



GLAMORGAN SPRING BAY
COUNCIL

Special Meeting Minutes

For the Special
Meeting of Council
held at the
Triabunna Council
Offices

10 May, 2016

THAT NOTICE OF SPECIAL MEETING

Notice is hereby given that the Acting Mayor has called a Special Meeting of the Glamorgan Spring Bay Council to be held at the Triabunna Council Offices, Triabunna on Tuesday the 10th May 2016 at 5.00pm.



Dated this Friday 6th May, 2016

David Metcalf
GENERAL MANAGER

“I certify that with respect to all advice, information and recommendations provided to Council with this agenda:

- 1. The advice, information or recommendation is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation, and**
- 2. Where any advice is given directly to the Council by a person who does not have the required qualifications or experience, that person has obtained and taken into account in that person’s general advice the advice from any appropriately qualified or experienced person. “**

Note: Section 65 of The Local Government Act 1993 states:

- (1) A general manager must ensure that any advice, information or recommendation given to the council or a council committee is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.**
- (2) A council or council committee is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council or council committee.**



David Metcalf
GENERAL MANAGER

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Audio Recording of Ordinary Meetings of Council

As determined by Glamorgan Spring Bay Council, all Ordinary and Special Meetings of Council will be electronically audio recorded from April 2014 onwards.

In accordance with the Local Government Act 1993 and Regulation 33, these audio files will be retained by Council for at least 6 months and made available for listening on written request by any person. The written minutes of a meeting, once confirmed, prevail over the audio recording of the meeting.

1. Opening

The Acting Mayor welcomed Councillors, staff and members of the public and declared the meeting open at 5.04pm.

1.1 Present and Apologies

Present: Acting Mayor Cheryl Arnol, Cllr Bertrand Cadart, Cllr Richard Parker, Cllr Britt Steiner, Cllr Jenny Woods.

Apologies: Mayor Michael Kent (on leave), Cllr Debbie Wisby, Cllr Jenifer Crawford.

1.2 In Attendance

David Metcalf (General Manager), Angela Turvey (Executive Officer) and 4 members of the public.

1.3 Declaration of Pecuniary Interests

In accordance with Regulation 8 of the Local Government (Meeting Procedures) Regulations 2005, the Mayor requests Elected Members to indicate whether they or a close associate have, or likely to have, a pecuniary interest in any item included in the Agenda.

2. Sale of Council Property-Swansea

Responsible Officer – General Manager

At the February Ordinary Meeting, Council resolved to commence proceedings to offer for sale a number of properties under section 179 of the Local Government Act.

The portion of land where the current SES building is located can also be sold. However, it is attached to the title of the Swansea Hall which is known as 12 Franklin Street, Swansea. This title will need to be subdivided first with the hall and SES building being on separate titles. Alternatively the SES portion of land can be adhered to 4 Arnol Street and processed via a boundary adjustment. Provision would also need to be made for rear access to the hall and 14 Franklin Street (Horny Cray Café), which can be achieved by an easement over the property.

Whilst this property was part of the original report to Council in February, it was not included in the motion to commence proceeding to offer for sale under Section 179 of the Local Government Act.

Details relating to this specific property are attached.

Please note:

This item was included on the April 26th Ordinary Meeting of Council Agenda (Item 9.1) but was lost due to the lack of an absolute majority. It is once again presented to Council for the decision in April to be rescinded and the item to be reconsidered by Council.

Statutory Implications

The Local Government Act defines what is required in the event Council wishes to sell, dispose, transfer or exchange public land and is included below :-

LOCAL GOVERNMENT ACT:

177. Sale and disposal of land

(1) A council may sell, lease, donate, exchange or otherwise dispose of land owned by it, other than public land, in accordance with this section.

(2) Before a council sells, leases, donates, exchanges or otherwise disposes of any land, it is to obtain a valuation of the land from the Valuer-General or a person who is qualified to practise as a land valuer under section 4 of the Land Valuers Act 2001.

(3) A council may sell –

(a) any land by auction or tender; or

(b) any specific land by any other method it approves.

(4) A council may exchange land for other land –

(a) if the valuations of each land are comparable in value; or

(b) in any other case, as it considers appropriate.

(5) A contract pursuant to this section for the sale, lease, donation, exchange or other disposal of land which is public land is of no effect.

(6) A decision by a council under this section must be made by absolute majority.

177A. Public land

(1) The following land owned by a council is public land:

- (a)** a public pier or public jetty;
- (b)** any land that provides health, recreation, amusement or sporting facilities for public use;
- (c)** any public park or garden;
- (d)** any land acquired under section 176 for the purpose of establishing or extending public land;
- (e)** any land shown on a subdivision plan as public open space that is acquired by a council under the Local Government (Building and Miscellaneous Provisions) Act 1993;
- (f)** any other land that the council determines is public land;
- (g)** any other prescribed land or class of land.

