



# HOPETOUN Swimming Pool Community Asset Committee



**Yarriambiack**  
SHIRE COUNCIL

1	INTRODUCTION .....	3
2	AUTHORISING PROVISION .....	3
3	COMMENCEMENT DATE .....	3
4	ACCESS TO THIS CHARTER .....	3
5	ROLE OF THE COMMITTEE .....	3
6	GOVERNANCE .....	4
6.1	Status .....	4
6.2	Statutory Requirements .....	4
6.3	Limitations .....	5
7	Committee Membership .....	5
7.1	General .....	5
7.2	Office Bearers .....	5
7.3	Vacancies .....	5
7.4	Indemnity .....	6
8	INSURANCES .....	6
8.1	The Asset .....	6
8.2	Committee members .....	6
8.3	Volunteers .....	6
9	FEE SCHEDULE .....	6
10	REMUNERATION AND HONORARIUM .....	6
11	REMIMBURSEMENT OF EXPENSES .....	7
12	COMMITTEE MEETINGS .....	7
12.1	Governance Rules .....	7
12.2	Attendance .....	7
12.3	Convening Meetings .....	7
12.4	Agendas .....	8
12.5	Quorum .....	8
12.6	Voting .....	8
12.7	Minutes .....	8
12.8	Confidentiality .....	9
12.9	Disclosures of Conflict of Interest .....	9
12.10	Personal interest returns .....	9
12.11	Annual General Meeting .....	9
13	FINANCES .....	10
14	POLICE CHECKS .....	10
15	WORKS AND MAINTENANCE .....	10
16	REPORTING .....	10
17	REVIEW OF THE CHARTER .....	10
18	AMENDMENTS TO THE CHARTER .....	10

## 1 INTRODUCTION

Section 65 of the *LGA 2020 (LGA 2020)* provides that:

- i. a council may establish a community asset committee and appoint as many members to the Community Asset Committee as the Council considers necessary to enable the community asset committee to achieve the purpose specified in subsection (2); and
- ii. a council may only establish a community asset committee for the purpose of managing a community asset in the municipal district.

The *LGA 2020* also provides (section 47) that the Council's Chief Executive Officer (CEO) may delegate powers, duties, and functions to a community asset committee.

## 2 AUTHORISING PROVISION

While there is no requirement in the *LGA 2020* for a community asset committee to have a Charter, this Charter is intended to complement the Instrument of Delegation issued to the **Hopetoun Swimming Pool** Community Asset Committee (Committee). Committee members should also familiarise themselves with the Community Asset Committee Operations Manual.

## 3 COMMENCEMENT DATE

This Charter was approved by the CEO on **22 November 2023** and replaces the Committee's previous Terms of Reference.

## 4 ACCESS TO THIS CHARTER

This Charter will be published on the Council website and be available for inspection at the Council's office(s).

## 5 ROLE OF THE COMMITTEE

The Committee's role is to exercise Council's functions and powers to perform Council's duties in relation to the management of the Asset including:

- a) developing and maintaining the **Hopetoun Swimming Pool (Asset)** for the overall benefit of the community.
- b) preserving the historical integrity of the Asset.
- c) advising Council in relation to the general development of the Asset.
- d) managing the Asset in a transparent and consistent manner.
- e) maintenance in accordance with Appendix 1.
- f) financial management including:
  - i. preparation of works to be undertaken at the Asset to inform the draft budget by 31 March each year for consideration by Council.
  - ii. reporting to the CEO on or before 31 July each year on the activities of the Committee.
  - iii. reporting to Committee meetings.
  - iv. providing an annual report including:
    - a report of the operations and activities of the Committee including measurable achievements in terms of patronage/usage of the Asset.
    - a list of Committee members and the dates of their membership.
    - financial statements (operating statement and balance sheet).

Community Asset Committee Charter – Hopetoun Swimming Pool	This Document is Uncontrolled when Printed	Responsible Officer: CEO	
Version: 2.0	Issue Date:	Next Review:	Page 3/ 13

