

# AGENDA

ORDINARY MEETING OF THE  
**HORSHAM RURAL CITY COUNCIL**

on

**6 November 2017**

**5.30pm**

at

Civic Centre

HORSHAM

**COUNCILLORS are respectfully requested to attend the Ordinary Meeting of the Horsham Rural City Council to be held in the Municipal Chambers, Civic Centre, Horsham at 5.30pm on 6 November 2017.**

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CLOSE



PETER F BROWN  
Chief Executive

**1. READING OF PRAYER AND THE ACKNOWLEDGEMENT OF COUNTRY STATEMENT**

**2. WELCOME TO DISTINGUISHED GUESTS OR PERSONS IN THE PUBLIC GALLERY**

**3. APOLOGIES AND REQUEST FOR LEAVE OF ABSENCE**

**4. CONFIRMATION OF MINUTES AND SIGNING THEREOF**

MINUTES OF AN ORDINARY MEETING OF THE HORSHAM RURAL CITY COUNCIL HELD IN THE MUNICIPAL CHAMBERS, CIVIC CENTRE, HORSHAM AT 5.30PM ON 16 October 2017

**5. DISCLOSURE OF INTEREST AND DECLARATIONS OF CONFLICT OF INTEREST**

A Councillor who has a conflict of interest and is attending the Council meeting must make a full disclosure of that interest.

(a) by either –

- (i) advising the Council at the meeting of the details required under paragraphs (b) and (c) immediately before the matter is considered at the meeting; or
- (ii) advising the Chief Executive Officer in writing of the details required under paragraphs (b) and (c) before the meeting; and

(b) classifying the type of interest that has given rise to the conflict as either –

- (i) a direct interest under 77B; or
- (ii) an indirect interest and specifying the particular kind of indirect interest under:

Section 78 – close association  
Section 78A – financial interest  
Section 78B – conflicting duties  
Section 78C – receipt of an applicable gift  
Section 78D – consequence of becoming an interested party  
Section 78E – impact on residential amenity; and

(c) describing the nature of the interest; and

- (d) if the Councillor advised the Chief Executive Officer of the details under paragraph (a)(ii), the Councillor must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.

Members of Staff

Under Section 80C of the Local Government Act 1989, officers or people engaged under contract to the Council providing a report or advice to Council must disclose any conflicts of interests in the matter, including the type of interest.

**6. PUBLIC QUESTION TIME**

**7. OTHER BUSINESS**

**7.1 RESUMPTION OF DEBATE ON THE MOTIONS FROM PREVIOUS MEETING**

NIL

**7.2 RECEPTION AND READING OF PETITIONS, MEMORIALS, JOINT LETTERS AND DEPUTATIONS**

NIL

**7.3 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

NIL

**7.4 COUNCILLORS QUESTIONS WITH NOTICE**

NIL

**7.5 ORDERS OF THE DAY**

NIL

## **8. OTHER REPORTS**

### **8.1 ASSEMBLY OF COUNCILLORS – RECORD OF MEETINGS**

Council Briefing Meeting held on Monday 23 October, 2017 at 5.00pm in the Reception Room.

Chief Executive Recruitment meeting held on Wednesday 1 November, 2017 at 5.35pm in the Middle Meeting Room.

Refer to **Appendix “8.1A”**.

### **8.2 SEALING OF DOCUMENTS**

#### **Documents Signed and Sealed by Council under Delegation**

Contract No. 17/036 – Outdoor Pool Filtration/Report upgrade construction project between Horsham Rural City Council and Commercial Aquatics Australia Pty Ltd

Contract No. 17/033 – Design & Construct Laharum Change Rooms, Cameron Park Oval between Horsham Rural City Council and Otways Securities T/A MKM Constructions.

#### **Recommendation**

That -

1. Council note the Assembly of Councillors’ – Record of Meetings,
2. Council note the documents signed and sealed under delegation.

### **8.3 INWARD CORRESPONDENCE**

NIL



#### **8.4 COUNCIL COMMITTEE MINUTES**

- 8.4.1 Wimmera Southern Mallee Regional Transport Group (WSM RTG) Minutes held on Friday 6 October, 2017 at 12.30pm in the Reception Room, Municipal Offices, Horsham.**
- 8.4.2 Horsham Aerodrome Advisory Committee Meeting Minutes held on Tuesday, 10 October, 2017 at 5.30pm at the Horsham Aero Club.**
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- 8.4.5 Horsham Tidy Towns Committee Meeting held on Tuesday 17 October, 2017 at 12.30pm in the Middle Meeting Room, Civic Centre.**

Refer to **Appendix "8.4A"** for copy of minutes.

## 9. COUNCILLORS' REPORTS

## 10. OFFICERS REPORTS

### 10.1 CHIEF EXECUTIVE

#### 10.1.1 HORSHAM RURAL CITY COUNCIL, CHIEF EXECUTIVE OFFICER RESIGNATION

PF Brown      File Ref:

##### **Purpose**

To formally advise Council of the resignation of Peter Brown from the role of Chief Executive Officer for the Horsham Rural City Council.

##### **Background**

Peter Brown formally resigned from the position of Chief Executive Officer on 16 October, 2017. Under the terms of his contract he is required to provide two months' notice.

Refer to **Appendix "10.1A"** for copy of letter.

##### **Issues**

Following discussions with the Executive Management Group it has been agreed the final day of work will be 22 December 2017. Council will need to appoint an acting Chief Executive Officer until a new permanent Chief Executive Officer commences work. This will be the subject of a further report to Council.

