



SHEFFIELD POOL SUBMISSION HEARING DELIBERATIONS

**TO BE HELD IN THE
SHEFFIELD COMMUNITY HALL
SHEFFIELD**

WEDNESDAY, 19TH MARCH 2025 AT 6.30PM

Attendees: Councillors, E S Mundt, P M Dean, R H Mugford and Malvern Community Board Member S Nu'u.

Wednesday, 19th March 2025 ~ 6.30pm.

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OPENING KARAKIA

Whakataka te hau ki te uru

Cease the winds from the west

Whakataka te hau ki te tonga

Cease the winds from the south

Kia mākinakina ki uta

Let the breeze blow over the land

Kia mātaratara ki tai

Let the breeze blow over the land

E hī ake ana te atakura
sharpened air

Let the red-tipped dawn come with a

He tio, he huka, he hau hu
glorious day

A touch of frost, a promised of a

Tīhei mauri ora!

COUNCIL AFFIRMATION

Let us affirm today that we as Councillors will work together to serve the citizens of Selwyn District.

To always use our gifts of understanding, courage, common sense, wisdom and integrity in all our discussions, dealings and decisions so that we may solve problems effectively.

May we always recognise each other's values and opinions, be fair minded and ready to listen to each other's point of view.

In our dealings with each other let us always be open to the truth of others and ready to seek agreement, slow to take offence and always prepared to forgive.

May we always work to enhance the wellbeing of the Selwyn District and its communities.

**MINUTES OF THE SHEFFIELD POOL HEARINGS OF THE
SELWYN DISTRICT COUNCIL
HELD AT THE SHEFFIELD COMMUNITY HALL
ON THURSDAY 27 FEBRUARY 2025 COMMENCING AT 6.30PM**

PRESENT

Councillors, E. Mundt, P. Dean, R. Mugford, Malvern Community Board Member S Nu'u

IN ATTENDANCE

D. Kidd (Executive Director Community Services and Facilities), J. Richmond, P. Ganda, N. Sutton

OPENING KARAKIA

Whakataka te hau ki te uru	Cease the winds from the west
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He tio, he huka, he hau hu	A touch of frost, a promised of a glorious day
Tihei mauri ora!	

OPENING COMMENTS

Councillor Cr. Mundt thanked people for coming along to present their submissions and introduced the hearing Panel members.

The primary purpose of the meeting is for the Panel to hear and listen to submissions from those individuals who have requested to speak. The Panel members will have the opportunity to ask brief clarifying questions at the conclusion of each presentation. Each presenter will have a maximum of 10 minutes for their presentation. The meeting is scheduled to conclude at approximately 9:20pm.

APOLOGIES

None.

CONFLICTS OF INTEREST

None.

RECEIPT OF SPEAKING SUBMISSIONERS

The following submitters spoke to their submissions in person at the Hearings.

Submission No. 14 – Tim O’Toole

- Based in Kirwee, his wife’s family have a long history using the Sheffield Pool. This is their preferred pool because of the family connection and community feel. They come to this pool often and their children have learned to swim here in a relaxing quiet atmosphere. Keen for schools to not have to travel in future.
- The community is tight knit and this pool is an asset to the Sheffield and Springfield schools who financially support the pool. There is a willing and passionate community to raise funds, operate the pool, and maintain the pool.
- There is work to be done. Mr. O’Toole has offered his expertise and services as a contractor to support this pool.
- Cr. Dean asked if there is a local legal entity to transfer the pool to.
 - Mr. O’Toole responded that Kowai Pass Trust could be an interim entity with the capability to take on this responsibility until the pool can be transferred to the working group.
- Cr. Mundt asked if Mr. O’Toole could provide a quote for the services he is offering before the 19 March.
 - Mr. O’Toole responded that he is a geotechnical engineer so has the skills and expertise, and he can access specialist supplies for the work. He can provide an accurate quote on services in that timeframe.

Submission No. 47 – Nigel Easson and Keri Steel for Malvern School Principals

- 6 children from the community presented posters and comments about the pool to the hearings panel and Council staff. The children responded to a Q & A session led by Mr. Easson, principal of Sheffield School. The children said their favourite thing about the Sheffield Pool is the diving board, depth, and going to a party there. They go to the pool on the weekend and after school and would be sad to see the pool close because it is local and there is no room at Darfield for more classes.
- Cr. Mundt asked the children how many times a week they go to the pool.
 - Several children responded with a frequency of between 3-5 times a week.
- Cr. Dean asked if they went to the pool as part of the school day.
 - Responses included that they went as part of school and after school. Four children indicated they attended swim lessons at the pool.
- Ms. Nu’u asked what they would do if the pool was not there
 - One child said they would go to a different pool.
- Cr. Mundt asked how many minutes it took to drive to pool and if there were any issues crossing the road to the pool from the school?
 - Some children responded with 1-2 mins (sometimes walking, sometimes being driven). They do not have issues crossing the road to the pool. Mr. Easson explained that there is a process for teachers taking children across the road to the pool.
- Mr. Easson made the following points to the Malvern School Principals submission:

- Sheffield Memorial Pool is a community asset, but it is also more than just that, it is an essential place to learn water safety and confidence given the rivers, lakes, and water races in the area. The closure of the pool would negatively impact water safety.
- Travel costs are expensive, and this would impact families and the school if they had to go to another pool.
- We would like to see this issue of the pool's future, that had been discussed over many years, conclude with the pool transferred back to the community along with the budget set aside for it.
- We would like Council to partner with us and hold our hand through this process of moving to a community run pool. It will cost \$235k for a new membrane for the pool. The Department of Internal Affairs (DIA) through Lottery grants and Rata funding will put in a third each and we will need a bit extra from Council to support this.
- Cr. Mundt asked Ms. Steel (principal of Springfield School) if the school was currently using the pool and if the community of Springfield parents wanted to support the Sheffield pool.
 - Ms. Steel said that the Springfield School uses the pool daily with about a third of the school going through in the season. The school has a pool, but this is only suitable for younger students.
 - Mr. Easson responded that many parents from Springfield want to support the pool. A lot of them buy season passes for Sheffield.
- Cr. Dean asked about community pool committee and Mr. Easson said that would be explained in the next submission.
- Cr. Dean asked about the Ministry of Education expectations for swimming and their contribution to schools for this.
 - Mr. Easson said that schools were required to deliver the curriculum of 10 sessions per year, and this is funded through the operational grant. He said that they would need to pay \$10,000-12,000 if they needed to go to Darfield for the 10 sessions.
- Cr. Mugford asked how the school would make it work if the pool closed.
 - Mr. Easson said he spoke on behalf of 9 schools in the area and that the distance and time to travel to Darfield Pool would be difficult and that Darfield Pool would not be able to accommodate the schools. They would have to go to Selwyn Aquatic Centre or to Oxford which meant kids were not swimming in their own community.
- Cr. Mundt asked about the budget for upkeep of the pool and Mr. Easson said that would be explained in the next submission.
- Cr. Mundt asked Mr. Easson whether he would change his mind if provision for the school swimming requirements could be made at the Darfield Pool.
 - Mr. Easson said he could not see how provision could be made to work. They would want reassurance from Council that space would be available at Darfield when it was needed.
- Cr. Mundt asked if assurance of space at Darfield Pool would make a difference to the submission. Mr. Easson and Ms. Steel indicated it would not make a difference to this submission.