- details of Committee meetings held including:
  - ✓ dates.
  - ✓ meeting location.
  - ✓ attendance.
- h) by resolution and endorsement of the CEO, reducing or waiving fees where appropriate.
- i) preparation and submission of quarterly financial statements and relevant Local Government Performance Reporting Framework data to the satisfaction of the CEO.
- m) ensuring effective management of the Asset as a Swimming Pool for the community.
- n) maintaining an inventory of equipment at the Asset.
- o) ensuring that users abide by the conditions of use imposed by the Council's local laws and policies and statutory requirements.
- p) celebrating, through the Asset's programs, the diverse cultures of the municipal district.
- q) facilitating and supporting community involvement in the programs and operations of the Asset (if any).
- r) seeking to maximise funding from external sources and minimise recurrent expenditure contributions from the Council.
- s) ensuring the Asset operates within the Committee's objectives.
- t) adopting policies and strategies for the Asset.
- u) exploring and obtaining external funding contributions to the Asset through grants, sponsorships, gifts, and donations.
- v) ensuring any proposals for capital works or significant maintenance are submitted annually to Council in time for consideration in the preparation of the Council's annual budget; and
- w) ensuring financial contributions are credited to the Council's **Hopetoun Swimming Pool** bank account.

## 6 GOVERNANCE

### 6.1 Status

The Committee has been established by the Council and is not a separate entity (eg: company or incorporated association) and cannot therefore:

- a) enter into contracts or agreements in its own name; or
- b) employ staff.

### 6.2 Statutory Requirements

Section 47 of the *LGA 2020* provides that:

- a) a delegation under this section to the members <sup>1</sup> of a Community Asset Committee is to be exercised subject to the terms and conditions specified by the Chief Executive Officer, which must include:
  - i. the specified limit on any financial delegation and the specified purpose for which the financial delegation may be used.

<sup>1</sup> The delegation must be to the members of the committee as the committee itself is not an entity.

Community Asset Committee Charter – Hopetoun Swimming Pool	This Document is Uncontrolled when Printed	Responsible Officer: CEO	
Version: 2.0	Issue Date:	Next Review:	Page 4/ 13

- ii. compliance with specified governance requirements to ensure appropriate standards of probity are met.
  - iii. specified monitoring and reporting of the activities and performance of the Community Asset Committee.
- b) a member of a Community Asset Committee to whom a delegation is given under this section can only exercise the delegation while acting as a member of the community asset committee at a meeting of the committee; and
- c) the Chief Executive Officer must submit an annual report to the Council in relation to the activities and performance of the Community Asset Committee.

### 6.3 Limitations

The Committee must not borrow money or obtain a bank overdraft without the prior written approval of the Council.

## 7 Committee Membership

### 7.1 General

The Committee shall/may comprise **1 (one)** Councillor, **1 (one)** Council officer (appointed by the CEO) and a minimum of **5 (five)** external members (subject to a maximum of **12 (twelve)** external members). The external members appointed by Council:

- a) must be natural persons with relevant skills, experience, or expertise; and
- b) will be appointed for a four-year term with an option for a further four-year term at Council's discretion.

*Note – The membership may comprise:*

- Councillors.
- Council officers.
- independent members; or
- any combination thereof.

The Committee membership details will be published on Council's website.

### 7.2 Office Bearers

The Chairperson will be appointed by resolution of the Council.

The Committee shall elect the following office bearers from among its members:

- a) a Deputy Chairperson.
- b) a secretary; and
- c) a Treasurer.

### 7.3 Vacancies

In the event of a casual vacancy on the Committee, the Council shall fill the vacancy, however:

- a) in the event of the Council being unable to fill the vacancy, the Committee may continue to operate providing the membership is at least **5 (five)** persons; and
- b) the Council is not obliged to fill a vacancy which occurs within the period of three months prior to a Council election if the remaining members of the Committee are sufficient in number to form a quorum.

Commented [TR1]: Negotiable

Commented [BP2R1]: Tammy Smith Can you please confirm this please. Woomelang is appointed for a one year term.

Commented [BP3R1]: Have updated to one year term

Commented [BP4R1]: Tammy Smith I have changed back to four years. Do you want to leave in the wording for a further four-year term at Council's discretion? Or just say four year term?

Community Asset Committee Charter – Hopetoun Swimming Pool	This Document is Uncontrolled when Printed	Responsible Officer: CEO	
Version: 2.0	Issue Date:	Next Review:	Page 5/ 13

#### 7.4 Indemnity

Section 43 of the LGA 2020 provides that:

*“A Council must indemnify and keep indemnified each Councillor, member of a delegated committee and member of a Community Asset Committee against all actions or claims whether arising during or after their term of office in respect of anything necessarily done or reasonably done or omitted to be done in good faith”.*

### 8 INSURANCES

The following provisions apply.

#### 8.1 The Asset

The Asset is covered by Council's policies relating to:

- a) public risk.
- b) building and contents; and
- c) business interruption.

#### 8.2 Committee members

Committee members are covered by Council's public liability and personal accident insurance policies.

#### 8.3 Volunteers

All Volunteers are to be approved by Council's CEO.