##### **Comments**

My sentiments are expressed in the attached letter.

I wish to emphasise my thanks to this community for the opportunity to serve as Chief Executive Officer. It has been a great honour and I particularly value the support from Councillors, staff and the general community during my time.

**Provided for information of Council.**

#### 10.1.2 GRAMPIANS PEAKS TRAIL UPDATE – OCTOBER 2017

S Surridge      File Ref: F20/A06/000001

##### **Purpose**

To update Council on the progress of the Grampians Peaks Trail.

## **Background**

The Grampians Peaks Trail has been under construction since 2014 and Stage One was completed at a cost of \$1.6m for a two-night, 3-day sections of the Grampians Peaks Trail and opened by the Victorian Premier in May of 2015.

The total budget for the project is \$30.2m.

Council made application in 2014 for the funding of stage two of the project to the Commonwealth under the National Stronger Regions Fund to complete the balance of the trail, hiker's camps and associated infrastructure to the amount of \$10m in support of the State government's allocation of \$19m from the Regional Jobs and infrastructure Fund.

The funding deed with the Commonwealth is reciprocated to Parks Victoria through a back-to-back agreement for the same amount.

In April/May 2016, Horsham Rural City Council entered into the following agreements relating to the construction of the Grampians Peaks Trail:

- Agreement to auspice funding of \$10million from the Federal Government's National Stronger Regions Fund.
- Back-to-Back Deed of Agreement with Parks Victoria to deliver the Grampians Peaks Trail.

Council's Chief Executive sits on the Project Steering Group overseeing the governance of the project.

This report provides an update on progress to date.

## **Issues**

Council has successfully completed Milestones 1 to 5 of the Federal Funding Agreement, received funding of \$1,687,891 and has passed this funding onto Parks Victoria to deliver the project.

Milestone 6 was due on July 30, 2017 and requires the project to be 29% complete and all previous federal funding to have been expended on construction. This milestone is now 2½ months overdue as Parks Victoria has advised that these milestone requirements have not yet been met.

The Project Manager has provided the following update:

- Project 26% complete – The current project spend of \$4.7million was \$1million under budget forecasts.
- An 11 month delay due to cultural heritage issues has resulted in a compressed delivery window to the planned completion date of September 2019.
- Almost all of the ~60km of pre-existing tracks are under contract, however, one tenderer declined to enter one of the contracts and this has been sent to the pre-qualified suppliers for quotation on 25 October, 2017. The time frame for new track construction has been adjusted to commence in mid-2018 following the granting of all statutory approvals.
- A Bushfire Management Statement is required for a town planning permit which will be submitted to the council's abutting the park (Southern Grampians, Northern Grampians and Ararat).
- The Planning Application for the new sections of the track may be lodged by late 2017.
- The Design for the Hikers Camps may be completed by February 2017.
- Lease terms and conditions are being finalised for the trail across freehold land at Dunkeld and across the Roses Gap Recreation Centre.

#### Cultural Heritage

The trail alignment requires endorsement by the Traditional Owners before finalising statutory approvals and commencing construction works on the new sections of the trail. Native title matters with the three traditional owners groups are still ongoing. There has been valuable engagement with the Traditional Owners to assist in undertaking the Cultural Heritage Management Plan surveys on site assessments. There is no major deviation expected to the planned trail alignment and Aboriginal Heritage application will be completed by December 2017.

The Department of Justice have advised that the State and the native title claim group need to agree and sign-off on a Non-Extinguishment Principle as a priority to ensure that the new works do not extinguish native title. This sign off should occur prior to the commencement of construction works on the new trail.

#### Construction delivery method for new sections of the trail

Due to delays that have impacted the commencement of new sections of the trail, there is now a compressed time frame for delivery of the total trail, to achieve the planned completion date of December 2019.

Parks Victoria is currently in consultation with Regional Development Victoria to develop an appropriate and achievable workforce plan and procurement method to meet requirements.

#### Impact on Federal Government Agreement milestones

Horsham Rural City Council is planning discussions with the Federal Department of Infrastructure to amend the remaining Milestones 6 to 16 to reflect the project delays to date and impact on future milestones. Parks Victoria are currently working on a solution that will be acceptable to the Federal and State Governments.

### **Consultation/Communication**

The Grampians Peaks Trail is the largest project that Horsham Rural City Council has been involved with and requires ongoing consultation with key funding bodies (Federal Department of Infrastructure and Regional Development Victoria) and Parks Victoria as the delivery agency.

The Chief Executive continues to represent Council's interests on the Project Steering Committee to ensure that Council's views are represented in the governance process.

### **Financial**

The Grampians Peaks Trail project has limited financial implications involving in-kind contribution by Council. Council's financial role is to auspice the Federal Government grants and report on expenditure by Parks Victoria.

It is important to note that the management and maintenance of this asset will be the ongoing responsibility of Parks Victoria.

### **Links To Council Plans, Strategies, Policies**

- 2.1 Cultivate opportunities for the municipality to prosper and pursue possibilities for new development.
- 2.3 Increase visitors to the municipality.
- 2.3.3 Support the development of the Grampians Peaks Trail.

### **Recommendation**

That Council refer this item to the confidential briefing part of the meeting to consider the report from the Chief Executive Officer in accordance with Section 89(2) (d) contractual matters of the Local Government Act, 1989.