(2) The general manager is to –

- (a)** keep lists or maps of all public land within the municipal area; and
- (b)** make the lists and maps available for public inspection at any time during normal business hours.

178. Sale, exchange and disposal of public land

(1) A council may sell, lease, donate, exchange or otherwise dispose of public land owned by it in accordance with this section.

(2) Public land that is leased for any period by a council remains public land during that period.

(3) A resolution of the council to sell, lease, donate, exchange or otherwise dispose of public land is to be passed by an absolute majority.

(4) If a council intends to sell, lease, donate, exchange or otherwise dispose of public land, the general manager is to–

- (a)** publish that intention on at least 2 separate occasions in a daily newspaper circulating in the municipal area; and
- (ab)** display a copy of the notice on any boundary of the public land that abuts a highway; and
- (b)** notify the public that objection to the proposed sale, lease, donation, exchange or disposal may be made to the general manager within 21 days of the date of the first publication.

(5) If the general manager does not receive any objection under subsection (4) and an appeal is not made under section 178A, the council may sell, lease, donate, exchange or otherwise dispose of public land in accordance with its intention as published under subsection (4).

(6) The council must –

(a) consider any objection lodged; and

(b) by notice in writing within 7 days after making a decision to take or not to take any action under this section, advise any person who lodged an objection of –

(i) that decision; and

(ii) the right to appeal against that decision under section 178A.

(7) The council must not decide to take any action under this section if –

(a) any objection lodged under this section is being considered; or

(b) an appeal made under section 178A has not yet been determined; or

(c) the Appeal Tribunal has made a determination under section 178B(b) or (c).

(8)

178A. Appeal

(1) Any person who lodged an objection under section 178 may appeal to the Appeal Tribunal against the decision of a council under section 178(6) within 14 days after receipt of notice of that decision under section 178(6)(b).

(2) An appeal must be made in accordance with the Resource Management and Planning Appeal Tribunal Act 1993.

(3) An appeal may only be made on the ground that the decision of the council is not in the public interest in that –

(a) the community may suffer undue hardship due to the loss of access to, and the use of, the public land; or

(b) there is no similar facility available to the users of that facility.

(4) The Appeal Tribunal is to hear and determine an appeal in accordance with the Resource Management and Planning Appeal Tribunal Act 1993.

(5) The decision of the Appeal Tribunal on hearing an appeal is final and section 25 of the Resource Management and Planning Appeal Tribunal Act 1993 does not apply.

178B. Determination of appeal

In hearing an appeal against a decision of a council, the Appeal Tribunal may –

- (a) confirm that decision; or*
- (b) set aside that decision; or*
- (c) set aside that decision and –*
 - (i) substitute another decision; or*
 - (ii) remit the matter to the council for reconsideration.*

Budget Implications

Council currently pays land tax, water charges and any maintenance required. Under the proposed sale of the properties we would no longer be responsible for these charges and would also receive Council rates for the properties.

Recommendation

1. That Council by absolute majority rescinds the decision (Item 9.1 Sale of Council Properties) from the Ordinary Meeting of Council held April 26th, 2016 (Decision 52/16 Motion was put and lost for the want of an absolute majority).

2. That under section 178 of the Act, Council by absolute majority authorises the General Manger to commence proceedings to offer for sale part of 12 Franklin Street, Swansea (the rear area housing the SES building) and;
 - a. publish that intention on at least two separate occasions in The Advocate, The Mercury and The Examiner newspapers, local newsletters and community notice boards; and
 - b. display a copy of the notice on any boundary of the public land that abuts a highway; and
 - c. notify the public that objection to the proposed sale, lease, donation, exchange or disposal may be made to the general manager within 21 days of the date of the first publication.

Attachments:

-) The List - 12 Franklin Street, Swansea

Decision: 60 /16

Moved Cllr Jenny Woods , seconded Cllr Britt Steiner, that Council by absolute majority rescinds the decision (Item 9.1 Sale of Council Properties) from the Ordinary Meeting of Council held April 26th, 2016 (Decision 52/16 Motion was put and lost for the want of an absolute majority).

**The motion was put and carried unanimously
(5 Votes to 0)**

For: Acting Mayor Cheryl Arnol, Cllr Bertrand Cadart, Cllr Richard Parker, Cllr Britt Steiner, Cllr Jenny Woods.

Against: Nil

Decision: 61 /16

Moved Cllr Bertrand Cadart, seconded Cllr Britt Steiner, that under section 178 of the Act, Council by absolute majority authorises the General Manager to commence proceedings to offer for sale part of 12 Franklin Street, Swansea (the rear area housing the SES building) and;

a.publish that intention on at least two separate occasions in The Advocate, The Mercury and The Examiner newspapers, local newsletters and community notice boards; and

b.display a copy of the notice on any boundary of the public land that abuts a highway; and

c.notify the public that objection to the proposed sale, lease, donation, exchange or disposal may be made to the general manager within 21 days of the date of the first publication.