Submission No. 57 – Zara Sandom and the Board of Trustees for the Sheffield Contributing School

- 5 members of the Sheffield Contributing School Board of Trustees (BOT) were present and spoke to the submission.
- They noted that 18 months ago they asked Council to keep the pool open for the season and they were thankful that Council had listened.
- They noted Powell Fenwick's report for Council and had got a comparative report from Richards Engineering which came back favourably to keep the pool open.
- We are here for our kids, to support our community, and to work with the pool community who are good people wanting to act.
- It is critical for kids to be able to manage themselves around water. There are lots of farm ponds and reservoirs, water races, rivers and lakes and there have been drownings in the Waimakariri River. The pool builds water consciousness and builds confidence around water. Many of the children start out scared to get in the water and within years we get them so they are confident to get into the deep end of the pool safely. If the pool shuts it would be difficult.
- The BOT supports the Kowai Pass Trust as the entity to take over pool and the pool committee and expressed a willingness to support that committee.
- Cr. Dean asked: How deep does that commitment go, does the Ministry of Education (MOE) support this, and does the school support this?
 - The BOT responded that they are a parent body, and that MOE has nothing to do with this.
- Cr. Dean asked if that meant someone from the BOT would commit to being a part of the committee, and that the mana of the BOT member would make the committee more credible. [no response was recorded].
- Cr. Mundt asked if liability had been looked at by the BOT.
 - Mr. Easson responded that this had been put to the committee and has been considered.
- Cr. Mundt asked if the BOT is open to a transition approach. Is it a clean sweep where the pool is given over or a staged transfer?
 - We won't take that on as a BOT, the committee will take on the transfer.
- Cr. Dean asked why the school won't take on the pool.
 - The school is focused on teaching and learning for our children. The entity will focus on the pool.
- Cr. Mundt asked how many families are involved in the schools.
 - Mr. Easson said that the Sheffield School has around 100 children. The pool is walking distance for around 25 Sheffield families.
 - Ms. Steel said there are around 50 children at Springfield School.
- Cr. Mugford asked if the pool will be supervised by the school when it is using it.
 - Mr. Easson said yes. The ratio of supervision depends on the number of children.
- Ms. Nu'u asked who supervises the children currently while the pool is a Council responsibility.
 - It is the school's responsibility, that is on us.

Submission No. 58 –Zara Sandom and the members of the Sheffield Memorial Pool Working Group

- 10 children from local community sat before the hearings panel along with the following members of the Sheffield Memorial Pool Working Group (SMPWG) who shared their reasons for joining the working group:
 - Katie McCabe, community representative, joined as there is little entertainment or a gymnasium in the area for health and wellbeing and this is also an opportunity to meet people.
 - Tim O'Toole, community representative, joined because of the reports that condemned the pool. Due to his geotechnical engineering background, he looked at these reports and is keen to keep the asset.
 - Zara Sandom, Sheffield School Board of Trustees representative, is passionate about keeping local resources local and appreciates the assets and facilities where people get together. She has a child at the local school and works in human resources so brings that background to the working group.
 - Tegan Holdem, Malvern Swim School representative, joined the group as a swim teacher. The community is behind us, and we want to keep the pool open so kids do not drown.
 - Michelle Webster, community representative, was previously a community caretaker and wants to save the pool. She is committed to being here for the next 10 years and thinks that the kitchen in this hall (Sheffield) shows commitment to raising money and getting things done.
 - Nigel Easson, Sheffield School representative, joined as a father of five with two neurodiverse children who enjoy the pool which means it is a place for them that he is keen to keep.
 - Keri Steel, Springfield School representative.
- The SMPWG provided a paper to the panel to support their presentation (copy attached as appendix 1)
- The SMPWG has the support of the Kowai Pass Reserve Trust.
- The SMPWG asked Council:
 - To either, transfer the asset to Kowai Pass Reserve Trust who will act as an interim legal entity until the SMPWG can establish our own legal entity, or, Council holds the asset until the SMPWG can establish as a legal entity by way of a Trust for Council to then directly transfer the asset to.

The preference is that the SMPWG become a legal entity to take sole ownership and responsibility with Council transferring the asset directly to this group once the legal charitable trust has been established. If this is not possible in the timeframe, the asset could be transferred to the Kowai Pass Reserve Trust who are committed to acting as the legal entity for the transfer of the asset into community ownership.

 - To move forward the scheduled decision date of 30 June to as early as possible. It would be hugely beneficial if the decision could be made earlier in order to get the entity set up and to be ready for the next swim season.
 - To provide a comprehensive handover including but not limited to legal assistance, Council's current health and safety plans and training of maintenance volunteers.
 - To include the \$160,000 worth of budgeted funds held for demolition with the transfer of this asset to the legal entity. The funds would help secure available funding streams from Lotteries and the Rata Foundation. While \$160,000 is

nominal for Council it is important and would have a significant impact for the community.

- Cr. Mundt thanked the SMPWG for their budget.
- Cr. Dean asked what steps they had taken so far to become that legal entity.
 - The group said they had met with a Kowai Pass Trust but also considered if they could bypass Kowai Pass Trust if the Council decides favourably and gives time to the working group to become a legal entity.
- Cr. Dean asked if there is a legal entity.
 - Response: The legal entity is Kowai Pass Trust.
- Cr. Phil asked if the demolition money they wanted was to demolish the pool.
 - Response: No, we want to receive the demo money to refurbish the pool. We can only do the full refurbishment if we get the demolition money; otherwise, we will have to raise the money and stagger the refurbishment over time.
 - Mr. O'Toole asked if Council would hand the pool back to community back in the condition it was in when Council took it back in 2016.
 - Mr. Easson said information was in the paper given at the start of the meeting.
- Cr. Mugford asked how long it would take to set up a legal entity.
 - Response: about 3 months, we need a decision made by Council before we begin fundraising. It is important that we get a decision. It is a chicken and egg situation where we don't have an asset to raise money for, but we need money if we get the asset.
- Cr. Mundt asked about how confident they were about meeting year on year budgets when the entity's fundraising capacity might also be drawing on people who are also at the Sheffield School.
 - The group are confident they can meet budget. They also think that there are people not using the pool at the moment due to the limited open times and the lifeguards. They also intend to hold community events to fundraise; they noted that there is less incentive for community to fundraise for a pool when it is a Council pool.
- Cr. Mundt asked if they would use volunteers.
 - The group do not intend to employ someone as it increases risk under Worksafe. The work would remain voluntary although the school had offered some caretaking hours potentially.
- Cr. Mundt asked if it was a legal requirement to train volunteers.
 - The group said they would train the volunteers. They would look for support from the Aquatic Centre [Council pool in Rolleston].