**PETER F BROWN**  
**Chief Executive**

## **10.2 DIRECTOR OF CORPORATE SERVICES**

### **10.2.1 COUNCILLOR ALLOWANCES**

G Harrison

File Ref: F19/A10/000001

#### **Purpose**

To review the Councillor and Mayoral Allowances following the declaration published in the Government Gazette 22 December 2016, which declared Horsham Rural City Council to now be a Category 2 Council when it was previously a Category 1 Council.

#### **Background**

Sections 74, A, B & C of the Local Government Act 1989 (the Act) provide details of Council's obligations in relation to Councillor and Mayoral Allowances.

Under Section 74(1) of the Act, Council must review and determine the level of the Councillor allowance and the Mayoral allowance within the period of 6 months after a general election or by the next 30 of June, whichever is the later. Council undertook this review, reported to Council and sought community feedback at its meeting on 19 December 2016. It was recommended that Council set the Mayoral Allowance per annum at \$59,257 plus 9.25% for Statutory Superannuation, and the Councillors Allowance per annum at \$19,834 plus 9.25% for Statutory Superannuation per Councillor.

The rates listed above for Mayoral and Councillor allowances are paid at the top of the band for category 1 councils, as per the Gazetted rates from 24 November 2016, plus the statutory superannuation percentage, as required.

On 22 December 2016 Local Government Victoria advised Council that following a review of categories Horsham Rural City Council had been altered to a Category 2 Council, based on a points system combining population and recurrent revenue. This allows the setting of Councillor allowances in the range \$10,284 to \$24,730 and Mayoral allowances up to \$76,521, plus an allowance for superannuation at 9.5%.

Payment at the top of the band for Category 1 Councils is approximately 80% of the top of Category 2 Councils.

Under Section 74(1B)(a) of the Act, a Council may review the level of Councillor and Mayoral allowances following a change to category for a council. In the final adoption of the allowances at the council meeting of the 6 March 2017, Council noted the change in Category and resolved to review the allowances again in October 2017.

**Issues**

Council officers have undertaken a review of other councils within Category 2 and have obtained the following information sorted by population of each council:

<b>COUNCIL</b>	<b>MAYORAL ALLOWANCE</b>	<b>COUNCILLOR ALLOWANCE</b>	<b>POPULATION</b>
Corangamite	76,521	24,730	15,553
Moyne	76,521	24,730	16,272
Glenelg	76,521	24,730	19,042
Horsham	59,257	19,834	19,887
Colac Otway	71,748	23,709	20,142
Swan Hill	63,666	23,997	20,394
Wangaratta	76,521	24,730	27,040
South Gippsland	76,521	24,730	27,751
Moira	76,521	24,730	28,942
Surf Coast	76,521	24,730	29,386
Moorabool	76,521	24,730	32,126
Bass Coast	76,521	24,730	32,825
Warrnambool	76,521	24,730	33,948
Campaspe	76,521	24,730	36,814
Wodonga	76,521	24,730	39,358
Mitchell	76,521	24,730	39,920
Wellington	76,521	24,730	41,923
East Gippsland	76,521	24,730	44,415
Macedon Ranges	76,521	24,730	46,023
Baw Baw	76,521	24,730	47,548
Mildura	76,521	24,730	53,356
Nillumbik	76,521	24,730	62,798
Greater Shepparton	76,521	24,730	63,828
Latrobe	76,521	24,730	73,646
Maribyrnong	76,521	24,730	85,471
Yarra	76,521	24,730	92,610
Hobsons Bay	76,521	24,730	93,577
Cardinia	76,521	24,730	95,518
Bayside	76,521	24,730	102,427
Maroondah	76,521	24,730	113,841
Manningham	76,521	24,730	120,664

Note: Current rates of payment at 25 August 2017, excluding 9.5% superannuation contribution. Rates are subject to review annually by the Minister.



Only three Councils, Horsham, Colac Otway and Swan Hill do not pay at the top of the category range. To increase the allowances to the maximum for Category 2 Councils, the Mayoral Allowance would increase by \$17,264 to \$76,521 (to \$6,376 per month) and individual Councillor Allowances would increase by \$4,896 to \$24,730 (to \$2,060 per month).

### **Consultation/Communication**

Under Section 74(4) of the Act, 1989 a person has the right to make a submission under Section 223 if Council undertakes a review of allowance. Section 223 requires Council to publish a public notice and to allow 28 days for submissions to be made. This review requires this process to be implemented.

### **Financial**

The following are some suggested options and the potential costs:

<b>Option</b>	<b>Option Details</b>	<b>Additional Costs above current \$'s</b>			
		<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>Total 3 Yr</b>
<b>1</b>	Make no change to the allowances for the future term of this Council ie leave rates at approximately 80% of the maximum for category 2 Councils	\$0	\$0	\$0	\$0
<b>2</b>	Increase to the maximum allowances effective from the Statutory meeting 9 November 2017	\$31,094	\$46,640	\$46,640	\$124,374
<b>3</b>	No change for 2017-18 but increase to maximum as of 1 July 2018	\$0	\$46,640	\$46,640	\$93,280
<b>4</b>	Phase in the increase commencing 1 July 2018 – spread the increase over the 2 years 2018-19 & 2019-20	\$0	\$23,320	\$46,640	\$69,960
<b>5</b>	Phase in over a longer period with a 7.5% increase per year commencing 1 July 2018	\$0	\$13,369	\$27,740	\$41,109

### **Links To Council Plans, Strategies, Policies**

Council Plan Goal 4 – Governance and Business Excellence.

