

MINUTES OF THE ORDINARY MEETING OF COUNCIL

24 JULY 2017

12.10 HARNESS RACING VICTORIA - SECTION 173 AGREEMENT**Author: Luke Shannon - General Manager Planning & Development****Presenter: Luke Shannon - General Manager Planning & Development****PURPOSE OF REPORT**

To consider a request from Harness Racing Victoria to extend the time in which to develop part of the property (Parcel B) acquired from Council for the establishment of the Harness Racing Victoria facility (Tabcorp Park).

RECOMMENDATION:

That:

1. Council agree to the request by Harness Racing Victoria for an extension of time to develop Parcel B in accordance with the following timelines
 - Construction works to commence by 30 June 2021
 - Substantial completion of works by 30 June 2022
2. any further extension(s) of time be at Council's absolute discretion.

Motion

Crs Majdlik/Turner.

That the recommendation be adopted.

CARRIED**REPORT****1. Executive Summary**

In 2005 Council entered into a Memorandum of Understanding (MoU) with Harness Racing Victoria (HRV) for the sale by Council of 92 hectares to HRV. As part of the final sale transaction in 2009 Council entered into a Section 173 Agreement pursuant to the Planning and Environment Act 1987. The Agreement imposed performance conditions on HRV to ensure the land was developed. A significant part of HRV's obligation from the original MoU has been met through the development of Tabcorp Park. However further obligations apply in terms of the development of part of the land fronting Abey Road (Parcel B).

The initial agreement required work to be commenced on Parcel B by May 2014 and be substantially complete by May 2015. If this wasn't achieved and under the Agreement Council had the opportunity to buy it back the land at market value.

At the request of HRV Council subsequently resolved at its meeting on the 13 October 2011 to effectively allow for an extension of the time for works to both commence and be completed so a set of new deadlines were:

- Works to commence by 30 June 2017
- Substantial completion of works by 30 June 2018
- Further extension(s) of time to be at Council's absolute discretion.

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HRV have now made a request for a further extension of these deadlines. It is recommended that Council support the request.

2. Background/Issues

In February 2005, Council signed a Memorandum of Understanding (MoU) with Harness Racing Victoria (HRV) in relation to the sale of land then owned by Council in Ferris Road/Abey Road Melton South. The land was in two parts; Parcel A fronting Ferris Road and Parcel B fronting Abey Road.

Attached is **Appendix 1** as a plan indicating the location of both parcels.

The MoU required HRV to undertake significant development of the overall site. This requirement has been achieved in relation Parcel A through the establishment of Tabcorp Park which opened in July 2009.

In the sale transaction for Parcel B Council entered a Section 173 Agreement with HRV on the 26 May 2009. The agreement set out an agreed timeframe for the development of the land. The agreement was used by Council as a mechanism to ensure that the site was not 'land-banked' by HRV as Council was anxious at that time to ensure the site be developed to its maximum potential within a reasonable timeframe.

Subsequent to the initial agreement Council considered the matter further at its Ordinary Meeting of 13 October 2011 and resolved:

That Council agree to the request by HRV for an extension of time to develop parcel B and that this be implement by:

1. Replacing the existing Section 173 Agreement with HRV with a new Agreement to be generally identical to the existing Agreement except that it should provide for:
 - a) Works to commence by 30 June 2017
 - b) Substantial completion of works by 30 June 2018
 - c) Further extension(s) of time at Council's absolute discretion.

Attached is **Appendix 2** as a copy of the most recent Section 173 Agreement.

In determining to extend the deadline at that time Council had regard to the partnership that it had established with HRV and Ecnam Properties for undertaking what became known as the Pegasus Project. This was an intensive process which involved a charette over the course of a week in 2010 which sought to develop options as to not only how the HRV site could be developed but also the surrounding area, including Council owned land. This resulted in a final report presented to all the partners in the project.

Since that time, as previously reported to Council, HRV have been undertaking a detailed environmental assessment of the former landfill site which covers part of Parcel B so as to determine any buffer distances required at that location. This work has been protracted and is expected to be completed on during the course of this year.

More recently a new CEO has been appointed by HRV who, in conjunction with the Board, is looking at how to maximise opportunities for the Melton site. Council has committed this financial year to commence an Urban Design Framework (UDF) for the Toolern Employment Precinct (which includes Parcel B owned by HRV) concurrently with a review of the Urban Design for the Toolern Town Centre. It is expected these documents will be completed over the next 12-18 months which will provide a far greater clarity to HRV and the other owners within the employment precinct as to how the land can be developed to its maximum potential. In light of this further work and Council's ongoing partnership with HRV it is recommended that Council support the requested extension as follows:

- Construction works to commence by 30 June 2021

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- Substantial completion of works by 30 June 2022
- Any further extension(s) of time to be at Council's absolute discretion.

3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

3. A well planned and built City: A City with a clear vision to manage growth in a sustainable and accessible way

3.1 A City that strategically plans for growth and development

4. Financial Considerations

There are no financial implications should Council grant the extension of time sought. Should Council wish to refuse the request and purchase the land back, then this would need to be done at current market rates. A land valuation has not been sought at this time.

5. Consultation/Public Submissions

Not applicable.

6. Risk Analysis

There are no real risks associated with this issue.

7. Options

Council has two options available:

1. Extend the timelines under the Agreement.
2. Refuse to extend the timelines and seek to buy the land back at current market rates in line with the Agreement.

LIST OF APPENDICES

1. Plan of Subdivision - dated 7 February 2007
2. Section 173 Agreement, 92-134 Abey Road, Melton South - Melton Shire Council and Harness Racing Victoria - dated September 2012