Submission No. 48 – Hamish Faulkner for Kowai Pass Reserve Trust

- 3 representatives of the Kowai Pass Reserve Trust (KPRT) presented to the hearings panel.
- KPRT have put their hand up to support the Sheffield Memorial Pool Working Group so they can have the time to set up a separate legal entity to take on the ownership of the pool.

- The KPRT will be the entity to take on the ownership of the pool, if this is required, until such time as the Sheffield Memorial Pool Working Group can get set up as a separate legal entity to take on the ownership of the pool.
- Cr. Dean asked KPRT if they, as the officers of the entity, would take over the legal responsibilities, health and safety responsibilities, and operating of the pool.
 - KPRT Response: We would take it on as an interim option while the working group got set up as a legal entity.
- Cr. Dean asked what the purpose of KPRT is.
 - KPRT Response: We are an up and running legal entity. Our purpose is to operate a campground for the benefit of the community and to provide resources and support to maintain other facilities in the community.
- Cr. Mugford asked them if they have enough funding to run the pool if they take it on.
 - KPRT Response: It depends on the timeframe. If it is getting close to the swim season the pool would need to remain shut until the working group got up and running. Running the pool is up to the working group, we are just the governance. It is our view that the community gifted the pool to Council and now it needs to come back with the money or refurbished and given back.
- Cr. Mundt asked if they had sought legal advice.
 - KPRT Response: The only legal advice they had was in relation to health and safety.
- Cr. Mundt asked if the lawyers were happy with them taking on this pool.
 - KPRT Response: Yes.
- Cr. Mundt asked what timeframe was given to get the pool up to speed.
 - KPRT Response: That is management responsibility.
 - Mr. Easson (working group member and Sheffield School principal) spoke from the floor about the timeframe: it depends on the condition required for the infrastructure, and if the pool is given back with provision of work done within certain timeframes, and the time taken to raise the revenue to fix these items. We may need some conditions to work through and have a staged approach to meet these.
 - Ms. Steel (Springfield principal) spoke from floor about the timeframe: Council ran this facility down, but we have 2 large communities coming together, we are willing to put in the mahi and the money to get the job done.

Submission No. 109 Michelle Webster read Donald Wright's submission as he was unable to be present.

- Rural ratepayers do not benefit from many amenities on their doorstep. Sheffield pool is one of the few local amenities for ratepayers. We pay a \$900 annual rates contribution for district pools.
- Why has the Sheffield Pool fallen into such poor repair under Council guardianship with a pool that leaks, a pump not working properly, paint work not up to scratch and poor general maintenance.
- The community and schools need this pool; thousands of young children have learnt to swim here (including three generations of our family).
- The population of the town is increasing and there is sufficient interest within the town and

district to support the pool.

- The pool must not close, Council needs to facilitate the return of this wonderful asset serving a valuable part of rural New Zealand.

Submission No. 26 – Arindam Basu

- Mr. Basu thanked the Councillors for listening to his previous submission arguing that swimming pools in communities are important.
- There are benefits for Council if it transfers the ownership of the pool to a community run entity. Mr. Basu presented various examples of the 'curb cut effect' which results in benefits for the whole community (it relates to cutting the curb on a footpath to facilitate the movement of people with disabilities and this results in unintended benefits for everyone).
- The transfer of Sheffield Pool to the community is better for the environment and the children. It will create social benefits where value is created that previously did not exist. There is evidence in the literature that turning over assets to the community results in increased usage and sustainability of the asset, increased local property values, new revenue streams, and it engages people to work together and be involved in the decisions that impact them.
- Sheffield is growing, the pool is unique and useful for the community with flow on effects. The pool creates a place to hang out and participate in low impact exercise. Community ownership will save the Council money in the long run.
- Mr. Basu supports the transfer of the pool to the community. There is a body of literature to support this. People have rallied together to set up a legal entity and they have the wherewithal to achieve this. Mr. Basu is interested in helping the group.
- Ms. Nu'u asked Mr. Basu what his background is.
 - Mr. Basu said that he is an environmental health specialist, an Associate Professor of Health Sciences at the University of Canterbury.

Submission No. 119 – Keith Taege

- The pool is needed for health and safety reasons because public pools are safer than home pools or the river as these are places where people drown. Darfield Pool is sometimes closed because it is over full, so Sheffield Pool is needed.
- Regarding finances – money for pool keys will not be enough to run the pool, other community pools don't have lifeguards which reduces the cost of running the pool, sponsorships and grants will be needed. Mr. Taege said he had spoken to 300 businesses in the area, and they have all said they will support the pool with products and money.
- Mr. Taege argued that lifeguards are unnecessary and that many community pools do not have lifeguards. He had visited a water park in Australia which had no lifeguards and people kept an eye out for each other including one old fella who acted as a lifeguard voluntarily when he was at the pool most days.
- Ms. Nu'u asked Mr Taege if he would be willing to be the old fella acting as lifeguard.
 - Mr. Taege said that she would have to prove to him that lifeguards were needed.
- Cr. Mundt thanked Mr. Taege for bringing a different perspective.

Submission No. 32 – Tegan Holdem and Submission No. 114 - Sue Stokes for Malvern Swim School

- Ms. Holdem and Ms. Stokes did not indicate on their written submissions that they wished to speak to them as Malvern Swim School. However, at the Hearings Meeting Ms. Holdem requested the opportunity to speak. This was granted by the Chair, and their oral submission was heard by the Panel.
- Ms. Holdem and Ms. Stokes run the Malvern Swim School as a small family business that has been running for years. Ms. Stokes explained the history of the business which arose out of demand for lessons.
- The swim school run lessons across the rural communities in Malvern including Sheffield, Darfield, Hororata, Windwhistle and so on. It works for people without transport. They also have people coming from across the area for lessons including people from Castle Hill.
- The swim school aims to bring affordable, accessible lessons to the area. They also train one new swim teacher each year as a commitment to building up the number of qualified teachers. The training is a Level 3, 40-credit programme.
- The swim school's biggest issue is fitting in the number of lessons required. As a small business we need Sheffield Pool. We are moving most of our business towards Sheffield and have got 2 days fully booked. There are a lot more things the swim school could do for the community such as mums and bubs sessions but there is not enough room at Darfield Pool and the atmosphere at the Sheffield Pool is much calmer.
- Cr. Dean asked if they charge people.
 - Ms. Stokes said they charge \$15 per lesson.
 - Ms. Holdem said they have different options such as payment plans and multi-child discounts to make sure people can afford it.
- Cr. Dean asked what the arrangement was with Sheffield Pool.
 - Ms. Holdem said they hire lane space from the Council and pay access for people attending lessons. They are happy to support the community pool by paying for this space.
- Cr. Mundt asked if they planned to extend their times in Sheffield.
 - Ms. Holdem said they planned to extend their times but currently the pool opening hours are not at the right times. They have been running the master's squad and people have been asking for more times. There are opportunities but they need access to the pool.
- Cr. Mundt asked if there were any problems with Sheffield being an outdoor pool.
 - Ms. Holdem said yes, but that Darfield is also an outdoor pool. They have cancelled lessons once this year due to weather. They hold lessons in the rain but consider factors such as wind chill, pool temperature, and air temperature.