### **For Council Resolution**

1. That Council determine a position from one of the 5 options listed above or a variation thereof.
2. Having determined a position, Council then calls for public submissions in accordance with Section 74(4) and Section 223 of the Act.

## 10.2.2 LOCAL LAW NO.1 GOVERNANCE - MEETING PROCEDURE

G Harrison

File Ref: F25/A03/000001

### Purpose

To adopt a revised Meeting Procedure as is incorporated by reference in to Local law No.1 Governance in accordance with *Section 112 (1) of the Local Government Act 1989* and to resolve to commence audio recordings for future meetings.

### Background

On 5 September 2016 Council adopted a Meeting procedure, applicable to Council meetings and meetings of Special Committees, that was incorporated by reference in to its Local Law No.1 – Governance. In accordance with Clause 3 of Local Law No.1 – Governance, this procedure includes provisions to:

- set the general standards expected in the Council’s formal meeting processes;
- prescribe how motions and amendments to motions before the Council are dealt with;
- promote and encourage community participation in the system of Local Government by providing mechanisms for the Council to ascertain the community's views and expectations;
- identify the methods by which the community can participate in Council meetings; and
- manage the debate on matters before the Council.

At the 5 September 2016 meeting Council resolved to conduct a review of the Meeting Procedure P04/143 within 6 months of the municipal elections to be held on 22 October 2016. Council commenced this review on the 23 May 2017.

The process by which Council may amend this procedure is much simpler than that required to change the local law but before it comes in to force the following must occur:

1. a notice of motion be given to Council to amend the procedure (this occurred at the 4 September Council meeting);
2. a formal notice published in the Government Gazette once amendments have been adopted, as per *Section 112 (2) of the Local Government Act 1989*.

The ability to more easily amend these procedures will ensure the currency of provisions contained therein, and their relevance to the Council of the day.

## Issues

This report provides a summary of the changes proposed to the Meeting Procedure and the attached **Appendix "10.2A"** shows the detailed changes that have been made. (Minor changes such as typos or name changes such as chairman to chairperson have been excluded from the track changes.)

The resource book *NE Renton "Guide for Meetings and Organisations"* and the *"Good Governance Guide"* put out in collaboration with *Local Government Victoria, Municipal Association of Victoria, Local Government Professionals and the Victorian Local Government Association*, have been used in the consideration of changes.

The following is a summary of some of the proposed changes:

1. Each "Part" of the procedure has had an introduction added to help explain the purpose of that particular section of the procedure.
2. Agenda (A.3.1) the delivery of the Agenda timeline has been increased from 48 hours prior to an Ordinary Meeting to 96 hours ie 4 days, with a strengthening of the commitment to the public also under A.3.3.
3. Quorum (B.1.1) - the quorum was discussed but no decision was made to change the current situation that a quorum will be at least a majority of councillors ie currently 4.
4. Business of Meetings (Part C) – some new parts have been added to help clarify some specific items on the agenda:
  - a. Councillor Reports (C.3) – a new part was added to clarify the intent and purpose for the Councillor Reports and to provide a guide for time allocation. It is also clarified in C.2.2 regarding what is to be recorded in the minutes for Councillor Reports.
  - b. Councillor Reports C.3.3 states that - Councillor reports should not require a Councillor to vote on a matter as it does not require a decision, however, motions for congratulatory letters or similar, relating to matters raised in the first four points of C.3.2 are appropriate or to invite a group to come and present to a future Council Briefing meeting.

Alternatives to this have been suggested but are not currently incorporated into the Draft procedure:

- i. No motions are allowed from Councillor reports
- ii. Motions may be put from the Councillors Report in relation to any matter that the Councillor wishes to put forward
- c. Urgent Business (C.4) – to help clarify what constitutes an urgent item and the need for officers to clarify why it is urgent.
- d. Confidential Matters (C.5) – this part has been added to help Council in managing confidential matters and to encourage items to be in open Council whenever possible.

- e. Notices of Motion (C.6) – this part has been added to further clarify when a Notice of Motion should be used, and Part (E.11) has been expanded to help provide some direction as to the reasons for using a Notice of Motion.
- f. Officers Reports (C.7) – this part has been added to explain the intent and purpose of the officer’s report and to provide some general guidance.
5. Amendments (E.2) – some additional points have been added to help with the moving of amendments and to simplify amendments for non-controversial matters.
6. Foreshadowing Motions (E.3.1) – a modification has been made to this part in order to clarify that Foreshadowing a Motion is to be used when making a motion dealing with the same subject matter.
7. Time Limits for Debate (E.7) – the current time limits were discussed and the current speaking times were considered acceptable. However, the Mayor has stated that it is the intention to more closely adhere to these time limits in the future.
8. Community Participation (Part F) – Public Question time has been reviewed with the following changes:
  - a. Standing orders will be suspended for question time to allow for more informal discussion to take place
  - b. The cut-off time for submitting questions has been extended from 5pm Thursday to 5pm on the Friday preceding an ordinary Council meeting
  - c. A person may now choose to read their own question
  - d. The number and time for questions was discussed but still remains at 2 written questions plus 2 related supplementary questions at the meeting
  - e. The requirement was added for the Chief Executive to also provide a written response within 5 working days of the council meeting.

Part C.2.3 of the current and this Draft Local Law No.1 – Governance, Meeting Procedure, allows for the audio and visual recording of meetings should Council resolve to do so. Council has discussed this matter and indicated a desire to commence with the audio recording of future Council meetings to maintain a fuller publicly accessible record and to stream these live to the community when technology has been put in place to allow that to happen.

