

HEPBURN SHIRE COUNCIL

SPECIAL MEETING MINUTES

**Tuesday 9 September 2008.
7PM**

**Senior Citizens Room
Water Street
Creswick**

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VISION STATEMENT:

Hepburn Shire will be a vibrant, creative rural Shire with strong and healthy connected communities. Our Council will govern with integrity and inclusiveness. Our natural environment, productive agricultural land and rich heritage will remain valued and protected as assets for residents and visitors to appreciate and enjoy.

Council has in the COUNCIL PLAN established 5 objectives to enable your Team of Councillors and Officers to move forward.

Objective One – Strengthening Communities

Council will engage with and support our diverse communities to realise their potential and determine and achieve their aspirations.

- 1.1 To be a leader in community consultation, advocacy & engagement
- 1.2 Enhance community connectedness, capacity building and leadership
- 1.3 Enhance external relationships

Objective Two – Service Delivery

Council will deliver responsive services to our community within available resources.

- 2.1 Improve service delivery
- 2.2 Improve internal and external communication
- 2.3 Further develop the range of facilities and programs

Objective Three – Asset and Resource Management

Council will effectively manage our assets and resources to create a better Shire for our community.

- 3.1 Improve the management of our assets
- 3.2 Foster & encourage leadership
- 3.3 Responsible financial management
- 3.4 Promote and encourage innovation
- 3.5 Tight, sharp, focussed, professional administration

Objective Four – Economic Development

Council will strengthen our local economy by working in partnership with business and community.

- 4.1 Develop partnerships with educational and research organisations
- 4.2 Promote and market the shire
- 4.3 Encourage and support diversity of economic activity and employment

Objective Five – Heritage and Environment

Council, in partnership with our community will ensure that our cultural, natural and built environment is protected, conserved and enhanced for future generations.

- 5.1 Promote & practise environmental management and sustainability
- 5.2 Respect and honour our unique historical and cultural attributes

Council has committed itself to these philosophies, to the five objectives, to the strategies of implementation and to being accountable to all of the Hepburn Shire.

Hepburn Shire is a wonderful home for all of us. Our Council Plan and the Community Plan provide a direction for the future.

**MINUTES OF A SPECIAL MEETING
OF THE HEPBURN SHIRE COUNCIL HELD AT
SENIOR CITIZENS ROOM,
CRESWICK
ON TUESDAY 9 SEPTEMBER 2008,
COMMENCING AT 7 PM**

AGENDA

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CLOSE OF MEETING

CR TIM HAYES, MAYOR.
10 SEPTEMBER 2008.

ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

We would like to acknowledge we are meeting on Jaara people country, of which members and elders of the Dja Dja Wurrung community and their forebears have been custodians for many centuries.

On this land the Jaara people have performed age old ceremonies of celebration, initiation and renewal.

We acknowledge their living culture and their unique role in the life of this region.

PRESENT: Mayor, Cr Tim Hayes; Councillors Janine Booth, Bill McClenaghan, Heather Mutimer and David Smith.

IN ATTENDANCE: Chief Executive Officer, Kaylene Conrick; Director Infrastructure & Development, Rod Conway; Manager Tourism, Economic Development & Recreation, Geoff Ryan; Manager Community Services, Martin Walmsley; Manager Governance & Information, Matthew Morgan. Gallery 8. At 7.49pm Gallery 13. No Press were represented.

The Mayor opened the meeting at 7.28pm.

1. APOLOGIES:

Nil

2. DECLARATION OF PECUNIARY INTEREST:

Nil

MOTION MOVED AT THE MEETING;

That the Meeting adjourn to await the arrival of guests from Belgravia.

Moved: Cr David Smith
Seconded: Cr Janine Booth
Carried.

The Meeting adjourned at 7.29pm.

MOTION MOVED AT THE MEETING:

That the Meeting reconvene.

Moved: Cr Bill McClenaghan

Seconded: Cr David Smith

Carried.

The Meeting reconvened at 7.49pm.

Those Present and In Attendance remained unchanged, with the gallery increased to 13.

The Mayor re-opened the meeting with a reading of the Council prayer at 7.49pm.

OPENING PRAYER

ALMIGHTY GOD, WE ASK YOUR BLESSING UPON THIS COUNCIL.
DIRECT AND GUIDE OUR DELIBERATIONS.
WE ASK YOU TO GRANT US WISDOM AND SENSITIVITY AS WE DEAL
WITH
THE BUSINESS OF OUR SHIRE.
MAY EACH DECISION THAT WE MAKE ADVANCE THE WELLBEING OF
ALL OUR
RESIDENTS.
THIS WE PRAY. AMEN

3.1 CHIEF EXECUTIVE OFFICER - AUTHORISATION

(A/O – Council)

Synopsis

The Local Government Act 1989 allows Council to delegate to the Chief Executive Officer administrative powers. With the appointment of Kaylene Conrick as CEO, Council needs to confirm authorisations and delegations under the Act and other relevant legislation.