SUBMISSIONS NOT HEARD

Submitters # 82 and # 83 sent their apologies for not being able to make it to the hearing. Submitters #70, #108, and #118 did not attend the hearing to present their submissions and no apologies were received.

Saving the Sheffield Memorial Pool with the Sheffield Memorial Pool Working Group

Our objective is to save the Sheffield Memorial Pool from council demolition and return it to the community to preserve and operate for future generations.

To enable this to happen, the Sheffield Memorial Pool Working Group (SMPWG) is asking the council,

- To either, transfer the asset to Kowai Pass Reserve Trust who will act as an interim legal entity until the SMPWG can establish our own legal entity or SDC holds the asset until the SMPWG can establish ourselves as a legal entity by way of Trust for the council to then directly transfer the asset to.

Through discussion and consultation, the community's preference is for the SMPWG to become a legal entity to take sole ownership and responsibility with SDC transferring the asset directly to SMPWG once the legal charitable trust has been established.

Due to the short time frame the community has had to work with and until such time as SDC commit to transfer of the asset to SMPWG there has not been the time nor financial viability to establish a legal entity without that commitment from SDC. In order to meet the criteria, the Kowai Pass Reserve Trust are committed to acting as the legal entity for the transfer of the asset into community ownership.

Once SDC has given their commitment to transferring the asset, the SMPWG will immediately begin the process to establish a charitable trust which is achievable prior to 30 June 2025.

- **Moves forward ahead of schedule, with their decision to transfer the asset to community ownership with a legal entity prior to 30 June and preferably as soon as possible.**

The proposed timeline means that the pool will close on 16 March 2025 and sit dormant for three and a half months of the winter, without action until the decision is released on 30 June 2025.

The SMPWG needs a decision from SDC as soon as possible to enable us to move forward with the process of establishing the legal entity, begin applying for grants, undertaking fundraising, working with contractors and other stakeholders to ensure that the pool is operational by the beginning of the 2025/2026 summer season. The SMPWG is held in limbo until such time as SDC make their decision.

- **Provide a comprehensive handover including but not limited to legal assistance, SDC's current health and safety plans and training of maintenance volunteers.**

The SMPWG would like to work with the Head of Sport and Recreation and Selwyn Aquatics in a handover process to ensure a smooth transition of the facility into community operation.

- **Include the \$160,000 worth of budgeted funds held for demolition with the transfer of the asset to the legal entity.**

The SMPWG has an established relationship with the Department of Internal Affairs, the gateway to Lottories and the Rata Foundation and the \$160,000 will be used to secure this available funding stream to fully fund the cost of refurbishments.

The \$160,000 is already budgeted and held by SDC and by transferring these funds with the asset it does not encroach on funds budgeted for any other purpose.

Whilst the community's understanding is that this fund is for the purpose of demolition and even if the asset is transferred to the community the funds will be held for a number of years in case the community is not successful in operating the facility, the SMPWG would like to point out that once the asset is transferred to a legal entity, SDC will NO LONGER be responsible, have any claim to the asset or liability for future costs or demolition expenses and therefore there is no reason to hold these funds.

\$160,000 is a nominal amount of money for a large entity such as SDC but for a small rural community, the SMPWG cannot emphasise enough how important these funds are, just how much would be possible with the funds and the significant impact they would have when included with the transfer of the asset.

In relation to the criteria of demonstrating the SMPWG has the ability to manage the asset, including operational costs we would like to point out that the community successfully managed the asset for 63 years until the SDC took it over, the community can certainly continue to do so.

The SMPWG have every confidence in the members collective skill set and those available within the community to ensure that managing and operating the facility for the local community will be successful for future children and families to enjoy.

The SMPWG has researched what operational costs and refurbishments costs would entail and provide the following budget.

Operational Budget

Income			
<i>Gate Sales - pass</i>	50	\$ 100.00	\$ 5,000.00
<i>Pool Hire - Sheffield School</i>	1	\$ 10,000.00	\$ 10,000.00
<i>Pool Hire - Springfield School</i>	1	\$ 1,000.00	\$ 1,000.00
<i>Entity funding</i>	1	\$ 5,000.00	\$ 5,000.00
<i>Fundraising</i>	1	\$ 5,000.00	\$ 5,000.00
Total Income			\$ 26,000.00
Expenditure			
<i>Water metering charge</i>			\$ 700.00
<i>Compliance/rules/inspections</i>			\$ 1,000.00
<i>Chemicals</i>			\$ 3,000.00
<i>Electricity</i>			\$ 4,000.00
<i>Miscellaneous Expenses</i>			\$ 2,000.00
<i>Rates</i>			\$ 869.00

<i>Insurance</i>			\$	2,500.00
<i>Maintenance-General</i>			\$	5,000.00
<i>Caretaking hours - 2 hr day at \$25x18 weeks</i>			\$	6,300.00
Total Expenditure			\$	25,369.00
		S (D)	\$	631.00

Refurbishment Budget

Income	
<i>gazebo removal</i>	\$ 5,000.00
<i>caretaking - grounds \$25 per hr for 3hrs per week</i>	\$ 3,000.00
<i>Caretaking - volunteer 2 hour per day at \$25 x 18 weeks</i>	\$ 6,300.00
<i>Plant & Equipment upgrade</i>	\$ 30,000.00
<i>Memorial gate reinstatement</i>	\$ 5,000.00
<i>Project governance - oversight of running the pool</i>	\$ 4,800.00
<i>Project management - oversight of repair project</i>	\$ 2,160.00
<i>Community funding</i>	\$ 8,000.00
Total Income	\$ 64,260.00

