HORSHAM RURAL CITY COUNCIL

INSTRUMENT OF DELEGATION
HORSHAM COLLEGE COMMUNITY OVAL COMMITTEE OF MANAGEMENT

Horsham Rural City Council (Council) delegates to the special committee established by resolution of Council and known as the Horsham College Community Oval Committee of Management the powers, duties and functions set out in the Schedule, and declares that:

(1) this Instrument of Delegation is authorised by a resolution of Council, passed on 1 May 2017 and

(2) the delegation

(i) comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;

(ii) remains in force until Council resolves to vary or revoke it;

(iii) is subject to any conditions and limitations set out in the Schedule; and

(iv) is to be exercised in accordance with any guidelines or policies which Council from time to time adopts.

THE COMMON SEAL of the Mayor,

Councillors and Citizens of the

Horsham Rural City Council was affixed to

this Instrument of Delegation on

1 May 2017 in the presence of:

........................................Councillor

........................................Chief Executive
HORSHAM RURAL CITY COUNCIL

INSTRUMENT OF DELEGATION
HORSHAM COLLEGE COMMUNITY OVAL COMMITTEE OF MANAGEMENT

SCHEDULE

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1. **The Committee**

The management and control of Horsham College Community Oval and facilities (as defined in Section 21 of this schedule and hereinafter referred to as “the Oval”, is hereby delegated to the Committee of Management known as the Horsham College Community Oval Committee of Management (hereinafter referred to as “the Committee”).

2. **Objectives**

The objectives of the Committee are on behalf of the Horsham Rural City Council (hereafter referred to as “Council”):-

(a) to promote the community use of the Horsham College Community Oval and facilities contained thereon and to administer the use of the Oval by user groups in accordance with the development and Joint Use Agreement (Appendix 4)

(b) to provide advice and recommendations for the usage of the community space where co-location and shared facilities are encouraged,

(c) to create an environment that fosters and promotes the involvement of young people in community and recreational activities,

(d) to advise and liaise with the Council in relation to the achievement of the foregoing objectives and in the planning of works and programs thereon.

3. **Powers/Functions/Duties**

The Committee shall be empowered on behalf of the Council:-

(a) to manage the area known as the Horsham College Community Oval and as defined in Section 20 and as depicted in Appendix 3.

(b) to receive applications for the use of the facilities at the Oval and under the management of the Committee and to allocate times for the use of such facilities amongst the member organisations, individuals or individual organisations, administer collection and return of facility keys,

(c) to define management and hiring policy of the Oval, and to define the areas of the Oval for the use by member organisations.

(d) to recommend charges for rental of the Oval,

(e) to raise funds, receive rental fees, admission charges, donations and any other contributions and to expend same in order to carry out the objectives herein contained,

(f) to arrange all cleaning of the facility,

(g) to prepare and distribute or otherwise dispose of any publicity, material or promotion for the use of the Horsham College Community Oval,
(h) to undertake or advise on any repairs and replacement or other damage to buildings, premises, fixtures and fittings located on the Oval as per responsibilities in Attachment 1

(i) to submit to Council after due consideration any recommendations for alterations or additional buildings or for improvements to the Oval generally,

(j) to prepare a forward plan of desired improvements,

(k) to make repayment to Council of any monies for buildings or improvements that may be given in the form of lease payments,

(l) to provide for the good order and conduct of all persons within the immediate vicinity of the Oval so as not to create a nuisance.

4. Use of the Oval

(a) The Oval may be used for appropriate recreation, leisure or community activity including exhibitions and entertainment, which is approved by the Committee from time to time provided that each user shall pay to the Committee, without exception, the charges fixed pursuant to Section 9 appropriate to the use.

(b) The Committee shall without delay after taking office, establish a method of equitable allocation of use of the Oval and shall invite applications from appropriate clubs, associations and organisations.

(c) The Committee may for good cause, and subject to an instruction from the Council to the contrary, resolve that a particular group be prohibited from using the Oval. Should such a resolution be proposed, at least 45 days written notice shall be given to the Council of an intention to consider such a resolution.