### **Consultation/Communication**

There is no formal requirement for consultation under Section 223 of the Local Government Act. Consultation was undertaken in 2016 with respect to the original meeting procedure and two submissions were received. These submissions dealt with making question time and the agenda more accessible. The current revisions have in part addressed some of these concerns.

Further community consultation is not considered necessary at this point in time particularly given the recent community engagement that was undertaken in 2016 and that most proposed changes are to enhance the procedure in terms of its alignment with accepted practise and guidance material provided by Local Government Victoria.

## **Financial**

There have been no financial costs or impacts from this revision.

## **Links To Council Plans, Strategies, Policies**

Goal 4 – Governance and Business Excellence

4 Year Outcome - 4.4 Achieve high standards of organisational performance

## **Human Rights**

The Local Law and Meeting Procedure have been reviewed against the Charter of Human Rights.

## **Recommendation**

1. That Council adopt the revised Local Law No.1 – Governance, Meeting Procedure as shown in **Appendix “10.2A”**, but with track changes removed.
2. That a notice is placed in the next possible Government Gazette notifying of the revision and once published the revised Meeting Procedure will come in to effect.
3. That Council commence the audio recording of meetings effective from the first meeting in 2018 and that audio recordings of Council meetings be retained in Council’s records management system.
4. That further investigation and consideration be given to recording of Councillor Briefing meetings and other Assemblies of Councillors.
5. That future meetings are streamed live via the internet, once suitable technologies have been established to facilitate that occurring.

### **10.2.3 CHIEF EXECUTIVE RECRUITMENT**

R Letts

File Ref: F21/A17/000001

## **Recommendation**

That Council refer this item to the confidential briefing part of the meeting to consider the report from the Director Corporate Services in accordance with Section 89(2) (d) contractual matters of the Local Government Act, 1989.

**GRAEME HARRISON**  
Director Corporate Services

### 10.3 DIRECTOR OF PLANNING AND ECONOMIC

#### 10.3.1 AMENDING A SECTION 173 AGREEMENT – 650 RIVERSIDE EAST ROAD, RIVERSIDE – A AND S RELOUW

N Carey                      File Ref: 99/01/14423A

##### Purpose

This report is seeking a decision from Council acting as the Responsible Authority whether or not it agrees 'in principle' to the amending of a Section 173 agreement (the Agreement). It is recommended that Council not provide 'in principle' support to amend the Agreement (AF285865C) to allow for further subdivision of the land.

##### Background

The Agreement (AF285865C) is registered as an encumbrance on the Title between Council and the owners of Lot 2 PS601509K. The registering of the Agreement on the Title was required as a condition of Planning Permit 06-135 to allow for a two lot subdivision (dwelling excision).

The amending of the Agreement is requested by the landowner to facilitate the further subdivision of Lot 2 to allow for the creation of a smaller lot around the existing dwelling.

The subject land is located in the Farming Zone. 86.2% of the land is affected by the Land Subject to Inundation Overlay although the dwelling and the immediate area around the dwelling is not affected.

The land has an area of 29 hectares and is located within the 60 hectare minimum lot size area of the Farming Zone. Exceptions apply whereby smaller lots can be created if the subdivision is the re-subdivision of lots where no additional lots are created and house lot excisions.

A locality plan is provided as **Appendix "10.3A"**.

A copy of the application documents is attached as **Appendix "10.3B"**.

##### Issues

##### Technical Considerations

Changes to the *Planning and Environment Act 1987* in 2013 established a process for ending or amending a Section 173 agreement. The process sets out that the first decision that Council is required to make is whether it agrees 'in principle' to the amending of the Agreement. Section 178B of *Planning and Environment Act 1987* states that in considering a proposal under section 178A to amend an Agreement, the responsible authority must consider -

- (a) *the purpose of the agreement; and*
- (b) *whether and why the agreement is no longer required; and*
- (c) *whether the ending of the agreement would disadvantage any person, whether or not a party to the agreement; and*
- (d) *the reasons why the responsible authority entered into the agreement; and*
- (e) *any relevant permit or other requirements the land is subject to under the Subdivision Act 1988; and*
- (f) *any other prescribed matter*

A flow chart showing the process is attached as **Appendix "10.3C"**.

### **Purpose of this Section 173 Agreement**

The requirement to enter in to the Agreement was a condition of Planning Permit 06-135 to excise the dwelling that existed on the lot at the time the application for subdivision was made. The planning permit was granted on the 14 August 2006.

At the time the decision was made in 2006 the Horsham Planning Scheme did not require the applicant to enter in to a Section 173 Agreement for a house lot excision. The relevant Clause of the Planning Scheme at the time stated:

*A permit may be granted to create smaller lots if any of the following apply:*

- *The subdivision is to create a lot for an existing dwelling. Only one additional lot which does not contain a dwelling may be created in the subdivision. Each lot must be at least 0.4 hectare.*

Although it is not possible to determine the reasons why the Agreement was considered appropriate at the time a planning permit was granted, one of the reasons could be to prevent further applications for subdivision of farming land into smaller lots which could lead to fragmentation and loss of viable farmland. Furthermore the creation of a small lot containing a dwelling may limit the operation and expansion of adjoining and nearby agricultural uses.

### **Is the Section 173 Agreement no longer required?**

The applicant has identified that the Agreement needs to be amended to remove Lot 2 from the Agreement so as to allow the excision of the existing dwelling, with the balance of the lot being retained for farming. Maintenance of the property is also identified by the applicant as a factor as to why the Agreement should be removed from Lot 2 so as to allow further subdivision.