Expenses	
<i>Main Pool Refurbishment</i>	\$ 150,229.00
<i>Toddler Pool Refurbishment</i>	\$ 29,803.00
<i>Raising Main Pool floor .9m-1.8m</i>	\$ 74,110.00
<i>Plant & equipment Upgrade</i>	\$ 30,000.00
<i>gazebo removal</i>	\$ 5,000.00
<i>caretaking - grounds \$25 per hr for 3hrs per week</i>	\$ 3,000.00
<i>Caretaking - volunteer 2 hour per day at \$25 x 18 weeks</i>	\$ 6,300.00
<i>Memorial gate reinstatement</i>	\$ 5,000.00
<i>Project governance - oversight of running the pool</i>	\$ 4,800.00
<i>Project management - oversight of repair project</i>	\$ 2,160.00
Total expenses	\$ 310,402.00
Total funding sought	\$ 246,142.00

Main Partners

Sheffield Primary School
Sheffield Combined Sports Society
Malvern Swim School
'The Locals' Community group
Sheffield Fire Brigade
Malvern Community Board

Springfield Primary School
Kowai Pass Reserve Trust
Coombs Aquatics
Springfield Community Association
Christchurch Memorial RSA
Taege Engineering

HEARINGS END

CLOSING

- Cr. Mundt thanked the public for attending.
- Cr. Mundt informed the meeting that the Panel will meet again to deliberate on all submissions received. The deliberation date is 19 March 2025 at 6.30pm at the Sheffield Community Hall. The intent of the deliberation meeting will be to form the Panel's recommendation to Council about which, if any, specific legal entity the Sheffield Pool could be transferred to. Cr. Mundt encouraged those present to come to the public deliberation meeting and to let others in the community know that they are also welcome to attend.
- A member of the community spoke from the floor and thanked the Panel members and Council staff for coming out to Sheffield to hear their views.

CLOSING KARAKIA

Unuhia, unuhia

Te pou, te pou

Kia wātea, kia wātea

Āe, kua wātea

Remove, uplift

the posts

in order to be free

Yes, it has been cleared

MEETING CLOSED

DATED this

day of

2025

CHAIRPERSON

REPORT

TO: The Chief Executive Officer

FOR: Sheffield Memorial Pool Hearings Panel

FROM: Head of Sport and Recreation – James Richmond

DATE: 14 March 2025

SUBJECT: Sheffield Memorial Pool Ownership

RECOMMENDATION

‘That the Sheffield Memorial Pool Hearings Panel recommend that the Council:

- a. Receives the Sheffield Memorial Pool Ownership report.*
- b. Approves transfer of ownership and operation of the Sheffield Memorial Pool (both land and assets owned by the Council) from Council to the Kowai Pass Reserve Trust (or not-for-profit nominee to be determined by the Trust), subject to:*
 - i. Transfer agreement being entered into by 30 June 2025.*
 - ii. Resolution of the certificate of title issues associated with the land on which the Pool sits.*
 - iii. Transfer being conditional on the Trust (or nominated entity) obtaining consent from the Department of Conservation to access the Pool over the neighbouring Department of Conservation title.*
 - iv. The Pool not being operated by the Trust (or nominated entity) until the transfer is completed.*
- c. Delegates to the Chief Executive Officer, the power to negotiate and agree to the final terms and conditions of transfer to the Kowai Pass Reserve Trust on terms satisfactory to the Chief Executive Officer in their discretion, subject to the above conditions being met.*
- d. Approves demolition of the Sheffield Memorial Pool, in the event that mutually satisfactory terms of the transfer are unable to be agreed by 30 June 2025.’*

PURPOSE

This report is to assist deliberation discussions to enable the Panel to make a recommendation to the Council to decide on whether to transfer ownership of the Pool to the community.

The report includes a summary of the key themes raised against each engagement category along with staff recommendations. Copies of the submissions were previously circulated to the Hearings Panel and can also be found on the Council website.

SIGNIFICANCE ASSESSMENT / COMPLIANCE STATEMENT

The decisions associated and matters contained in this report are assessed as of **high** significance in accordance with the Council's Significance and Engagement Policy.

Pools (which includes Sheffield Memorial Pool) are listed as strategic assets in the Council's Long-Term Plan 2024-2034 (pg. 352) and as such if ownership is to be transferred require the use of a Special Consultative Procedure detailed in section 83 of the Local Government Act 2002 and in the Council's Significance and Engagement Policy.

There is also a high level of interest in this matter from the residents of Sheffield and the neighbouring township of Springfield. This matter was the subject of consultation as part of the Council's Long-Term Plan 2024-2034.

HISTORY/BACKGROUND

The history and background of the Sheffield Memorial Pool has been well communicated and documented in other reports to Council, including in the report seeking approval to start this special consultative process: [Council Agenda 13 November 2024, p 175](#).

Long-Term Plan decisions

On 22-24 May 2024, the Council decided to¹:

1. Begin targeted consultation with the community around potential divestment of the facility to a community-run legal entity.
2. Keep the Sheffield Memorial Pool open and operational for the 2024/25 season to allow time for consultation and necessary arrangements to be put in place.
3. Proceed with demolition if no arrangement is able to be satisfactorily negotiated before 30 June 2025.
4. Hold the demolition costs budget so that it can be utilised should operation by the community not commence or continue.

Title, ownership and access

Council has ownership of the pool assets, and buildings. Ownership of the land on which the pool sits, however, is complex. The pool sits across two titles as shown in the diagram below.

¹ [Council Minutes, 22-24 May 2024](#), p 9.



The main pool sits on the title of a deceased estate (shown in red in the diagram). The Council has been unable to track down the executor for the deceased estate. Issues associated with this are discussed further in the legal considerations section below.

The pool building and carpark sit on land owned by the Council (shown in blue in the diagram).

Vehicle access to the pool and carpark are over a neighbouring piece of land owned by the Department of Conservation (DOC) (shown in orange on the diagram). The Council has DOC's written permission to access the pool over their land. However, this has never been regularised by way of an easement.

SPECIAL CONSULTATIVE PROCESS

Below is the key information provided to the community as part of the Special Consultative Process.

Transferring to a community-run legal entity

What we're consulting on

If the public consultation leads to clear support from the community for the transfer of the Sheffield Memorial Pool to a community-run legal entity, and such an entity is identified, the Council needs to be assured that the entity is well-prepared and capable of operating the asset. The entity also needs to be fully aware of the risk they are taking on; risk which is currently held by Council as the owner/occupier.

Therefore, it is essential that due diligence is completed by the Council and the proposed entity includes consideration of minimum criteria before transfer of the asset is finalised. These minimum criteria are set as:

- A registered legal entity such as an incorporated society or charitable trust.
- A well-structured financial plan demonstrating the organisation's ability to manage the asset, including operational costs.

We want to know:

- If you support the transition of the Sheffield Memorial Pool asset from Council ownership and operation to a community-run legal entity.
- If you are aware of a community-run legal entity that you consider suitable to own and operate the Sheffield Memorial Pool.
- If you are interested in helping this group with the ongoing operation of this facility.
- If you have any other comments about the Sheffield Memorial Pool.

