

LfWSEQ Interim Terms of Reference (ToR) – Final (25 June 2019)

1. Background & Purpose of ToR

- (a) The Land for Wildlife Scheme is a voluntary nature conservation initiative designed to recognise and assist private landowners in conservation and restoration of wildlife habitat. It began in Victoria in 1981 and has since been adopted by most Australian states and territories.
- (b) Since 1998, the Land for Wildlife Scheme has been delivered by councils in South East Queensland pursuant to the National Arrangement (and predecessor agreements) as the Land for Wildlife South East Queensland program or LfWSEQ.
- (c) The ToR outlines the arrangements for the Participating Councils to deliver LfWSEQ.
- (d) The ToR is applicable during an Interim Period from 1 January 2019 to 30 June 2020 (inclusive), whilst new long term arrangements for continuing to deliver LfWSEQ are investigated and implemented.

2. Legal status

- (a) The ToR is to be interpreted consistently with the National Arrangement.
- (b) The ToR is not legally binding. It is a good faith arrangement between the Participating Councils.
- (c) The ToR does not constitute the Participating Councils or Representatives as partners, joint venturers, fiduciaries or agents of each other.

3. Objectives

The Objectives of the Participating Councils which guide the LfWSEQ Steering Committee are to work together and cooperate to:

- Deliver LfWSEQ.
- Comply with the National Arrangement.
- Implement and comply with the ToR and Guidelines.
- Foster cooperation throughout South East Queensland in delivery of LfWSEQ.
- Establish and maintain high levels of quality for LfWSEQ products and services.
- Undertake the Joint Activities.
- Investigate and implement long term arrangements for continuing to deliver LfWSEQ.

4. Participating Councils

- (a) At the commencement of the Interim Period, the Participating Councils are: Sunshine Coast Council; Brisbane City Council; City of Gold Coast; Logan City Council; Moreton Bay Regional Council; Ipswich City Council; Lockyer Valley Regional Council; Somerset Regional Council; Scenic Rim Regional Council; Redland City Council; and Noosa Council.
- (b) Each Participating Council must use reasonable endeavours to:
 - Comply with the LfWSEQ Steering Committee's obligations pursuant to the National Arrangement, including using the national Land for Wildlife logo, sign, design, trademark and copyrights in compliance with the National Arrangement.
 - Implement and comply with the ToR and Guidelines.
 - Contribute to the implementation of the Objectives.
 - Participate in the LfWSEQ Steering Committee and Subcommittee meetings and activities.
 - Encourage sharing of skills, knowledge, experience and information across the Participating Councils and with the LfWSEQ Regional Coordinator at all organisational levels.
 - Not commercialise or participate in any commercialisation of LfWSEQ without the prior approval of the LfWSEQ Steering Committee.
 - Deliver LfWSEQ in its local government area, including undertaking the Activities.
- (c) Each Participating Council will be entitled to vote on Steering Committee matters if:
 - They are listed as a Participating Council in clause 4(a).
 - They have paid their Contribution to the Sponsoring Council as per clause 5(c).
 - They do not hold a Conflicting Interest as per clause 7.9(b).
 - They are not considered a defaulting Participating Council as per clause 8(a).
- (d) Each Participating Council has a right to participate pursuant to the ToR, including that its Representative:
 - Is entitled to be counted in establishing a quorum for a meeting.
 - Is entitled to vote on any resolution.
 - Is entitled to sign a circulating resolution.

- Is entitled to receive and participate in all communications.

5. LfwSEQ Budget & Contributions

- Prior to the commencement of each financial year, the LfwSEQ Steering Committee will prepare and approve (by a unanimous resolution of all Representatives appointed by the Participating Councils and entitled to vote) a LfwSEQ Budget for delivering the Joint Activities and otherwise implementing the Objectives in the financial year.
- Based on the LfwSEQ Budget, the LfwSEQ Steering Committee will calculate and approve (by a unanimous resolution of all Representatives appointed by the Participating Councils and entitled to vote) the Contribution of each Participating Council for the financial year.
- Each Participating Council must pay its Contribution to the Sponsoring Council for each financial year in full by no later than 30 September in the relevant financial year.
- Contributions not expended in a financial year will be carried over as a credit to the LfwSEQ Budget for the next financial year, not repaid or credited to any Participating Council.