**The motion was put and carried unanimously
(5 Votes to 0)**

For: Acting Mayor Cheryl Arnol, Cllr Bertrand Cadart, Cllr, Richard Parker, Cllr Britt Steiner, Cllr Jenny Woods.

Against: Nil

Address: 12 Franklin Street, Swansea

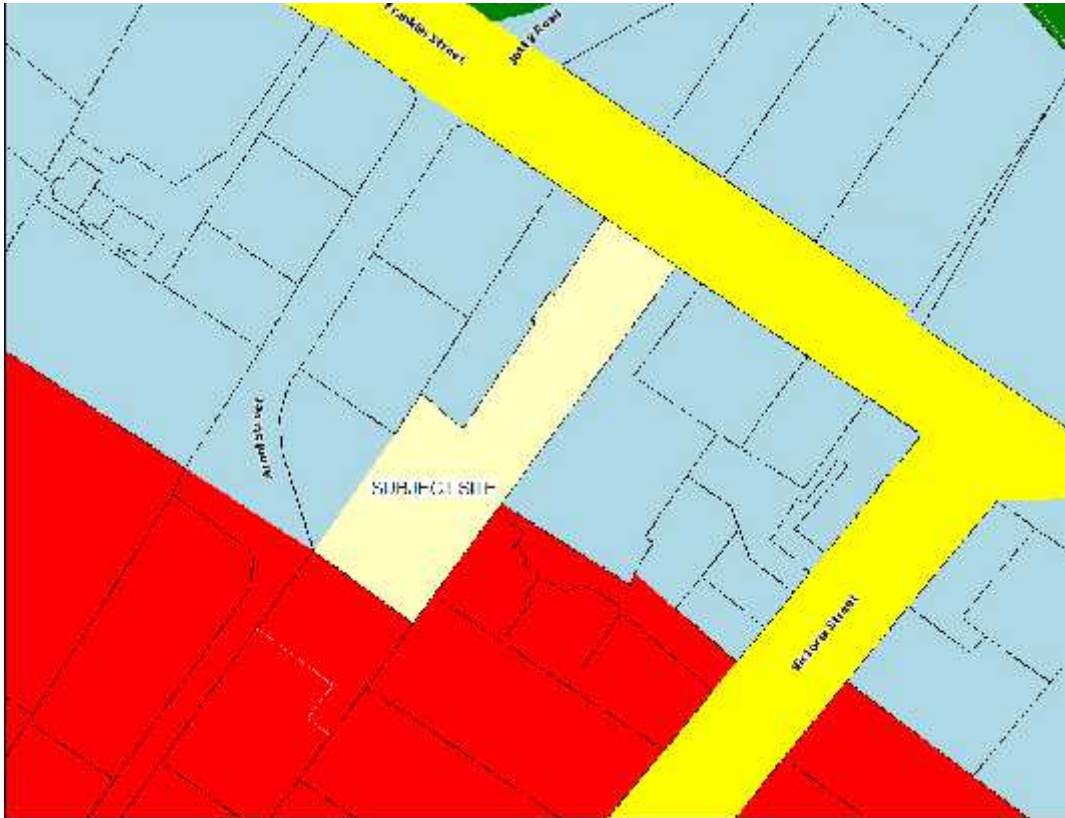
Lot Size: 1820 m²

Zoning: Community Purpose

Title: CT62307/50

Current Use: Hall and SES Building

A subdivision or boundary adjustment is required to separate the SES Building from the Hall.



SEARCH OF TORRENS TITLE

VOLUME	FOLIO
113141	1
EDITION	DATE OF ISSUE
2	25-Jun-2015

SEARCH DATE : 07-Apr-2016

SEARCH TIME : 12.59 PM

DESCRIPTION OF LAND

Town of SWANSEA
Lot 1 on Plan 113141
Being the land described in Conveyance No. 17/5520
Excepting thereout 0-0-23 7/10 (10/53 D.O.) Indenture No.
20/9094
Derivation : Part of 2-2-34 Granted to C. Meredith
Derived from A15166