Questions

1. Do you support the transition of the Sheffield Memorial Pool asset from Council ownership and operation to a community-run legal entity?
 - a. Yes/No
 - b. Please add your comments
2. Are you aware of a community-run legal entity that you consider suitable to own and operate the Sheffield Memorial Pool?
 - a. Yes/No
 - b. Please add your comments
3. Are you interested in helping this group with the ongoing operation of this facility?
 - a. Yes/No
 - b. Please add your comments
4. Do you have any other comments about the Sheffield Memorial Pool?
Please add your comments

Timeline

- **1 October 2024:** Pre consultation period with key stakeholders
- **16 November:** Pool opens for the season
- **22 November:** Consultation opens
- **14 February 2025:** Consultation closes
- **27 February:** Council hearing of submissions
- **16 March:** Pool closes for the season
- **19 March:** Council deliberations on submissions
- **16 April:** Council meeting
- **30 June:** Council to have made final decision

Communication Activities During Consultation

The community were able have their say by completing the online submission form at selwyn.govt.nz/sheffieldpool or printed submission form available at Sheffield and Darfield Pools, Sheffield and Springfield Schools, Darfield Library, and SDC service centres.

The consultation was advertised in the Selwyn Times, Malvern News, Sheffield and Springfield school newsletters and through social media.

Table of communication activities

19 November 2024	<ul style="list-style-type: none">Media release sent to internal front facing staff with FAQs.
22 November	<ul style="list-style-type: none">Printed submission forms available at Sheffield and Darfield Pools, Sheffield and Springfield Schools, Darfield Library, and SDC service centres.Posters in Sheffield and Springfield townshipMedia release sent outArticle on Te Pātaka (internal staff)yoursay.selwyn.govt.nz is liveselwyn.govt.nz website updatedFacebook post
26 November	<ul style="list-style-type: none">Mailbox drop in Sheffield (including Waddington), Springfield, and Darfield.
27 November	<ul style="list-style-type: none">Advert in Selwyn Times (quarter page)
29 November	<ul style="list-style-type: none">Advert in Malvern News (full page)Advert in the Sheffield School newsletterAdvert in the Springfield School newsletter
5 February 2025	<ul style="list-style-type: none">Advert in Selwyn Times (quarter page)Facebook post
7 February	<ul style="list-style-type: none">Advert in Malvern News (full page)

Submission Analysis

In total there were 181 submissions, 34% (62) were submitted through the consultation platform yoursay.selwyn.govt.nz, and 66% (119) were written submissions. 49% (88) were from Sheffield.

15 submissions wanted to speak at hearings, 5 of which were on behalf of an organisation. The organisations were Malvern School Principals, Kowai Pass Reserve Trust, Sheffield Contributing School, and the Sheffield Memorial Pool Working Group.

The analysis is broken down by the four questions that were asked.

Question 1 - Do you support the transition of the Sheffield Memorial Pool asset from Council ownership and operation to a community-run legal entity?

180 responses were received – 95% in support and 5% did not support this.

Those in support noted the pool was originally fundraised and maintained by the community and should be returned to them. They also noted the importance for local children and families, the educational necessity (learning to swim), the historical significance, and community benefits. There was strong support for the Sheffield Memorial Pool Working Group and Kowai Pass Reserve Trust to take over the pool's management. There were comments that while there is strong support to take over the pool, the operating costs must be realistic and sustainable. A number of comments also asked for the funds that are allocated by the Selwyn District Council for demolishing the pool to be redirected to repair and maintain it.

Those opposed noted that the Council should maintain and manage the Sheffield Memorial Pool. There were arguments that it is the Council's role to provide local amenities and that abandoning the pool represents a failure of commitment to the community. They noted that closing and demolishing the pool would be a blow to the community members who were involved in its creation and maintenance. There are concerns about the high costs of maintaining the pool. Some community members do not want the financial burden of ongoing and increasing running costs to fall on them. There is frustration with the Council's spending priorities, with some feeling that funds are being wasted on less important projects instead of maintaining essential community facilities like the pool.

Question 2 - Are you aware of a community-run legal entity that you consider suitable to own and operate the Sheffield Memorial Pool?

177 responses were received – 84% said they were aware of a community-run legal entity and 16% were not aware. Four submissions were blank for this question.

Of those who were aware of a community-run legal entity, 70% were in support of Sheffield Memorial Pool Working Group alongside the Kowai Pass Reserve Trust to take over the pool's management.

20% of those who were aware, did not name a group.

Those who were not aware mentioned that efforts were being made to find a suitable entity.

Question 3 - Are you interested in helping this group with the ongoing operation of this facility?

171 responses were received – 42% indicated they would be happy to help, 57% were not happy to help, and 2% indicated they may be able to help.

Those who were willing to help expressed their willingness to support the pool in various capacities including volunteering, fundraising, and offering expertise. This shows a strong community commitment to keeping the pool operational. There are suggestions to reduce costs by cutting back on lifeguards and encouraging personal responsibility among pool users. There is a question about why funds allocated for demolishing the pool cannot be redirected to support its maintenance and operation. Some individuals offer their professional expertise, such as environmental health specialists and techpreneurs, to help with relevant projects.

Those who were not willing to help mentioned a mix of challenges related to age, mobility, and time constraints, alongside a strong belief in the importance of the pool and a desire for the Council to provide necessary support. There is also a stated willingness to help in various capacities, depending on individual circumstances.

Question 4 – Do you have any other comments about the Sheffield Memorial Pool?

125 responses were received.

The main point made is that the Sheffield Memorial Pool is a valuable community asset that should be preserved and maintained.

Many comments emphasise its importance for teaching children to swim, its historical significance as a memorial, and the social and environmental benefits it provides to the local community.

A number of submitters supported redirecting funds allocated for demolition to repair and upgrade the pool, and for community-led management by the Sheffield Memorial Pool Working Group and Kowai Pass Reserve Trust.

Staff Comment on key issues raised

Darfield Pool Capacity

Submitters raised concerns about Darfield Pool's ability to cope with additional demand, specifically in relation to school swimming.

Staff can confirm that there are large parts of the open pool hours, during school time with no bookings and low swimmer numbers. Generally, these times are mornings between 9am and 12noon, however it should also be noted that blocks of bookable time exist in the afternoons in weekly or fortnightly blocks. No exploratory booking enquiries have been received from the Sheffield School by council staff.

Funding

In general submitters outlined that day to day and even year operations can be covered by fundraising means. However, a number of submitters requested

funding assistance in relation to pool remediation works, particularly the release of the demolition costs if the pool is to remain open.

Submitters have requested a contribution, over one third to allow DIA (Community Matters) funding to be granted. The proposed remediation project aligns well with the outcomes and goals of the fund, particularly in terms of providing access for rural, isolated or marginalised communities. It should also be noted that the Community Matters funding committee may request a feasibility study be completed given the project is over \$250,000 in value and at this time the Council has not received evidence of how well progressed planning is with DIA.