6. Sponsoring Council

- At the commencement of the Interim Period, the Sponsoring Council is Sunshine Coast Council.
- The Sponsoring Council will:
 - Hold the Contributions.
 - Expend the Contributions only as approved by the LfwSEQ Steering Committee in the LfwSEQ Budget or otherwise.
 - Act as legal entity when required for any Joint Activity.
 - When acting as legal entity:
 - Do so in its own name and not as agent for the other Participating Councils. That is, the Sponsoring Council will have all the rights and obligations connected with any arrangement that it enters into as a legal entity. Its recourse to, or any other involvement with, the other Participating Councils will be limited to reimbursement from Contributions as approved by the LfwSEQ Steering Committee.
 - Ensure any arrangements that it enters into as the Sponsoring Council furthers the LfwSEQ Budgeted, or otherwise LfwSEQ Steering Committee approved, purpose.
 - Be subject to the supervision and direction of the LfwSEQ Steering Committee on matters relating to its role as Sponsoring Council. However, the Sponsoring Council need not follow any direction that it considers might be detrimental to its reputation or expose it to new or increased liability.
- The Sponsoring Council can resign or be removed (in line with Clause 8a) by the LfwSEQ Steering Committee (by a unanimous resolution of all Representatives appointed by the Participating Councils and entitled to vote). To enable the resignation or removal, the LfwSEQ Steering Committee will nominate a replacement legal entity (by a unanimous resolution of all Representatives appointed by the Participating Councils and entitled to vote) and the Sponsoring Council will transition its outstanding arrangements to the nominee.

7. LfwSEQ Steering Committee

The LfwSEQ Steering Committee is continued pursuant to the ToR.

7.1 Role and responsibilities

The LfwSEQ Steering Committee's roles and responsibilities include to:

- Supervise, and make all decisions concerning, all subject matter of the ToR.
- Be the primary body through which the Participating Councils cooperate and work together to implement the Objectives and share skills, knowledge, experience and information across the Participating Councils and with the LfwSEQ Regional Coordinator.
- Monitor, evaluate and improve the implementation of the Objectives on a continuing basis.
- Approve all Joint Activities.
- Approve the long term arrangements for continuing to deliver LfwSEQ.
- Approve and prioritise the work plan of the LfwSEQ Regional Coordinator.

7.2 Representatives and Proxies

- Each Participating Council and the LfwSEQ Regional Coordinator must nominate and maintain one individual Representative to the LfwSEQ Steering Committee.
- All Representatives will be provided with fair and equal opportunity and reasonable timeframes

to participate in the LfWSEQ Steering Committee.

- (c) A Representative can appoint another individual as the Representative's Proxy to the LfWSEQ Steering Committee. A Proxy appointment can be for any period or periods or can be a standing appointment.
- (d) A Proxy has the same right as its appointing Representative to exercise the Representative's rights and powers as a Representative to the LfWSEQ Steering Committee, including to attend, count in quorum, speak at, vote at, and otherwise in connection with, LfWSEQ Steering Committee meetings and to sign circulating resolutions. However, a Proxy cannot appoint a further proxy.
- (e) A Proxy can only exercise their appointing Representative's rights and powers whilst their appointing Representative is not exercising those rights and powers and during the period or periods (if any) specified in the Proxy's appointment.
- (f) A Representative can appoint multiple Proxies for the same or different periods or as a standing appointment. However, only one Proxy can exercise the appointing Representative's rights and powers at any time. The Proxy entitled to exercise the rights and powers will be determined as follows:
 - To the extent that multiple Proxies are appointed in one document, in descending order of how the Proxies are named in the document.
 - To the extent the multiple Proxies are appointed in multiple documents, from the most recent to the oldest validity date of the documents as Proxy appointments.
- (g) Each Proxy is subject to the same limitations as their appointing Representative. Each Participating Council is responsible for its Representative's Proxies as if the Proxy was its Representative.
- (h) A Proxy appointment is valid if:
 - It states the names of the Representative and Proxy or Proxies.
 - It states the appointment of the Proxy or Proxies including for what period or periods the Proxy or each Proxy is appointed or that the appointment is a standing appointment.
 - It is signed by the Representative.
- (i) A Proxy appointment is valid from the date that it is given to the LfWSEQ Steering Committee Secretary (or if there is no such Secretary currently acting, all other Representatives).
- (j) Except as outlined above, the LfWSEQ Steering Committee is not required to acknowledge or give effect to any purported instruction to, or limit on, a Proxy.