Volunteers appointed or authorised by the Council are covered by Council's public liability and personal accident policies whilst carrying out activities for and on behalf of the Committee. All volunteers are required to be registered by completing a Volunteer Induction and Registration via Happy HR prior to commencing any task for the Committee to ensure they are covered by the policies.

Asset Committee Members are not classified as Volunteers for the purpose of section 8.3.

Volunteer groups, such as, but not limited to, the Lions Club may perform volunteer working bee activities in accordance with Council's policies, procedures and occupational health and safety requirements. Volunteer group members are not required to be registered via Happy HR.

### 9 FEE SCHEDULE

The Committee is to make a recommendation to the Council by the 31 March each year to set the Pool User Fees.

The Fees are to be published in Council's Annual Budget and cannot be changed throughout the year unless endorsed by the Chief Executive Officer.

### 10 REMUNERATION AND HONORARIUM

The LGA 2020 does not require Councils to remunerate members of community asset committees.

Council does not remunerate members of the committee, and it does not pay honorariums related to this asset committee.

Commented [TR5]: Must be on the committee or approved volunteer.

Commented [BP6]: [@ Tammy Smith](#) This section I added from the Woomelang Charter. Do you want to add it in here or keep it out?

Commented [TR7]: Need fee details for budget

Community Asset Committee Charter – Hopetoun Swimming Pool	This Document is Uncontrolled when Printed	Responsible Officer: CEO	
Version: 2.0	Issue Date:	Next Review:	Page 6/ 13

## 11 REMIMBURSEMENT OF EXPENSES

Section 41 of the *LGA 2020* provides that Councils must adopt and maintain an expenses policy in relation to the reimbursement of out-of-pocket expenses for Councillors and members of delegated committees.

Section 41 does not refer to community asset committees; and therefore, Council does not reimburse external Committee members expenditure.

## 12 COMMITTEE MEETINGS

### 12.1 Governance Rules

Meetings will be conducted in accordance with the Council's *Governance Rules* subject to any adaptations as necessary.

In this context:

- a) the Chairperson must ensure meetings are conducted, where relevant, in accordance with the Council's Governance Rules.
- b) the Secretary must:
  - i. provide the Council representative with copies of agendas for Committee meetings at least five business days prior to the Committee meeting; and
  - ii. provide the Council representative with copies of the minutes of Committee meetings within five business days of the Committee meeting; and
- c) Committee members must comply with the conflict of interest and confidentiality provisions of the *LGA 2020* and Council's Governance Rules.

### 12.2 Attendance

Meetings will be generally held at the Hopetoun Swimming Pool venue or other mutually agreed venue by all attending members and attendance is encouraged.

A member who is unable to attend a meeting in person may participate by electronic means of communication.

Meetings are not open to the public; however, the Committee may resolve to invite and admit other persons to attend.

Meetings must be held quarterly or:

- a) more often by resolution of the Committee; or
- b) by the Chairperson giving Committee members at least seven days' notice of a special meeting.

The CEO of the Council or his or her nominee may attend Committee meetings as an observer and may be called upon by the Committee for assistance.

### 12.3 Convening Meetings

#### Scheduled meetings

Meetings of the Committee can be called by resolution of the Committee.

#### Non-scheduled meetings

Non-scheduled meetings can be called by:

- a) the Chairperson; or

**Commented [TR8]:** To discuss, more often than not, meetings are held at the GB or Community Hotel.

**Commented [BP9R8]:** Can you add in here or other mutually agreed venue by all attending members

Community Asset Committee Charter – Hopetoun Swimming Pool	This Document is Uncontrolled when Printed	Responsible Officer: CEO	
Version: 2.0	Issue Date:	Next Review:	Page 7/ 13

- b) three or more members of the Committee.

The Secretary must give members at least seven days' notice of non-scheduled meetings.

#### 12.4 Agendas

Agendas for meeting must include, but are not limited to:

- a) apologies.
- b) requests for leave of absence.
- c) requests to attend the meeting by electronic means.
- d) disclosures of conflict of interest.
- e) confirmation of minutes of previous meetings.
- f) presentations by Council staff.
- g) a regular financial report.
- h) confidential items.

#### 12.5 Quorum

A quorum of the committee is at least a majority of the members of the Committee.

#### 12.6 Voting

The following provisions apply:

- a) each Committee member has one vote.
- b) voting is by a show of hands.
- c) voting is not compulsory.
- d) the question is determined in the affirmative by a majority of the Committee members present at a meeting <sup>2</sup> at the time the vote is taken voting in favour of the question; and
- e) in the event of a tied vote, the Chairperson has a casting vote.