SCHEDULE 1

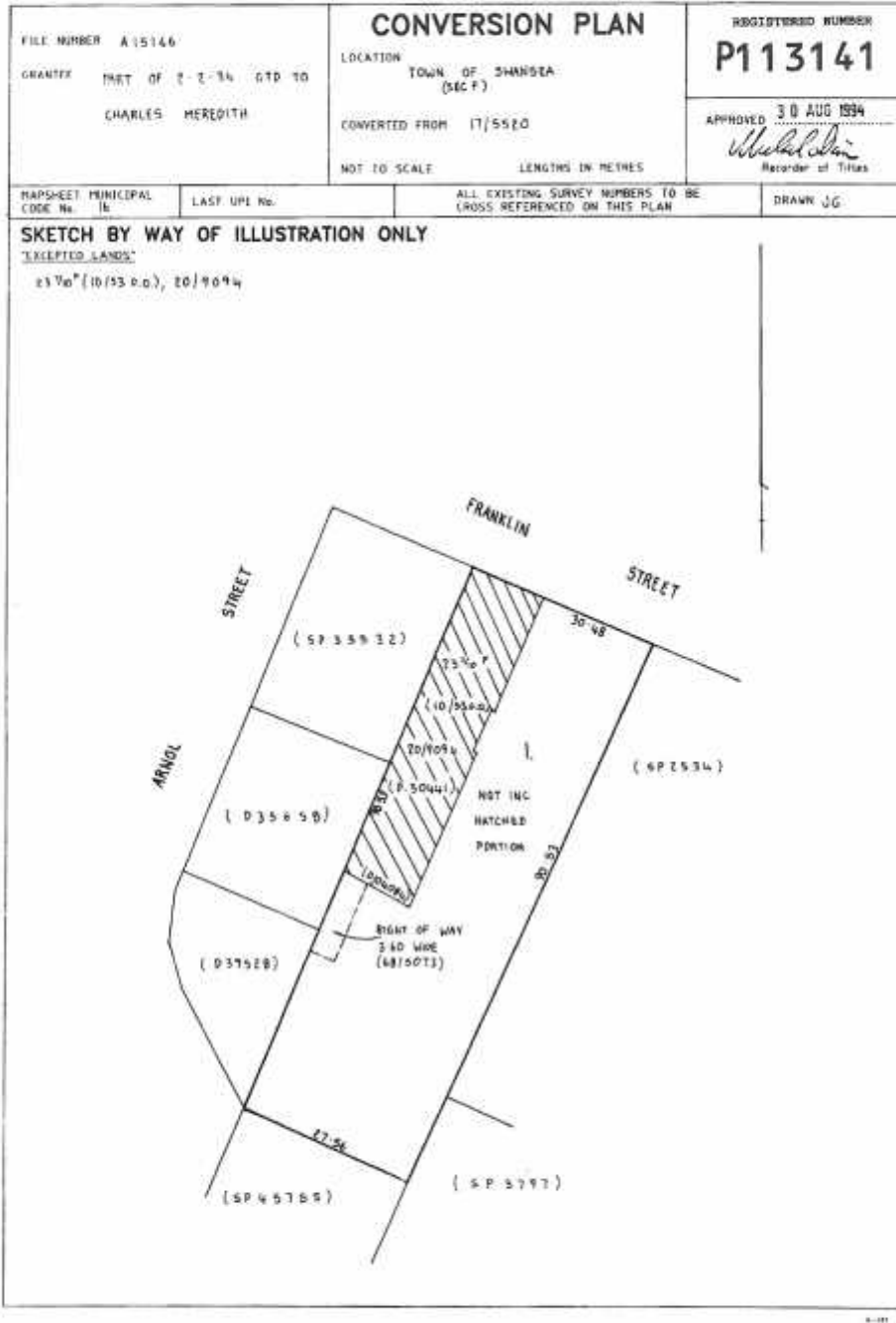
GLAMORGAN-SPRING BAY COUNCIL

SCHEDULE 2

Reservations and conditions in the Crown Grant if any
68/5073 GRANT BURDENING EASEMENT: RIGHT OF CARRIAGEWAY
(appurtant to the land comprised in Folio of the
Register Volume 4321 Folio 100) over the Right of Way
shown on Plan No. 113141 as passing through the said
land within described

UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations



3. Confidential Item (Closed Session)

The Acting Mayor declared the meeting closed to the public in order to discuss a confidential item. It is expected that the following item will be dealt with in a closed session.

-) *Under regulation 15 of the Local Government Act 1993, the meeting will be closed to the public according to Regulation 15 (2) (f) information has been provided to Council on the condition it is kept confidential.*

Decision: 62 /16

Moved Clr Richard Parker, seconded Clr Jenny Woods, that Council moves into a closed session (5.17pm).

**The motion was put and carried unanimously
(5 Votes to 0)**

For: Acting Mayor Cheryl Arnol, Clr Bertrand Cadart, Clr, Richard Parker, Clr Britt Steiner, Clr Jenny Woods.

Against: Nil

4. CLOSE

The Acting Mayor declared the Special Meeting closed at 5.44pm.

CONFIRMED as a true and correct record.

Date:

Acting Mayor Cheryl Arnol