(d) The Committee shall:

(e) Give preference to local organisations when hiring the facilities,

(f) Not over-commit the facilities,

(g) Ensure that Council’s right to restrict use as it sees fit (to prevent over-use) is known by users,

(h) Ensure that Council staff at all times have the right to inspect the facilities when being used,

(i) Ensure that all allocations for use of the facilities are subject to suspension or alteration if Council desires to carry out repairs or improvements to or other works on or in respect of, the facilities.

5. Powers Excluded

(a) The Committee is not empowered to:

i) borrow money external to council (including the issue of debentures and promissory notes);
II) Incur any bank overdraft; or
III) Carry out, or permit to be carried out, any act which would or would be likely to render Council’s insurance policies invalid.

(b) The Committee is not empowered to do any of the following things without the written approval of the Council:

i) Enter into a contract with a value exceeding $10,000.
ii) Make any alterations or additions to the Oval.

(c) The Committee shall not issue any media releases relating to funding announcements without the approval of Council, and shall not issue any media releases critical of Council.

6. Committee Membership

(a) Members will be appointed to the committee in name, by Council resolution for a one year term.

(b) The Committee shall comprise of up to eleven (11) persons representing the following organisations:

- Australian Football League (AFL) Wimmera Mallee Association (1)
- Community representatives (2)
- Councillor, Horsham Rural City Council (1)
- Horsham College School Council (2)
- Horsham Hockey Club (1)
- Horsham Rural City Council, Manager, Recreation and Sustainability (1)
- Horsham Special School (1)
- Jung Tigers Cricket Club (1)
- Wimmera Regional Sports Assembly (1)

(c) If an appointed representative is unable to attend a meeting, they can request prior to the meeting via email or in writing, that a proxy be appointed who is then entitled to attend and vote at the meeting. The substitute representative cannot be an existing Committee member and the appointment of a proxy is not available to community representatives.

(d) The Council may from time to time remove from the Committee any member and appoint another person in place thereof.

(e) The Council shall, in filling a casual vacancy in the Committee, endeavour to maintain the balance of representation of interests referred to in Section 6 (b).

(f) The Council shall appoint members to the Committee as soon as reasonably practicable after the date upon which the Annual Meeting referred to in Section 7 is held.

7. Meetings

7.1 Annual meeting
(a) The Committee shall give notice of an annual meeting to Council at least 21 days prior to the proposed meeting day. Council will insert a Public Notice in a newspaper circulating in the area, at least 14 days prior to the meeting.

(b) The Committee shall hold an annual meeting between 1 July and 31 October each year on a date fixed by the Committee. The annual meeting shall:

i) Receive the minutes of the previous annual meeting.
ii) Receive the Chairperson’s report of the Committee’s activities of the past 12 months
iii) Receive a financial statement of the operation of the Oval
iv) Receive nominations for membership on the committee and forward these nominations to Council for appointment.

(c) The Committee shall at its first meeting after the annual meeting appoint from its own members, office bearers to the positions of Chairperson, Secretary and any other positions determined by the Committee as being necessary for the efficient functioning of the Committee.

(d) Office bearers shall hold office until the commencement of the first meeting after the date upon which the Council makes its annual appointment of Committee members as envisaged by Section 6 or until they resign their office (whichever occurs first).

7.2 Ordinary Meetings

(e) The Committee shall hold at least four other meetings during the year on such dates as the Chairperson appoints.

(f) The Secretary shall give reasonable notice of all meetings by distributing a notice of the meeting to all members at least seven clear days prior to the meeting.

(g) If a member of the Committee fails to attend three consecutive ordinary meetings of the Committee without tendering an apology, or without having had a proxy attend in accordance with clause 6 (c), the Committee may recommend to Council the removal of the Committee member.

(h) The Chairperson of the Committee must provide reasonable notice to the public of meetings of the Committee, by way of notices at the Oval, on Council’s websites and in the local paper either within 7 days of a meeting or as a once a year schedule.

7.3 Special Meetings

(a) The Chairperson may call a special meeting by giving notice to all Committee members in the manner prescribed hereunder or shall call a special meeting forthwith upon receiving from any three members of the Committee a written request that such a meeting be so called. The notice by the Chairperson or the request by the three Committee Members shall contain a statement of the purpose of the meeting. The meeting will be held on such date and time as fixed by the Chairperson.