In addition to the above it should be noted that the requests for demolition funds to be reallocated sit outside of this special consultation process and therefore outside the delegation of the Hearings Panel to recommend this to the Council. As noted earlier in the report Council decided as part of the 2024-34 Long Term Plan to hold the demolition costs budget so that it can be utilised should operation by the community not commence or continue.

The demolition funds were not collected by way of a targeted rate and therefore there is no requirement to return the funds to the community if the demolition does not go ahead. The demolition funds can be held by the Council for any conditional or settlement period of any transfer, so that in the event that the transfer cannot proceed (e.g. legal conditions are not met), the demolition funds are still held by the Council to carry out the demolition. If the transfer goes ahead, and all conditions/settlement are achieved, Council can then decide on use of the funds. Any funding provided to a community group (whether re-purposed funds or specific grant funds) need to follow the Council's community funding policy and process.

Travel

A number of submitters stated that school children travelling to an aquatic facility is expensive and time consuming. While staff don't debate this point it is important to recognise that many other schools using Selwyn District Council facilities do have to travel to aquatic facilities and work this into curriculum time. Currently ten schools travel to Selwyn Aquatic Centre using transportation booked through the school, the longest journey being over 20 minutes.

OPTIONS

Option 1 (Recommended): Transfer ownership of the Sheffield Memorial Pool

Transfer the Sheffield Memorial Pool to the Kowai Pass Reserve Trust (or not-for-profit nominee to be determined by the Trust).

Considerations and recommended condition for this option:

Considerations:

- Kowai Pass Reserve Trust: The trust is a Charitable Trust registered with the NZ Companies Office as “Kowai Pass Reserve Trust”. The New Zealand Business Number is 9429052537226. The Trust was incorporated on 18/12/2024. The Trust incorporation number is 50224844. The Trust’s charitable purpose and aims are to devote or apply both capital and income of the Trust Fund to or for any charitable purposes which are from time-to-time selected by the Trustees and are valid charitable purposes. Without any way derogating from above ~ the Trustees may also devote or apply both capital and income of the Trust to further charitable purposes by:
 - operating a campground for the benefit of the community and
 - providing resources and support to maintain other facilities in the community.

The Trust deed requires that the Trustees ensure that there are appropriate and up-to-date financial and accounting policies in place so as to safeguard the Trust from financial risks including fraud, embezzlement, money laundering and any other form of financial theft or loss. The Trust deed also requires the Trustees ensure that annual financial statements are prepared for the Trust in accordance with the financial and accounting policies for the Trust.

The Trust deed states that, upon winding the Trust up for any reason, any remaining portion of the Trust Fund, or the net proceeds arising from the sale of the assets of the Trust must be applied, after payment of all liabilities, towards the Lions Club of Malvern Charitable Trust. If the Lions Club of Malvern Charitable Trust does not exist at that time or is no longer a registered charity in New Zealand, then any remaining portion of the of the Trust Fund, or the net proceeds arising from the sale of assets of the Trust must be applied, after payment of all liabilities to such charitable purposes in New Zealand as maybe determined by the Board, or in default of its determination, as may be decided on application to a judge of the High Court of New Zealand.

- Community Working Group: A community working group has been established. The working group has expressed the intention to establish itself as a separate legal entity. They have not yet established themselves as a legal entity and do not wish to incur the costs of doing so unless the Council decides to transfer the pool to a separate legal entity. The group is understood to be working in a cooperative fashion with the Trust. This option, however, is for Sheffield Memorial Pool to be transferred to Kowai Pass Reserve Trust. The Kowai Pass Reserve Trust will be the entity responsible for determining whether the Sheffield Memorial Pool will, at a later time, transfer or not to an alternative legal entity formed by the community working group. The Council can specify that the Trust is able

to nominate an entity to take over the transfer if the working group sets up as a legal entity prior to the transfer being completed. If the Council wishes to enable this process, we recommend specifying that it must be a not-for-profit entity to ensure that a for-profit entity cannot be nominated by the Trust to take over the transfer.

- Assets/land to be transferred: The ownership of the land on which the Pool sits, and the Pool assets is complex (as set out previously). The process to regularise the ownership issues (by way of an application to LINZ for adverse possession) is costly and will take time. The Hearings Panel can recommend (and the Council can decide) whether to carry out this process prior to transfer and make the transfer conditional on this occurring. However, it is recommended that this is done prior to transfer because the Trust (or nominated entity) an adverse possession application requires the applicant to show possession of the land for a lengthy period of time. See further information in the legal implication section below.

The advantages of this option are that it gives effect to the feedback provided from the community and creates an opportunity for the community to continue to operate the Pool.

The disadvantages of this option are that the Council bears the cost and risks of a transfer as identified in the legal considerations section (and schedule) below. It also exposes council to some ongoing pressure to fund or take back the pool should operation cease.

Option 2: Close and demolish the Sheffield Memorial Pool.

This option sees the pool closed and decommissioned. Currently, as there is a community-run legal entity ready to receive the pool this option is not preferred however it is a strong secondary option that should be considered by the Hearings Panel. The advantages of this option are that it allows a clear end to the process and does not expose council to any short- or medium-term risks during the transitional phase as noted in schedule below. It also provides the community with immediate closure on the issue at hand, the future of the Pool, so other plans can be established and activated. It also aligns with the preference of most of the feedback (61%) in the 2024-34 Long-Term-Plan which was to close and decommission the pool.

The disadvantages of this option are that currently there is feedback from the community, identified through this consultation to retain the facility and to operate it. Failure to listen to this feedback may challenge future special consultative processes and challenge public sentiment. It should be clearly

noted that community feedback is only once aspect to Council decision making processes.

Option 3: Delay the transition of the Sheffield Memorial Pool Asset

This option sees:

- The asset and land ownership retained by the Council until such time as the working group has formed its own legal entity.
- The deadline of asset transfer extended so that the Council can transfer directly to the operating entity.
- This option does not meet the timeframes specified in the 2024-34 Long-Term Plan or special consultative process which outlines that demolition should proceed if the timeframes cannot be met.

The advantages of this option are that it would enable further resolution of the issues identified in the legal considerations section below.

The disadvantages of this option are that the issue would not be resolved by 30 June as anticipated by the consultation and Long-Term Plan.

Option 4 (Not considered reasonably practicable): Provide funding to the community group

This is outside the scope of the consultation process before the Hearings Panel and is in direct conflict with a decision made by Council in the Long-Term Plan.

LEGAL IMPLICATIONS

Delegations

The Hearings Panel has the delegation to consider the submissions from the Special Consultative Procedure and make a recommendation to the Council.

The final decision whether to transfer the Pool sits with the Council.

