes, Councillors do have the option to object or amend Officers recommendations

Often, matters presented to Council form part of a range of decisions made prior, like the adoption of the annual budget. Mr André Schönfeldt then provided an overview of the budget process, including the endorsing of Council Asset Management Plans and advised that the process is massive and that there are a number of opportunities for Council to debate throughout the process.

On occasions Councillors do not agree with officers' recommendations. Mr André Schönfeldt provide details on the following amended Officer recommendations.

- 1. The Bridge between Watson Reserve and The Lookout. – OCM 26th February 2025 – Res: 27-25*
- 2. Decision of Lot 100 Martin Pelusey Road – Leasing of land. – OCM 25th June 2025 – Res: 172-25*
- 3. DAP Decommissioning and Capping of Tronox Cell 1 – Lot 2 Banksia Road – OCM 9th April 2025 – Res: 82-25*

Further discussion on the process was provided by the Shire President, Cr Tyrrell Gardiner.

5 APPLICATIONS FOR LEAVE OF ABSENCE

None.

6 PETITIONS/DEPUTATIONS/PRESENTATIONS

None.

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

None.

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.

There was no declaration made.

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

12.4.1 Title: Café Lease – Shire of Dardanup Library, Administration and Community Building

Reporting Department	<i>Corporate & Governance Directorate</i>
Responsible Officer	<i>Mrs Natalie Hopkins - Director Corporate & Governance</i>
Reporting Officer	<i>Ms Chantal Shorter – Building Property Management Officer</i>
Legislation	<i>Local Government Act 1995</i>
Council Role	<i>Executive/Strategic.</i>
Voting Requirement	<i>Simple Majority.</i>
Attachments	<i>12.4.1 – Risk Assessment</i>

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.

Change to Officer Recommendation - No Change.

OFFICER AND COUNCIL RECOMMENDED RESOLUTION

223-25 MOVED - Cr A C Jenour SECONDED – Cr M R Hutchinson

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.
2. Notes that no public submissions were received on the proposed lease conditions with TCC Bakehouse Pty Ltd, trading as Townhouse Coffee Co and Café.
3. 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 12-month period from the commencement date of the lease.
5. 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.

CARRIED

6/0

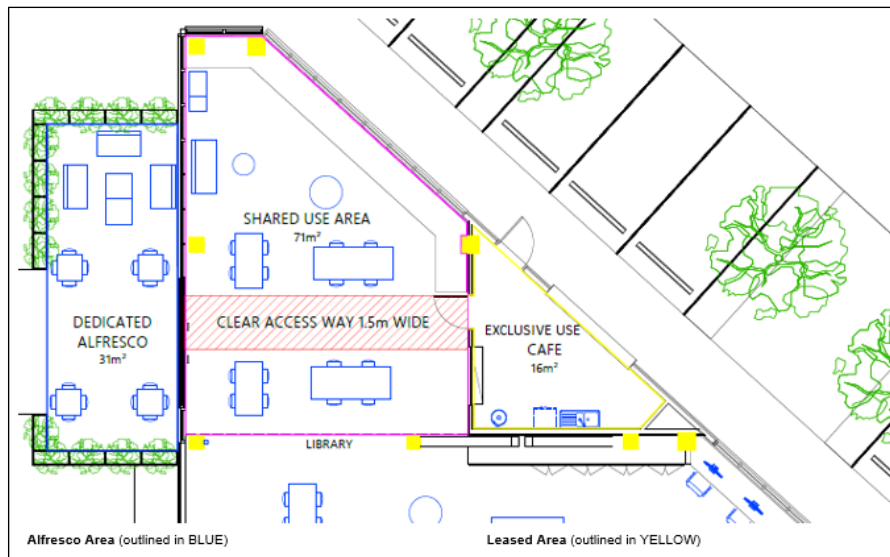
FOR THE MOTION	AGAINST THE MOTION
Cr. T G Gardiner	
Cr. E P Lilly	
Cr. A L Webster	
Cr. A C Jenour	
Cr. S L Gillespie	
Cr. M R Hutchinson	

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, 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 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;
 - or
 - (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.

TIER 2 – ‘Low’ or ‘Moderate’ Inherent Risk.		
Risk Category Assessed Against	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.
	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

12.5 COMMITTEES

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 27th of August 2025, 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 4.46pm.