(b) In cases where the Chairperson calls a meeting in response to a request, the meeting shall be held within 21 days of receiving such request. The Chairperson shall arrange for two clear
days’ notice of the meeting to be given to all Committee members in writing. No other business shall be transacted at that meeting except that specified in the Notice.

7.4 Meeting Procedures

(a) The quorum at any Committee meeting shall be a majority of members of the Committee. No business shall be conducted by the Committee unless a quorum exists.

(b) Committee members shall have one vote. If there is an equal division of votes upon any question the Chairperson or substitute Chairperson at such meetings shall in addition to his/her own vote as a member of the Committee have a second or casting vote except when voting on the election of a Chairperson.

(c) A motion before a meeting of the Committee is to be determined as follows:

i) Each member of the Committee is entitled to one vote;
ii) Unless otherwise prohibited by the Local Government Act 1989, each member of the Committee present must vote;
iii) Unless the procedures of the Committee otherwise provide, voting must be by show of hands;
iv) The motion is determined by a majority of the vote;
v) If there is an equality of votes the Chairperson or substitute Chairperson has a second, or casting vote
vi) A Councillor on the Committee must vote.

(d) The Chairperson shall be elected from the members of the Committee, by the members of the Committee, at the first meeting of the Committee following the annual meeting for a period of 12 months, expiring at the commencement of the like meeting in the subsequent year.

(e) The Chairperson shall take the chair at all meetings at which he/she is present. Should the Chairperson be absent for any meeting, a substitute Chairperson shall be elected for that meeting from the members present by those same members.

(f) The Chairperson shall ensure that the minutes of each meeting are submitted to the next meeting for confirmation.

(g) After the minutes have been confirmed, the Chairperson or substitute Chairperson must sign the minutes and certify that they have been confirmed, and arrange for the minutes to be forwarded to Council.

(h) If a member of the Committee has a pecuniary interest in any matter, the member must disclose the nature of that interest at the meeting at which the matter is discussed. The member may choose to remain in the room in which the meeting is being held during discussion on the matter, may take part in any discussion, but must not move or second any motion relating to the matter and must abstain from voting. A member of the Committee will not be deemed to have a pecuniary interest solely because of the member’s membership of a user group.

(i) Any meeting or special meeting of the Committee must be open to members of the public.
(j) The Committee may resolve that the meeting be closed to members of the public if the meeting is discussing any of the following:

i) Contractual matters;
ii) Proposed development;
iii) Legal advice;
iv) Any other matters which the Committee considers would prejudice the Council or any person.

(k) The Committee shall comply with Council’s Local Law No.1, “Governance” as it relates to special committees of Council, and the related meeting procedures.

8. Finance

(a) The Committee shall adopt 1 July to 30 June in each year as the financial year and all accounting functions shall conform with applicable Accounting Standards, the Local Government Act 1989 and relevant regulations made under that Act.

(b) All monies received by the Committee shall be paid promptly into a Trust account set up within the Council’s financial system,

(c) Council will provide financial reports as required by the Committee,

(d) The Committee will ensure that adequate records are kept to ensure that all income and expenditure are brought to account. Each year, the financial accounts of the Committee shall be audited by Council.

(e) Eligible expense items are listed in Clause 12.3(a) of the Joint user Agreement (Appendix A)

(f) Expenditure shall be made through Council’s financial systems on presentation of a tax invoice and a copy of the Committee’s minutes containing an appropriate resolution that supports the expenditure

(g) The Committee may obtain an Australian Business Number (ABN),

(h) The Committee shall determine if it wishes to register for the Goods and Services Tax (GST). The Committee must meet its own GST obligations and shall not purchase items in the name of the Horsham Rural City Council,

(i) In pursuing its objectives and functions the Committee shall commit only those monies which are:
   i) within the approved annual budget for the Oval;
   ii) grants obtained for specific projects applied in the operation of the Oval;
   iii) obtained from other sources from time to time for use at the Oval

(j) The Committee may use its funds in accordance with the responsibilities of the Committee of Management as outlined in Appendix 2. The funds may be used for the following purposes:
   i) toward the purchase of plant, equipment, fittings and furniture for the provision of the Oval;
ii) the maintenance and repair of buildings, fences and other improvements associated with the Oval.
iii) to implement programs and services as appropriate with the objectives of the Oval;
iv) general administrative expenses of the Committee;
v) with the written consent of the Council, the erection of further amenities at the Oval or alterations and improvements thereto; and
vi) such other purposes as may from time to time be approved by the Committee in meeting its objectives.