7.3 Chairs

- (a) The LfWSEQ Steering Committee will have two Chairs and two Deputy Chairs.
- (b) The Chairs and Deputy Chairs will be appointed by the LfWSEQ Steering Committee. Each must be a Representative.
- (c) Each meeting will be chaired by one person only, determined as follows:
 - Except as otherwise agreed between the Chairs, Chairs will be scheduled to chair alternate meetings.
 - If the Chair scheduled to chair a meeting is absent from the meeting or refuses or is unable to act as chair of the meeting, the other Chair will chair the meeting.
 - If both Chairs are absent from a meeting or refuse or are unable to act as chair of the meeting:
 - If both Deputy Chairs are at the meeting and willing and able to act as chair of the meeting, except as otherwise agreed between the Deputy Chairs, the Deputy Chair to chair the meeting will be determined by drawing lots.
 - If either Deputy Chair is absent from the meeting or refuses or is unable to act as chair of the meeting, the other Deputy Chair will chair the meeting.
 - If both Deputy Chairs are absent from a meeting or refuse or are unable to act as chair of the meeting, the LfWSEQ Steering Committee can appoint an acting chair for the meeting from the Representatives at the meeting.
- (d) The chair of a meeting does not have a casting vote, except where expressly provided in the ToR.

7.4 Secretary

- (a) The LfWSEQ Steering Committee will have a Secretary.
- (b) At the commencement of the Interim Period, the LfWSEQ Regional Coordinator is Secretary.

- (c) The LfWSEQ Steering Committee can replace the Secretary.
- (d) If the Secretary is absent or unable or unwilling to act, the LfWSteering Committee can appoint an acting Secretary.

7.5 Quorum

- (a) The LfWSEQ Steering Committee cannot conduct business or consider a decision at a meeting without a quorum.
- (b) A quorum for a meeting will exist when there is a Representative of more than half of the Participating Councils entitled to be counted in quorum for the meeting present at the meeting.
- (c) If a quorum is not present at the meeting within 30 minutes of the start time of a meeting, the meeting will be adjourned.

7.6 Decision making

- (a) The LfWSEQ Steering Committee will use reasonable endeavours to reach decisions by consensus. However, any Representative can require a decision to be put to a formal vote.
- (b) All votes will be by open ballot, unless any Representative requires a secret ballot.
- (c) The one Representative appointed by each Participating Council will have one vote.
- (d) All resolutions will be by simple majority of votes by Representatives of Participating Councils present at the meeting and entitled to vote on the resolution, unless otherwise specified in the ToR.
- (e) On resolutions by simple majority, the chair of the meeting (if entitled to vote on the resolution as a Representative) will have a casting vote.
- (f) A unanimous resolution of all Representatives appointed by the Participating Councils and entitled to vote on the resolution is required:
 - To vary or depart from the ToR.
 - To approve any commercialisation of LfWSEQ.
 - To approve any expenditure in excess of available Contributions.
 - To approve long term arrangements for continuing to deliver LfWSEQ.
 - To make any statement or incur any liability (other than for expenditure of moneys in accordance with an approved LfWSEQ budget) that might legally bind, adversely impact the reputation of, or otherwise expose LfWSEQ, any Participating Council, the LfWSEQ Regional Coordinator, the LfWSEQ Steering Committee, any Subcommittee or any Representative.
 - As otherwise specified in the ToR.