Decisions on allocation of the demolition funds if unused are outside the scope of the Special Consultative Procedure and the delegation of the Hearings Panel.

Legal considerations for transfer

Attached as a schedule is a list of legal considerations associated with the potential transfer to the community. Each consideration includes potential avenues to resolve the issue with staff recommendation, risks and advantages/disadvantages associated with that issue.

A handwritten signature in black ink, appearing to be 'JR' followed by a horizontal line and a small 'A'.

James Richmond

HEAD OF SPORT AND RECREATION

Endorsed For Agenda

A handwritten signature in black ink, appearing to be 'DKidd'.

Denise Kidd

EXECUTIVE DIRECTOR COMMUNITY SERVICES AND FACILITIES

Legal issue	Recommendation	Rationale	Risks / mitigation
Transfer entity	Recommend: Kowai Pass Reserve Trust be the entity to which the Sheffield Memorial Pool is transferred. A community working group is currently cooperating with the Kowai Pass Reserve Trust and intends to establish itself as a separate legal entity to which the Sheffield Memorial Pool may eventually be transferred if the Trust nominate the new entity to take over the transfer.	Council needs a legal entity to contract with. Individuals who are interested to take over operation do not wish to set up entity until transfer is agreed. Kowai Pass Reserve Trust has identified itself, and been identified as an entity that can enter into the contract for transfer. Kowai Pass Reserve Trust may transfer Sheffield Memorial Pool to the yet to be established legal entity or nominate the working group's new legal entity to take over the transfer.	Risk: Community working group may be unable to set up new entity. If new entity not set up, Kowai Pass Reserve Trust will retain ownership of the Sheffield Memorial Pool and associated responsibilities.
What assets can / should be transferred	Recommend: Clarity/transparency on what land/assets the Council can transfer. Make it clear that the transfer is conditional on regularisation of the title by way of adverse possession application against the deceased estate. This may take 6 to 12 months.	Council does not have title over a parcel of land that a significant portion of the pool sits on (it sits on a deceased estate that cannot be tracked).	Risk: Without proper disclosure to new entity, if issues arise with the deceased estate, or DOC access, Council may be responsible – clear wording is needed. Risk: If the regularisation of the title takes longer than anticipated, the transfer will not be complete in time for the Trust, or nominated entity, to operate the Pool next season.
	Recommend: Transfer of other pool assets/chattels: diving board, pool plant, lawnmower, water blaster, till, various tables and chairs, rescue equipment, signage, defib, first aid equipment.	Equipment necessary to set up the group for success.	Risk: Transferring risky equipment to the group without reassurance that risks will be managed could create risk to the community. However, this risk will sit with the Trust/community legal entity, not the Council.
	Not recommended: Transfer above ground assets and establishing ground lease.	If this approach is taken, Council retains risk as landowner.	
Transfer timing	Recommend: Agreement to be entered into by 30 June 2025 as anticipated by the Long-Term Plan. Council can require that all other conditions are satisfied by this point, but it might be that regularisation of title cannot be	Timeframe for transfer needs to be as soon as possible, but still within a reasonable timeframe for community to create entity and agree to sale.	Risk: Regularisation of title process is likely to hold up the 30 June 2025 transfer date. It is possible that this could impede the Trust/new entity taking over operations prior to the next pool season.

Legal issue	Recommendation	Rationale	Risks / mitigation
	completed until later. This would likely be the only condition that holds up the 30 June 2025 date.	The cost of regularisation of the title will be borne by the Council.	
	Not recommended: Transfer prior to regularisation of title.	If transfer occurs prior to regularisation of title, the Trust (or nominated community entity) will not be able to resolve this as they have not been in possession, which is required for regularisation of title.	
Other terms to support community group	Recommend: Handover/induction – e.g. 20 hours of operational induction, water testing training to up to 5 volunteers, transfer SOPs. If this is done, recommend clear timeframe for this to occur and finish, and clear caveats on purpose of this handover to protect Council.	Setting up the new entity for best chance of success.	<p>Risk: Need to make it clear that induction does not constitute advice on what to do or operational support – they need to determine their own processes, and Council takes on no risk if induction does not cover all things they need to operate facility.</p> <p>Risk: They come back with further questions/expectation of further assistance. The more assistance we provide, the more open we may come to reputational or legal criticism if the operations fail, or there is an incident with Trust when it takes over management.</p>
	Not recommended: Audits or other supervision that might indicate a level of control or influence over the new entity.	Any level of control or influence indicates potential responsibility or liability in the event of an incident.	
Restrictions on what group can do with the pool	Recommend: No restriction on alterations that can be made to the pool.	The school (now the community working group) received a report from Richards Consultants. As part of this report the working group signalled shallowing the pool. Council should consider whether it wants to restrict. A large number of submissions and hearings involved discussion on how good retaining the deep water will be – Council can decide whether or not it wishes to make this a condition of sale.	<p>Risk is that, while alterations such as shallowing the pool / not using diving board will lessen safety risk, the entity could decide to make alterations that increase risk. The mitigation is that this risk will pass to the new entity and no longer sit with Council.</p> <p>Another risk is that if the Council does not restrict alterations that can be made to the Pool, the Trust (or nominated entity) could make changes that make demolition costlier</p>

Legal issue	Recommendation	Rationale	Risks / mitigation
			in the event that the Trust / nominated entity are not successful in taking over operations, and seek to dispose of the Pool (discussed further in right of refusal below).
Right of refusal	Recommend: Council first right of refusal to purchase land back for \$1 if Trust and / or community legal entity determines they will sell or transfer.	Avoids risk that new entity will sell on for a profit.	Risk: While this can be worded as a right of refusal (i.e. the Council will be able to decide whether to refuse to take back the Pool), there may be reputation considerations if the community-led operations fail and the Council refuses to take back the Pool.
Access	Recommend: Transfer conditional on new entity obtaining DOC consent.	Access is over DOC land where there is written agreement, but no formal easement or concession that can be transferred	
Reserve status	Note: No reserve status on title.		
Endowment obligations	Consider: Potential endowment obligations that staff have not been able to find.	We have been unable to determine if there were caveats or conditions over the gift/purchase of the land that Council owns, or conditions over funds granted for the purpose of constructing the pool.	If there are endowment obligations, we are not aware of, community entity could later claim that Council failed to disclose these issues. Risk is low and can be mitigated by full disclosure in transfer agreement.
Flooding / insurance risk	Recommend: Full disclosure of any previous flooding instances, no warranties in respect of appropriate insurance coverage or ability to insure. Responsibility on the new entity to insure appropriately.	Responsibility on the new entity to insure the pool appropriately.	
Caveat on memorial items	Recommend: Condition that protects memorial plaques that are in the gate walls.	Not heritage protected, but it is in the interests of the community that these are not destroyed.	