

Health Act Review 2005

Horsham Rural City Council

Comments on Proposals for new Public Health Act

- **Functions of Municipal Councils. Rec 19, pp 14-16**

Horsham Rural City Council supports the general changes to the functions of councils. The inclusion of 'provide' in Rec 19 (e) should not be used. This would indicate that the onus is on Council to cover the costs of staffing and vaccines for Immunization.

The Provision of Immunization is a shared responsibility and Horsham Rural City Council is happy to co ordinate Immunization in our municipality but the DHS should contribute to the costs involved.
- **Appointment of Authorized Officers and Environmental Health Officers Role. Rec 26-31, pp 17-19**

Horsham Rural City Council supports the DHS in the proposal for Environmental Health Officer's and Authorized Officers. The proposal recognizes the importance of an Environmental Health Officer in council and that suitably qualified individuals are needed to carry out the duties of the Act.

The appointment of Authorized Officers is also important given the variability of training available. Council may feel a person is qualified even if they have not completed a prescribed course, giving the ability to appoint that person as an Authorized Officer.

This power is also useful in an emergency situation to appoint an Authorized Officer should the Environmental Health Officer or current officer be unable to fulfill their duties.
- **Municipal Public Health Plans. Rec 55-60, pp 30-33**

Horsham Rural City Council supports the continuation of requiring Councils to complete a Municipal Public Health Plan and its co-relation to the council plan. The alignment of the frequency of the plan is a positive decision; this will aid council when developing their Municipal Public Health Plan with the surrounding Municipal Councils. The alignment of all councils producing a Municipal Public Health Plan at the one time may put a strain on the DHS in providing support to all municipal councils at the same time.
- **Risk management Approach. Rec 71-72, pp 43**

Risk management has worked in other fields such as Food and the Environment because set variables that will indefinitely cause an event or risk can be identified and prevented.

This technique may not be appropriate for use in the Public Health field. Health in its nature is an intangible 'thing' and so if a 'risk' affects one person, may not necessarily affect another person the same way.

A risk management approach endeavors to generalize this so as to deal with it. Risk identification is often left to the discretion of the assessor who may or may not consider a certain 'thing' to be a risk and take no action, thus exposing council to liability should an assessment be contested.

Horsham Rural City Council does support the proposal for more evidence base when assessing issues under the Health Act.

If the risk management approach is adopted, a clear set of guidelines will need to be developed to ensure constancy and guidance is given for Municipal Councils and their enforcing officers.

- **General Statutory Duty of Care. Rec 73-39, pp 44**
Having a general Statutory Duty of Care may seem an attractive idea, but Council foresees that difficulties could arise in the enforcement of the Act. If a General Statutory Duty of Care is established, Council's workload will increase. If the public and proprietors are given the opportunity to plead a duty of care then they may appeal decisions made by council. The process of appealing to either a court of VCAT takes time and money; it will also make enforcement of the act extremely difficult.
- **Nuisance Provisions. Rec 83-92, pp 50-52**
Horsham Rural City Council supports the inclusion of the current nuisance provision in the New Act.
The exclusion of annoying from the definition of a nuisance is also supported. Annoying being very hard to quantify and varying from individual to individual. Horsham Rural City Council would not support the inclusion of a risk to nuisance as it would open council to legal ramification. For example if council was notified of a risk to nuisance and did not take any action, because a name and number were not left by the complainant and council could not follow up. It is extremely difficult to take a nuisance to court at present; it would be even more difficult to take a nuisance that hasn't even occurred to court.
- **Introduction of Risk Management Plans for Registrable or Licensable Activities. Rec 95=97, pp 56-57**
Horsham Rural City Council would support the proposal for Risk management plans to be required of registerable premises, but only certain types of premises. Businesses that practice tattooing and skin penetration processes should have a risk management plan, due to the risk involved in the process. Business that practice hairdressing, beauty therapy and accommodation have generally lower risks involved and do not need to produce a Risk management plan.
The general education level of the people who work in these industries is not extremely high. And asking them to produce a plan that requires a rather high education level will result in the same experience as the implementation of food safety programs in the Food industry.
A lot of time would be involved in the implementation of these risk safety plans and Council will need to be supported both with resources and finances if they were to be implemented.
- **Registration and licensing. Rec 98-104, pp 58-61**
Horsham Rural City Council supports the proposal that local government should have a continued activity in the registration of prescribed premises. It does not however support the de-registration of hairdressers. Hairdressers pose a relatively low risk to the community but there are still risks involved. These premises need to be continually monitored to ensure that they are still conducting themselves appropriately. To not register these premises will mean that they are no longer inspected and their standards may drop.

- **Improvement and Prohibition Notices. Rec 115-117, pp 65-66**
Council supports the inclusion of improvement and prohibition notices in the new act. These will add to the many tools available that can be used to enforce the act.
- **Penalties under the Health Act. Rec 130-133, pp 72-73**
Horsham Rural City Council supports this proposal and agrees they would be useful in enforcing the act. Horsham Rural City Council would like to be involved to help determine which sections will have infringement notices.