Although the Agreement prevents further subdivision of the land, by amending the Agreement and therefore allowing an application to be made for subdivision, it does not imply that a permit will be granted. There have been no changes to the Horsham Planning Scheme which would support a house lot excision even if the Agreement were to be amended to allow for further subdivision of the land. A discussion on this matter is provided under the heading "Other considerations" in this report.

**Will the ending of the agreement disadvantage any person?**

No person is considered to be disadvantaged by the ending of the Agreement as both Lots 1 and 2 referred to in the Agreement are owned by the applicant.

**The reasons why the responsible authority entered into the agreement**

Although no documentation exists so as to establish why the responsible authority entered in to the Agreement, as discussed previously in this report it is likely that the Agreement was entered into to prevent further fragmentation of the land.

**Any relevant permit or other requirements the land is subject to under the Subdivision Act 1988**

The following permits have been granted:

06-135 Subdivision (house lot excision)  
08-090 Use and development of a dwelling and shed

In the case of a permit allowing the subdivision of land, it has generally been accepted in Victoria that once the subdivision has been given effect to and new titles have issued, the permit is no longer relevant.

Neither of these permits have any relevance to the amending of the Agreement apart from the fact that it is the intention of the applicants to excise the dwelling which currently is prevented by the terms of the Agreement.

**Other considerations**

Although an assessment of the merits of an application is not required at this stage it is important to consider the likelihood as to whether a permit should be granted. The Horsham Planning Scheme at both a State policy level and Local policy level contains provisions that do not support fragmentation of farming land. These provisions are detailed below:

- *Plan for settlement growth to limit impact on agricultural productivity (Clause 11.10-3)*
- *Protect productive farmland which is of strategic significance in the local or regional context (Clause 14.01-1)*



*In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:*

- *The desirability and impacts of removing the land from primary production, given its agricultural productivity.*
- *The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.*
- *The compatibility between the proposed or likely development and the existing uses of the surrounding land.*
- *Assessment of the land capability.*
- *Subdivision of productive agricultural land should not detract from the long-term productive capacity of the land.*
- *Discouraging development of isolated small lots in rural zones from use for rural living or other incompatible uses. (Clause 16.02-1)*

The relevant objectives of Clause 22.03 of the Horsham Planning Scheme include:

- *To ensure that any proposed lot which is smaller than the relevant minimum area specified in the Schedule to the Farming Zone, created for an existing dwelling, is consistent with the purposes of the Farming Zone.*
- *To prevent the subdivision of land that will be incompatible with the utilisation of the land or adjacent land for agricultural or other productive resource use.*
- *To ensure that any such subdivision is designed in a manner which does not prejudice surrounding rural production activities.*

To implement Clause 22.03 of the Horsham Planning Scheme it goes on to state that it is policy that:

- *House lot excisions will only be supported where it can be demonstrated that the balance lot can still be used for productive agriculture.*
- *Council will consider the history of subdivision and house lot excisions on the subject property to ensure that the trend of development is not compromising the agricultural potential of the property.*
- *House lot excisions will generally not be supported in the Riverside area as this area is already fragmented in such a way that agricultural activity has been compromised.*

The purposes of the Farming Zone include:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

Council officers have strongly opposed applications that propose the further fragmentation of the land within the Farming Zone.

The Council's Dwellings on Small Lots in the Farming Zone Guidelines states:

- *Discourage further subdivision of the land to allow for the excision of the dwelling. An agreement under Section 173 of the Planning and Environment Act must be entered into with the owner of the dwelling which ensures that the land may not be further subdivided so as to create a smaller lot for the dwelling. The agreement must be registered on title.*

This guideline was written in 2014 after the mandatory Section 173 Agreement requirements for house lot excisions were removed from the Horsham Planning Scheme.

It is considered that while the Horsham Planning Scheme has removed the mandatory requirement for a Section 173 Agreement for house lot excisions in the Farming Zone it is still Council policy to require the creation of a Section 173 agreement to prevent further subdivision. Furthermore there appears to be limited support for the creation of a lot as proposed in the Riverside area particularly given the specific reference to Riverside in Clause 22.03.

### **Consultation/Communication**

Public notification has not yet been undertaken. If Council resolves to provide 'in principle' support of the application, notification will occur in accordance with the provisions of the *Planning and Environment Act 1987*.

## **Links To Council Plans, Strategies, Policies**

Council Plan

2.2 Cultivate opportunities for the municipality to prosper and pursue possibilities for new development.

### **Recommendation**

That Council acting as the Responsible Authority not provide 'in principle' support to amend the Section 173 Agreement (AF285865C) so as to remove Lot 2 PS601509K from the Agreement for the following reasons:

1. The proposal to excise a house lot is inconsistent with State Policy and Local Policy objectives of the Horsham Planning Scheme in relation to land in the Farming Zone and therefore even if the Agreement no longer applied to the lot there is limited policy support for the subdivision; and
2. The proposal is inconsistent with Council's Dwellings on Small Lots in the Farming Zone Guidelines.

### **Should Council not wish to adopt the officer's recommendation the following is recommended:**

That Council acting as the Responsible Authority provide 'in principle' support to amend the Section 173 Agreement (AF285865C) so as to remove Lot 2 PS601509K from the Agreement and proceed to give notice of the proposal in accordance with Sec 178C of the *Planning and Environment Act 1987*.