#### 12.7 Minutes

The Secretary shall keep proper minutes of all meetings and provide them to the Council's representative within seven days of a Committee meeting.

Minutes of meetings must include, but are not limited to:

- a) the time the meeting commenced.
- b) names of attendees.
- c) apologies.
- d) requests for leave of absence.
- e) requests to attend the meeting by electronic means.
- f) disclosures of conflict of interest.
- g) confirmation of minutes of previous meetings.
- h) presentations by Council staff.
- i) a regular financial report.

<sup>2</sup> Accordingly, a member who refrains from voting is taken to have voted in the negative.

Community Asset Committee Charter – Hopetoun Swimming Pool	This Document is Uncontrolled when Printed	Responsible Officer: CEO	
Version: 2.0	Issue Date:	Next Review:	Page 8/ 13



- j) confidential items.

### 12.8 Confidentiality

While various confidentiality provisions of the *LGA 2020* apply to meetings of Councils and delegated committees, they do not apply to meetings of community asset committees,

however, under section 47 of the *LGA 2020*, the CEO is required to establish governance requirements to ensure appropriate standards of probity are met by the Committee.

The definition of “confidential information” is shown in Appendix 2.

Accordingly, in the interests of transparency, the CEO has determined that confidentiality provisions should apply to members of the Committee. Accordingly, a person who is, or has been, a Councillor, a member of the Committee, must not intentionally or recklessly disclose information that the person knows, or should reasonably know, is confidential information.

### 12.9 Disclosures of Conflict of Interest

While the conflict-of-interest provisions of section 126 of the *LGA 2020* apply to meetings of Councils and delegated committees, they do not apply to meetings of community asset committees (because a community asset committee is specifically excluded from the definition of “delegated committee”), however:

- a) Section 130(1)(c) refers to conflicts of interest being declared at a meeting of a community asset committee; and
- b) Section 47 of the *LGA 2020*, requires the CEO to establish governance requirements to ensure appropriate standards of probity are met by the Committee.

Accordingly, in the interests of transparency, the CEO has determined that the conflict-of-interest provisions should apply to meetings of the Committee.

Committee members must therefore:

- a) If attending a meeting (in person or by electronic means) of the Committee disclose any conflict of interest at the commencement of the meeting.
- b) Leave the meeting room while a vote is taken on the matter under discussion; and
- c) If *not* attending a meeting of the Committee, disclose any conflict of interest to the Chairperson or the CEO prior to the meeting.

In the case of a meeting conducted by electronic means, a member of Council staff will “suspend” the involvement of the Councillor, Committee member or member of Council staff by disconnecting their audio and visual attendance until the matter has been dealt with.

### 12.10 Personal interest returns

The *LGA 2020* provides for personal interest returns (initial and biannual) to be submitted by specified persons and nominated officers. The provisions do not apply to community asset committees.

### 12.11 Annual General Meeting

An annual general meeting of the Committee shall be held between 1 July and 30 September annually at which the Treasurer shall present a statement of receipts and expenditure for the preceding year ending 30 June.

The Secretary shall notify the key Council representative a minimum of five (5) weeks prior to the date of the annual general meeting so that Council can advertise the date by way of a notice in the public notices section of a newspaper generally circulating in the municipal district and on the Council website.

Community Asset Committee Charter – Hopetoun Swimming Pool	This Document is Uncontrolled when Printed	Responsible Officer: CEO	
Version: 2.0	Issue Date:	Next Review:	Page 9/ 13

### 13 FINANCES

As indicated, the Committee has been created by Council and is not a separate legal entity.

Accordingly, all funds in the Committee's bank account are Council funds. While the Committee can operate a bank account, whenever the balance in the account exceeds \$30,000 the excess shall be transferred into an account nominated by the Council.

The Committee's bank accounts are required to have two signatories and internal controls implemented that meet Council's fraud prevention requirements.

**Commented [TR10]:** Last meeting they have in the vicinity of 50-60k.

### 14 POLICE CHECKS

All members of the Hopetoun Swimming Pool Asset Committee must have a current National Police Check undertaken. This will be facilitated by a nominated Council Officer. Police Checks are required to be renewed and updated every three years. Council will coordinate the check and is responsible for the fee.

**Commented [TR11]:** Need to have current PC and WWCC

**Commented [BP12R11]:** [Tammy Smith](#) who do you want to facilitate this requirement?

**Commented [TS13]:** Working with Childrens Checks

**Commented [BP14R13]:** Does the committee members need Working With Children Checks or just the Life Guards. Some of the committee members may not have any access to children?