Report

Under the Local Government Act the provisions are very clear that a CEO has certain powers and responsibilities. To complement this and to ensure the CEO is able to carry out her role Council resolves to authorise and delegate relevant matters to her.

Maddocks (Solicitors) now provide a legal service for Council to review its Instrument and Delegation and this service has been used in reviewing the current delegation.

The relevant Instrument is circulated separately to Council.

Statutory Requirements

Council is required to resolve to sign and seal the new Instrument of Delegation.

Where an officer acts without the appropriate delegation, Council could be confronted with civil claims or insurance claims should a third party wish to pursue legal action.

Relevant Policies / Council Plan implications

Council's Vision Statement : "...Our Council will govern with integrity and inclusiveness...." The Vision Statement together with Council's 5 objectives suggests that where Council can provide effective action through delegation to staff, the Council's customers will benefit from good customer advice and service.

Local Government Act.

Community / Engagement / Communication / Consultation

Not relevant to this report.

Financial & Resource Implications Initial & Ongoing

There are no budget implications resulting from the recommendation to this report.

Risk Management

Updating Council's Instrument of Delegation to the Chief Executive Officer ensures that Council is protected from possible litigation where staff are acting in accordance with Council formal delegation.

Officer's Comment

The updated Instrument of Delegation has been prepared in accordance with Maddocks recommendations and will be reviewed on a regular basis as new legislation is enacted or current legislation is amended.

Recommendation:

In the exercise of the powers conferred by Section 98 (1) of the Local Government Act 1989 (the Act) and the other legislation referred to in the attached Instrument of Delegation, the shire of Hepburn Council (Council) RESOLVES THAT:

- 2.1.1. There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the attached Instrument of Delegation to the Chief Executive Officer, subject to the conditions and limitations specified in that Instrument;
- 2.1.2. The instrument comes into force immediately the common seal of Council is affixed to the instrument;
- 2.1.3. On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked;
- 2.1.4. The duties and functions set out in the instrument must be performed and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of council that it may from time to time adopt; and
- 2.1.5. It is noted that the instrument includes a power of delegation to members of Council staff in accordance with Section 98 (3) of the Act.

Moved the Officer's Recommendation.

Moved: Cr David Smith

Seconded: Cr Janine Booth

Carried.

4.1 HEPBURN MINERAL SPRINGS RESERVE – BATHHOUSE LEASE

(A/O – Manager Governance & Information)

File Ref: 5/4685/00100

Synopsis

On 15 August 2008 the Hon Gavin Jennings, Minister for Environment and Climate change re-appointed Council as committee of management for that part of Hepburn Mineral Springs Reserve where the redeveloped Bathhouse is located. The Council is now in a position, acting as the committee of management, to grant a lease of the land on which the Bathhouse is located and consequentially the management, operation and maintenance of the Bathhouse for the “Permitted Use” – viz: *Operation of a Mineral Water spa complex and ancillary activities including therapies and massages, retail sale of related products and café/refreshment facilities.*

Report

As Council is aware the Bathhouse site was specifically removed from the Reserve and Council’s earlier appointment was revoked to enable the Bathhouse redevelopment to proceed.

Details of the re-appointment and a Plan of the land are attached to this Report.

Council was regularly appraised and had opportunity for input throughout the Bathhouse redevelopment phase on process and development of the new Lease. In particular, on 4 March 2008 the Council received a Report on the Lease Tender process, the recommendation from the State Governments Project Control Group for acceptance of the tender from Belgravia Health and Leisure Group Pty Ltd and resolved to endorse the recommended tender.

In summary:

- the Lease will be granted under S29A of the Crown Land (Reserves) Act 1978 (CLRA) (Lease of mineral spring reserves)
- the Lease consideration was approved by the Minister and the Lease recommended to the Governor in Council as required by the CLRA
- the Lease was approved by the Governor in Council, prior to being granted by the committee of management, as required by the CLRA.

The Lease:

The Council previously accepted the terms and conditions of the proposed Lease. Councillors have been provided with a copy of the Lease. A brief summary of major points in the Lease is:

- The committee of management – Council – is the Landlord
- Belgravia Health and Leisure Group Pty Ltd – is the Tenant
- The term is 20 years
- The lease is assignable to another Tenant – subject to Landlord and Minister’s consent and the meeting of prescribed criteria prescribed in the Lease
- The Lease is exempt from the Retail Leases Act 2003

- Rent
 - base rent is payable subject to annual review and
 - turnover rent equal to a percentage of gross revenue
 - all payable in advance with provision for adjustment of turnover