**ANGELA MURPHY**  
Director Planning and Economic

## **10.4 DIRECTOR OF COMMUNITY SERVICES**

### **10.4.1 HORSHAM RURAL CITY COUNCIL RECONCILIATION ACTION PLAN**

K O'Brien

File Ref: F10/A02/000001

#### **Purpose**

To present to Council the Horsham Rural City Council Reconciliation Action Plan and recommend that Council endorse the plan and submit to Reconciliation Australia for approval.

#### **Background**

In July 2016, Council resolved to establish the Horsham Rural City Council Aboriginal Advisory Committee (AAC) and adopted a Terms of Reference for this committee.

One of the objectives of the AAC is as follows:

- Provide input into the development, implementation and review of the first Reconciliation Action Plan (RAP).

The RAP program is a framework for organisations to realise their vision for reconciliation. Through the program, organisations develop a RAP—a business plan that documents what an organisation commits to do to contribute to reconciliation in Australia. A RAP will enable organisations to commit to implementing and measuring practical actions that build respectful relationships and create opportunities for Aboriginal and Torres Strait Islander peoples.

There are four different RAPs within the Program:

- Reflect
- Innovate
- Stretch
- Elevate

Joining the RAP Program offers Council:

- Access to a tried and tested program based on evidence.
- A framework for action, developed in consultation with Aboriginal and Torres Strait Islander communities and organisations as well as government and corporate Australia.
- Membership to a dynamic, supportive and fast growing community of RAP organisations who are paving the way.

#### *Benefits of developing a RAP*

A RAP gives an organisation the best chance of achieving Aboriginal and Torres Strait Islander engagement objectives, and delivering broader outcomes including:

- The opportunity to become an employer of choice for Aboriginal and Torres Strait Islander peoples.
- A more dynamic, innovative and diverse workforce.
- A more culturally safe and tolerant workplace.
- Access to new markets and better penetration of existing markets.
- Better service delivery to Aboriginal and Torres Strait Islander peoples and communities.
- The opportunity to contribute to new projects, industries, services, products and ways of doing business.

#### *Working with Reconciliation Australia*

Reconciliation Australia is an independent, national not-for-profit organisation promoting reconciliation by building relationships, respect and trust between the wider Australian community and Aboriginal and Torres Strait Islander peoples.

Their vision is for a reconciled, just and equitable Australia. Through their programs and initiatives, they work to connect people and organisations; provide frameworks for action, resources; and policy advice and promote success and engagement activities.

They support hundreds of organisations across Australia to participate in the RAP program. They provide advice, templates and resources as well as provide feedback on the draft RAP.

In the 2016/17 and 2017/18 Financial Years, \$50,000 was committed by HRCC to AAC activities including resources to develop a HRCC RAP.

In March 2017, Karen Milward (Consultant) was appointed to develop the HRCC RAP. The project brief was as follows:

#### *Development of RAP*

- Workshop Facilitation with the Aboriginal Advisory Committee.
- Plan the write up and committee/Council endorsement (including community engagement).
- Liaison with Reconciliation Australia.

#### *Prepare the Reconciliation Action Plan*

- Collate the information presented at the workshop into a RAP.
- Work with the Horsham Rural City Council staff and Aboriginal Advisory Committee to develop the Reflect RAP that aims to build the foundations for relationships, respect and opportunities and strategic directions and objectives tailored to the organisation to support reconciliation.

### *Project Outcomes*

- Build greater awareness in staff across the organisation regarding the importance of, and priorities for reconciliation.
- Assist to develop a solid RAP governance model.
- Build the business case for future commitments to cultural learning, and practising cultural protocols considering Aboriginal and Torres Strait Islander employment.
- Raise Aboriginal organisation and community stakeholders' awareness on the importance of, and achievements in reconciliation whilst identifying localised priorities
- Develop a document that can assist Horsham Rural City Council in providing strong leadership, advocacy and expand its work around reconciliation.

### **Discussion**

As outlined in the Horsham Rural City Council RAP (**Appendix "10.4A"**) there are key focus areas which have associated actions. The focus areas are as follows:

- *Relationships*: We will develop and strengthen relationships with Aboriginal and Torres Strait Islander peoples and communities, organisations and networks through existing partnerships and by proactively engaging in and promoting of significant cultural events.
- *Respect*: We will show respect to Aboriginal and Torres Strait Islander peoples, cultures, histories and stories and will be responsive to their needs and will encourage the community to value the unique contribution that Aboriginal and Torres Strait Islander peoples make to society.
- *Opportunities*: We will contribute to 'Closing the Gap' of disadvantage experienced by Aboriginal and Torres Strait Islander peoples by providing opportunities which support cultural, social and economic development, including employment and retention of Aboriginal and Torres Strait Islander staff and supporting education opportunities.

All RAPs need to be approved by Reconciliation Australia. The RAP that Council has developed aims to build the foundations for relationships, respect and opportunities and strategic directions and objectives tailored to the organisation to support reconciliation. When actions are completed in the Reflect RAP, Council can consider developing the next RAP.

### **Consultation/Communication**

The HRCC RAP was developed by the RAP Working Group (Aboriginal Advisory Committee) through a workshop and input from across all Council business areas including: The Mayor, Councillors, CEO, Directors, Community Services and Planning, who have provided ideas for inclusion in our RAP and who are all committed to working towards positive reconciliation outcomes for Aboriginal and Torres Strait Islander peoples, families, young people, organisations and businesses.