### 15 WORKS AND MAINTENANCE

The responsibilities for works (capital and maintenance) are set out in Appendix 1.

### 16 REPORTING

The Committee must report:

- a) In accordance with its Instrument of Delegation.  
In accordance with this Charter.
- b) By providing copies of the minutes of committee meetings to the Council's representative with fourteen days of every meeting; and
- c) By providing a quarterly financial report to the Council's representative within 14 days of the end of each quarter.

### 17 REVIEW OF THE CHARTER

The Charter is to be reviewed by the Committee biennially or more frequently if required and the CEO advised of any requested amendments.

The CEO may, at any time, review and vary the Delegation to the Committee and will notify any variations to the Committee by providing an updated Delegation.

### 18 AMENDMENTS TO THE CHARTER

Amendments to the Charter may be made by the CEO to reflect legislative or organisational changes. The CEO must notify the Councillors and the Committee of any such amendments.

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Community Asset Committee Charter – Hopetoun Swimming Pool	This Document is Uncontrolled when Printed	Responsible Officer: CEO	
Version: 2.0	Issue Date:	Next Review:	Page 10/ 13

**APPENDIX 1**
**WORKS AND MAINTENANCE**

The Table below sets out the responsibilities of the Council and the Committee in relation to the Retirement Units.

Note – This Appendix should be adapted to suit the particular Asset.

Task	Council responsibility	Committee Responsibility To the value of \$14,999
Capital works	Yes, subject to: <ul style="list-style-type: none"> <li>• funding in Council's annual budget; and</li> <li>• Council's procurement practices.</li> </ul> Capital works include but are not limited to new oven, stove, hotplate, hot water service, upgraded cabinets, carpet, tiles, new path structures, painting etc.	Committee may be delegated the responsibility to manage the task on the discretion of the CEO, based on value of the procurement.  Procurement \$15,000 and over must be project managed by Council, Procurement less than \$15,000 maybe project managed by the Committee.  Refer to Council's Community Assets Committee Operations Manual for more detail.
Maintenance – outdoor (to the value of \$14,999)		
• <i>grass cutting</i>	No	Yes
• <i>gardens</i>	No	Yes
• <i>paths and driveways (structure)</i>	Yes	No
• <i>rubbish</i>	Supply of bins and a weekly collection	
Maintenance – indoor (to the value of \$14,999):		
• <i>building inspection</i>	Yes - annually	Yes – request tenant report issues to Committee.

Commented [TS15]: Up to \$15k low risk activities

Commented [TS16R15]: ? 2k activities notify Council

Task	Council responsibility	Committee Responsibility To the value of \$14,999
<ul style="list-style-type: none"> <li>repairs and or replacement of assets (such as but not limited to):</li> </ul>		
<ul style="list-style-type: none"> <li>hot water service</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>fixed appliances (oven / stove)</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>fire alarms</li> </ul>	Yes	No
<ul style="list-style-type: none"> <li>fire extinguisher / blankets</li> </ul>	Yes	No
<ul style="list-style-type: none"> <li>water leak</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>burst or leaking down pipe</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>roof leak</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>vandalism</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>toilets</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>electrical</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>plumbing</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>carpentry</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>lighting</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>painting</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>vandalism</li> </ul>	No	Yes
Utility costs:		
<ul style="list-style-type: none"> <li>electricity</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>gas (bottle)</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>telephone</li> </ul>	No	Yes
<ul style="list-style-type: none"> <li>water</li> </ul>	No	Yes

## APPENDIX 2 - DEFINITIONS

In this Charter, the following terms have the meaning indicated:

1. **Council representative** means the Council staff member appointed as the principal point of contact between the Council and the Committee.
2. **confidential information** means:
  - a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.
  - b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person.
  - c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values.
  - d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person.
  - e) legal privileged information, being information to which legal professional privilege or client legal privilege applies.
  - f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.
  - g) private commercial information, being information provided by a business, commercial or financial undertaking that:
    - i. relates to trade secrets; or
    - ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.
  - h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a).
  - i) internal arbitration information, being information specified in section 145.
  - j) Councillor Conduct Panel confidential information, being information specified in section 169.
  - k) information prescribed by the Regulations to be confidential information for the purposes of this definition; and
  - l) information that was confidential information for the purposes of section 77 of the *Local Government Act 1989*.

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Community Asset Committee Charter – Woomelang Retirement Units	This Document is Uncontrolled when Printed	Responsible Officer: CEO	
Version: 2.0	Issue Date:	Next Review:	Page 13/ 13