- The Tenant is required to keep complete and accurate records for calculation of turnover, report monthly, quarterly and annually and all is subject to audit by a Landlord appointed qualified and registered company auditor
- The Tenant to pay rates and charges and reimburse Council's insurance premiums
- The Tenant is responsible for cost of all services eg metered supplies, telephone etc
- The Tenant is limited to use the premises for the 'Permitted Use' (exclusion re use as a training facility)
- Customer feedback is required and to be reported on quarterly
- Community service agreement covering local access and pricing, subject to annual review on pricing, hours and staff qualifications
- Mediation process for resolution of disputes
- Mineral water – covers all matters concerning licences and renewal, supply, surcharge if imposed, and efficient use
- Planning and Heritage compliance
- Tenant responsibility to maintain and refurbish at stated intervals, with refurbishment subject to substantial financial guarantees
- Maintenance to be to stated asset standards
- The Tenant to have appropriate insurances – Public Liability requirement is \$20m cover and includes indemnities regarding negligence
- Process for premises reinstatement for damage or destruction
- Default and termination processes
- Tenants warrants as to its status, legal capacity and corporate authority
- Performance guarantee sum of \$60,000.

The Community Services Agreement:

To meet tender requirements for local community access a specific Agreement was developed. A copy has been provided to Councillors.

The main points of the Community Services Agreement are pricing – local residents access to the relaxation pool \$10 during the hours of 9am – 2pm Monday – Thursday.

It is understood Belgravia may be considering an extension of the minimum hours and a multi-use pass.

Relevant Policies / Council Plan implications

Crown land (Reserves) Act 1978.

Under the Council Plan 2006 – 2011 –

Economic Development section - the granting of this Lease meets Action 4.3.1. The Bathhouse will add to economic activity and employment.

Asset and Resource Management section – the Lease will assist with effective management of the redeveloped asset.

Policy 9 – Council Owned and Controlled property requires appropriate written documentation for occupancies and the Lease meets these requirements.

Community / Engagement / Communication / Consultation

The Lease was subject to a public expression of interest and selected tender process conducted by DSE with Council input. Public advertising was undertaken, together regular 'press' and newsletters about the project.

Financial Implications

Rent generated from the Lease is referred to above. The CLRA in S29C provides how rent revenue may be used – essentially on improvements, maintenance and administration associated with the Mineral Springs Reserve. The Minister may provide a 'direction' in relation to the use of revenues for other purposes.

Recommendation:

That the Council acting as committee of management of the Hepburn Mineral Springs Reserve and pursuant to the power contained in Section 29A of the Crown Land (Reserves) Act 1978 resolves to:

- 4.1 .1 *Grant a Lease (a copy of which is produced to this meeting) as approved by the Governor in Council*
- *to Belgravia Health and Leisure Group Pty Ltd*
 - *for a term of 20 Years commencing from 15 September 2008*
 - *at the commencing rent nominated in the Lease and*
 - *subject to the covenants, conditions, reservations, restrictions and exceptions contained therein;*
- of that land described as Part Crown allotment 31B Section 24 Township of Hepburn as delineated and shown 'hatched' on the Plan accompanying this Report;*
- 4.1.2 *Approve of the Community Services Agreement attached to the Lease;*
- 4.1.3 *Seal the Lease and Community Services Agreement and authorises the Chief Executive officer to execute the documents pursuant to Local Law No. 1*

Moved the Officer's Recommendation.

Moved: Cr David Smith
Seconded: Cr Bill McClenaghan
Carried.

Amended Motion:

Add Item 4.1.4 **Congratulations to winning tenderer, Belgravia Leisure Pty Ltd.**

Moved: Cr David Smith
Seconded: Cr Bill McClenaghan
All in favour – carried unanimously.



**Minister for
Environment and Climate Change**

Gavin Jennings MLC

5/4685/00100

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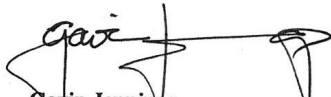
8 Nicholson Steet
East Melbourne, Victoria 3002
PO Box 500
East Melbourne, Victoria 8002
Telephone: (03) 9637 8715
Facsimile: (03) 9637 9057
DX 210098
www.dse.vic.gov.au

Crown Land (Reserves) Act 1978

**APPOINTMENT OF COMMITTEE OF MANAGEMENT
HEPBURN MINERAL SPRINGS RESERVE BATHHOUSE**

Under Section 14(2) of the *Crown Land (Reserves) Act 1978*, I hereby appoint the Hepburn Shire Council as the committee of management of the Crown land shown hatched on the plan GP2294 attached being part of the Hepburn Mineral Springs Reserve temporarily reserved as a site for Mineral Springs and Public Park by Order in Council of 4 August 1959 (Government Gazette 1959, page 2474) located in the Township of Hepburn Parish of Wombat. The temporary reservation effected by the Order in Council dated 4 August 1959 was revoked so far only as the purpose of Public Park was concerned by Order in Council of 13 January 1988 (Government Gazette G2, page 56)