The RAP will be championed by a number of staff within the organisation, in particular CEO, Director Community Services, Manager Community Development, Human Services Manager, Planners (Strategic and Statutory), Events and Tourism Manager, Community and Cultural Project Support Officer, Public Arts Officer, Community Facilitator and Art Gallery Director.

Members of the RAP Working Group (Aboriginal Advisory Committee and additional Council Staff) were:

- Jennifer Beer (Barengi Gadjin Land Council)
- Brett Harrison (Barengi Gadjin Land Council)
- John Gorton (Goolum Goolum Aboriginal Co-operative)
- Joanne Clarke (Community representative)
- Gail Harradine (Community representative)
- Chris Harrison (Community representative)
- Cr Pam Clarke Mayor (HRCC)
- Cr Les Power (HRCC)
- Peter Brown, CEO (HRCC)
- Kevin O'Brien, Director Community Services (HRCC)
- Martin Bride, Community Development Manager (HRCC)
- Adam Moar, Statutory Planner (HRCC)

From 29 August to 15 September 2017, the draft HRCC Reconciliation Action Plan was provided to the community for comment. Two information sessions were held on 7 September 2017, one at HRCC and one at Goolum Goolum. 13 community members attended the sessions held.

Feedback from these two sessions was incorporated into an updated plan.

### **Financial**

The cost of the consultancy works undertaken by Karen Milward Consultant was \$5,816.00.

Council has committed \$50,000 in the 2017/18 budget for initiatives coming out of the Aboriginal Advisory Committee, these funds will support actions identified in the RAP.

### **Links to Council Plans, Strategies, Policies**

*Council Plan 2017-2021*

1.1.07 Develop and implement an Indigenous Reconciliation Action Plan.

### **Recommendation**

That Council endorse the Horsham Rural City Council Reconciliation Action Plan and submit the plan to Reconciliation Australia for approval.

#### **10.4.2 KALKEE ROAD CHILDREN'S AND COMMUNITY HUB**

K O'Brien

File Ref: F08/A09/000002

##### **Purpose**

To provide an update on the Kalkee Road Children's and Community Hub Development.

##### **Background**

The Kalkee Road Children's and Community Hub is a children's facility including kindergarten, Maternal and Child Health, supported playgroup, early intervention services and visiting specialist consulting rooms.

The new 1,130 square metre facility is being constructed on a green field site providing a central community hub that combines a range of education, health, care, support and community services.

In September 2016, Council awarded a contract to Locks Constructions to construct the facility. Construction commenced in November 2016. A Project Control Group has been established to oversee project delivery.

##### **Issues**

The rate of work through October has been significant:

- Painting is underway and being sequenced with other trades
- Ceiling installation is underway also and being sequenced with other trades
- Floor finishes in and final finish also being sequenced with other
- Perimeter paving is done
- Fence to adjoining property boundary is done.
- Base grade in Car Park complete
- Brickwork complete and cleaned
- Windows installed with minor trims and flashings still to be complete
- Mechanical plant underway
- Ceiling cassettes installed
- Other fencing underway
- Site Sheds still on site and shall be removed around 26 November 2017

It is expected that construction will be completed by the end of December with occupancy from February 2018 subject to Council's building department issuing the certificate of occupancy. Negotiations are occurring with prospective tenants. There has been strong demand for programs to be delivered by Horsham District Kindergarten Association from the facility.



### **Consultation/Communication**

- Updates are provided to Council from the Kalkee Road Children's and Community Hub Project Control Group, which meets monthly. Mayor Cr Pam Clarke and Cr Les Power are members of the Project Control Group.
- An Internal Working Group has also been established which meets monthly. Staff with responsibilities in relation to the Children's Hub (construction and operations) attend these meetings.
- Liaison is occurring with a number of key stakeholders in relation to construction and operations.
- The Early Years Planning Committee, which meets monthly, is being kept up to date with the project.
- A Kalkee Road Children's and Community Hub parents reference group has been established.
- Information sessions have been held in relation to kindergarten programs to be delivered from the Kalkee Road Children's and Community Hub by Horsham and District Kindergarten Association (HDKA) in 2018.
- A regular newsletter has been produced and distributed.
- Tours of the Children's Hub will be conducted as part of Northfest on Saturday 11 November 2017.

### **Financial**

The overall cost of the project is estimated to be \$4.395 million. \$3.5 million has been secured through grants from State and Federal government.

The construction contingency amount for the project is \$311,805. The remaining contingency as at 31 October 2017 is \$111,841. Variations in October were due to requirement of installation of additional security locks, change in the colour for laminex for the toilet area and change from treated pine to cypress pine for the west fence.

### **Links To Council Plans, Strategies, Policies**

#### **Municipal Early Years Plan (2014-2017)**

One of the key outcomes of the Municipal Early Years Plan is the progressive development of three early years centres throughout Horsham over the next 10 to 15 years.

#### **Council Plan (2017-2021)**

1.1.05 Complete construction of the Kalkee Road Children's and Community Hub and commence operations.

### **Provided for information of Council.**

**10.4.3 KALKEE ROAD CHILDREN'S AND COMMUNITY HUB**

K O'Brien

File Ref: F08/A09/000002

**Recommendation**

That Council refer this item to the confidential briefing part of the meeting to consider the report from the Director Community Services in accordance with Section 89(2) (d) contractual matters of the Local Government Act, 1989.

**KEVIN O'BRIEN**

**Director Community Services**

## **10.5 DIRECTOR OF TECHNICAL SERVICES**

No reports.

**11. URGENT BUSINESS**

# APPENDICES