9. Charges

The Committee shall at least once in each financial year (in conjunction with the preparation of its budget, prepared under Section 10 (c)) recommend a scale of charges for the use of the Oval for approval by Council.

10. Budget

The purpose of the budget is to assist the Committee to monitor the finances and maintain effective financial control.

(a) The Committee shall prepare a budget as soon as practical after the annual meeting but no later than 31 May each year, for the ensuing year and forward a copy to Council’s Finance Department, prior to its adoption.

(b) The budget shall be adopted by a motion of the Committee no later than 30 June each year. Council retains the right of veto or right to amend the budget.

(c) In preparing the budget, the Committee shall ensure that the budget adequately provides funds to meet its responsibilities as required in Section 8 (g), and does not generate an accumulated deficit.

(d) The Committee shall not incur expenditure where it believes it will be unable to meet those commitments as they fall due.

(e) As a minimum, the budget shall include the following:

i) A list of budgeted income from all sources for the year.
ii) A list of budgeted expenses for the year, and
iii) The opening and closing budgeted bank balance.

11. Staff

(a) The Committee shall not employ staff without the written approval of the Chief Executive of the Horsham Rural City Council. Should written approval be granted, the Committee shall be responsible for payment of all overheads associated with such employment, including all appropriate insurances.

(b) Any proposal by the Committee to employ staff shall be submitted in writing to Council for consideration.
12. Reporting to Council

The Committee shall be responsible for ensuring the following:

(a) A copy of the draft unsigned, minutes shall be forwarded to Council within 14 days after each meeting.

(b) The Committee shall submit at its annual meeting an annual report including the audited Annual Statement of Accounts. The Chairperson shall be responsible for ensuring that the report is lodged with Council by 31 October each year.

(c) Council must be advised in writing as soon as possible of the resignation of any member of the Committee.

(d) The Committee shall conduct site risk assessments at least annually to ensure a safe environment. The Committee shall provide copies of these inspections to Council.

(e) The Committee shall maintain a personal injury and loss/damage register and advise Council as soon as practical of any incidents which might give rise to legal proceedings.

(f) The Committee shall report to Council any accidental and/or intentional damage to the Oval as soon as practical.

(g) The Committee shall report to Council any attempted and/or successful break-ins into buildings located on the Oval as soon as practical.

(h) The Committee shall comply with the provisions of the Occupational Health and Safety Act 2004. In particular, the Committee shall report to Council’s Risk Management Officer all incidents which result in injuries to staff or contractors within 24 hours of the incident.

13. Land and Buildings, Plant and Equipment

(a) Council retains the right to access the Oval. The Committee shall provide copies of all keys to the facility at the Oval.

(b) The Committee shall be responsible for the maintenance and operation of buildings, plant and equipment, as per Appendix 2.

(c) Where equipment or the building is damaged, the Committee may recoup such reasonable costs as are necessary to replace such equipment or maintain the building from the person or persons or group responsible for such damage but no legal proceedings shall be issued without the written approval of the Council.

(d) The Committee shall conduct site inspections that include risk assessments. The inspections may be incorporated into end of year inspections, which shall be reported to Council.

(e) Specific items of building maintenance shall be included in the annual budget,

(f) The Committee shall submit to Council after due consideration any recommendations for alternations or additional buildings or for improvements to the overall Oval generally.
14. **Insurance**

(a) Public Liability Insurance shall be provided by Council at Council’s expense to cover the Committee’s activities in managing the Oval, whilst acting within the scope of their duties for and on behalf of Council, subject at all times to the terms and conditions of Council’s LMI Liability policy,

(b) Building Insurance shall be provided by Council at Council’s expense under Council’s industrial Special Risk Insurance Policy,

(c) Insurance of contents owned or provided by the Committee, shall be the responsibility of the Committee. The Committee shall ensure that contents are adequately insured against fire, burglary and other perils. User groups shall be responsible for insuring their own contents. Council may provide contents insurance on request at a nominal fee,

(d) The Committee shall ensure that each user group provide evidence of Public Liability Insurance cover.