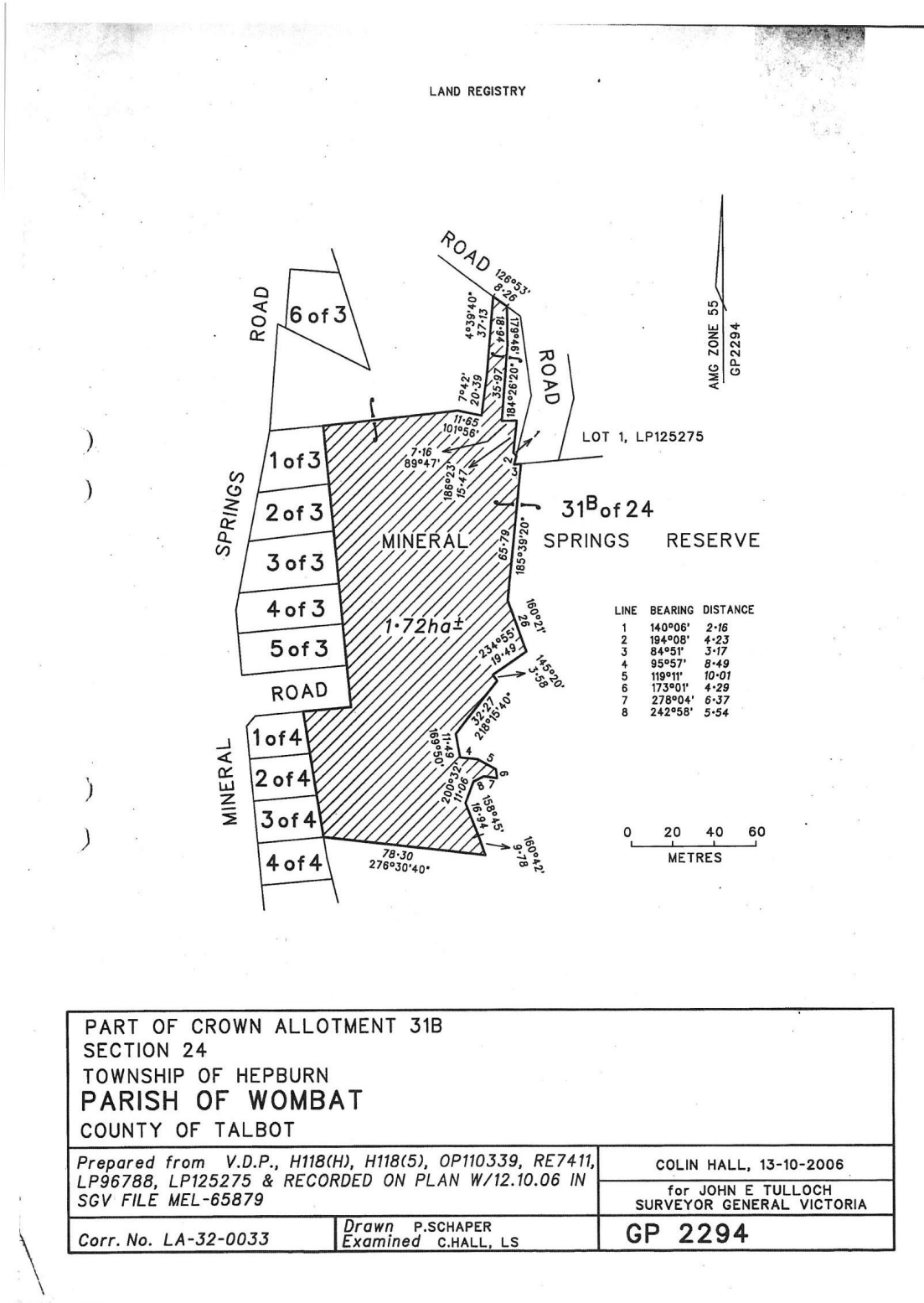
Rs3355



Gavin Jennings
Minister for Environment and Climate Change

Date: 15/08/08





PART OF CROWN ALLOTMENT 31B SECTION 24 TOWNSHIP OF HEPBURN PARISH OF WOMBAT COUNTY OF TALBOT		
Prepared from V.D.P., H118(H), H118(S), OP110339, RE7411, LP96788, LP125275 & RECORDED ON PLAN W/12.10.06 IN SGV FILE MEL-65879		COLIN HALL, 13-10-2006 for JOHN E TULLOCH SURVEYOR GENERAL VICTORIA
Corr. No. LA-32-0033	Drawn P.SCHAPER Examined C.HALL, LS	GP 2294

CLOSE OF MEETING: The Meeting closed at 8.17pm.