(e) The Committee shall ensure casual users not covered under Council’s occasional use policy, provide evidence of Public Liability Insurance cover. Council may provide Public Liability Insurance on request at a nominal fee.

15. **Licensing Provisions**

The sale and supply of alcoholic beverages is prohibited unless authorised by a Liquor Licence, and must be in accordance with any rules laid down by the Committee and/or Council. The Committee must notify Council if alcohol is to be sold or supplied on the Oval.

16. **Revocation**

(a) This Instrument of Delegation may be revoked at any time by Council. Factors relevant to the issue of revocation include whether, in the view of Council, the Committee is managing the Oval in the best interest of user groups, the community and the Council; or if Council Policy or strategic direction alters significantly.

(b) In the event of revocation, the Chairperson shall, not later than the date upon which revocation takes effect, arrange for:

i) a financial statement to be prepared, audited and presented to Council;

ii) the Committee’s bank account to be closed and the balance paid to Council;

iii) all keys to the Oval to be handed over to Council.

17. **Dissolution**

(a) The Committee may, at any meeting, agree to disband by each member resigning by notice in writing given to the Council, and hand over its responsibilities to Council.

(b) In the event of dissolution, the Chairperson shall, not later than the date upon which such dissolution would become effective, arrange for:
i) a financial statement to be prepared, audited and presented to Council;
ii) the Committee’s bank account to be closed and the balance paid to Council;
iii) all keys to the Oval to be handed over to Council.

18. Communications

Appendix 1 shall form the basis of communication between the Committee and Council.

19. Correspondence

Unless otherwise stated all correspondence with Council should be via the Executive Assistant to the Director Corporate Services.

20. The Oval

The Oval comprises the following:

The whole of the Oval known as Horsham College Community Oval and as depicted in Appendix 2.
APPENDIX 1 – COMMUNICATIONS

Horsham Rural City Council is committed to working in an open and harmonious way with the community. As such Council will:

a) Seek to manage service delivery to meet the expectations of the community within the resources available; and  
b) Be open and transparent in its dealings with the community.

This protocol seeks to define how Horsham Rural City Council and the Committees of Management of Council facilities will communicate.

Council will:
- Assist Committees of Management in the development and implementation of capital works and significant maintenance programs.  
- Assist Committees of Management with identifying funding opportunities.  
- Assist Committees of Management with maintenance schedules and programs annually.  
- Respond to requests/letters from Committees of Management within fifteen working days.  
- Advise Committees of Management of any decisions or matters that will restrict or impinge on the use of their facilities within 24 hours of the decision.  
- Provide Committees of Management with a list of designated Council Officers authorised to be the contact person for specific matters and concerns annually.  
- Meet with Committees of Management formally once per year to discuss matters of interest and concern to both parties.  
- Explain any decisions that affect Committees of Management in respect to maintenance and capital works.  
- Advise the Committee of Management of the results from the maintenance inspections.  
- Assist Committees of Management with the development of media releases.  
- Provide annual training to assist the Committee of Management.

Committees of Management will:
- Advise Council’s Executive Assistant to the Director of Corporate Services annually of the contact details of the Committee members.  
- Discuss any matters regarding the Instrument of Delegation with Council’s Executive Assistant to the Director of Corporate Services  
- Raise with Council’s Building Assets and Maintenance Officer any concerns or matters relating to maintenance schedules and programs.  
- Liaise with Council’s Grant’s Officer on any funding application that the Committee of Management may apply/plan for.  
- Refer any requests for major capital works or projects to Council’s Chief Executive.  
- Not seek to obstruct Council contractors or Council staff when carrying out their duties at the Oval.  
- Identify an elected Office Bearer (ie: Chairperson or Secretary) to be the liaison person between the Committee of Management and Council’s Executive Assistant to the Director Corporate Services.

If Committees of Management are dissatisfied with communications they may discuss their concerns with the Director Corporate Services on 5382 9785. If after these discussions with the Committee of Management is still dissatisfied with that outcome they can then write to the: Chief Executive, Horsham Rural City Council, PO Box 511, HORSHAM, VIC, 3402.
APPENDIX 2 – AERIAL VIEW Horsham College Community Oval