7.7 Meetings

- (a) The LfWSEQ Steering Committee must meet at least once every 2 months.
- (b) The Secretary will (or at any time there is no Secretary any Representative can) call meetings in accordance with the following procedures:
 - Meeting locations will rotate through the local government areas of the Participating Councils.
 - The Participating Council for the local government area will nominate the time and venue for, and host, its meeting.
 - The Secretary (or Representative as applicable) will circulate a meeting notice at least 30 days prior to the meeting, and will circulate an agenda for each meeting to all Representatives not less than 5 Business Days before the meeting.
 - The Secretary (or Representative as applicable) will seek input from all Representatives in preparing the agenda and include any agenda item requested by any Representative.
- (c) The LfWSEQ Steering Committee or any Representative can invite to any meeting any individual who is:
 - An officer, employee, contractor or agent of a Participating Council.
 - An officer or employee of a contractor or agent of a Participating Council.
 - Any other person provided that written notice of the person's name and reason for invitation is given to the Secretary and other Representatives either via the agenda or not later than 2 Business Days after the agenda is given to all Representatives.
- (d) Any invitee participates in discussion at a meeting at the discretion of the LfWSEQ Steering Committee.
- (e) The Secretary will (or at any time there is no Secretary any Representative can) prepare minutes of all meetings in accordance with the following procedures:

- The Secretary (or Representative as applicable) will circulate draft minutes of each meeting to all Representatives no later than 10 Business Days after the meeting.
- Representatives can provide corrections or additions to the Secretary (or Representative as applicable). The Secretary (or Representative as applicable) will incorporate the corrections and additions and recirculate final minutes.

7.8 Circulating resolutions

- (a) The LfWSEQ Steering Committee can pass a resolution without a meeting being held if all Representatives appointed by the Participating Councils and entitled to vote on the resolution sign a document stating that they are in favour of the resolution as set out in the document.
- (b) Separate copies of a document can be used for signing by Representatives if the wording of the resolution and statement is identical in each copy. A Representative can provide a copy of their signed document by email or other electronic means.
- (c) The resolution is passed when the last Representative signs.

7.9 Conflicts

- (a) Each Participating Council will use reasonable endeavours to procure that its Representative will act consistently with the ToR and in furtherance of the Objectives when participating in the LfWSEQ Steering Committee.
- (b) This clause applies if a Participating Council or its Representative has an interest in the mode or outcome of, or may benefit from, exercising any voting or other discretionary right or power under the ToR other than or in addition to its interest in, and benefit from, implementing the ToR and furthering the Objectives. Any such interest or benefit is a Conflicting Interest. The Participating Council or its Representative having a Conflicting Interest is the Conflicted Council or Conflicted Representative. The following procedures apply to manage any Conflicting Interest or a perceived conflicting interest:
 - The Conflicted Representative must disclose the perceived conflicting interest or Conflicting Interest to the Conflicted Representative's appointing Participating Council as soon as it becomes aware of the Conflicting Interest.
 - The Conflicted Council or its Conflicted Representative must give written notice detailing the perceived conflicting interest or Conflicting Interest to each other Participating Council as soon as it becomes aware of the Conflicting Interest. The notice can be given by the Conflicted Council's Representative to each other Representative and copied to the Secretary.
 - The Conflicted Representative:
 - Is not entitled to be counted in establishing a quorum for a meeting at which any resolution concerning the Conflicting Interest is to be voted on.
 - Is not entitled to vote on any resolution concerning the Conflicting Interest.
 - Is not entitled to sign a circulating resolution concerning the Conflicting Interest.
 - Is not to be present when the LfWSEQ Steering Committee considers the Conflicting Interest.
 - Is not entitled to take part in a decision of the LfWSEQ Steering Committee regarding the Conflicting Interest.
 - Is not to be present when the LfWSEQ Steering Committee is considering whether to give a business direction to the Conflicting Interest.
 - Is not to take part in making the decision about giving the direction to the Conflicting Interest.
 - Conflicting Interests and associated actions are to be recorded.
 - The LfWSEQ Steering Committee will ensure that any desirable additional procedures are put in place to ensure confidentiality and probity is maintained in respect of the perceived conflicting interest or Conflicting Interest. The additional procedures can include excluding the Conflicted Council and its Representative from communications concerning the Conflicting Interest.
- (c) This clause constitutes notice that the Sponsoring Council has a Conflicting Interest in relation to:
 - Any variation to the ToR concerning the terms on which it acts as Sponsoring Council.
 - Any removal of it as Sponsoring Council.

- Any consideration by the LfWSEQ Steering Committee of its performance of its role as Sponsoring Council.

The above outlined procedures for managing a Conflicting Interest apply accordingly.

(d) The Participating Councils acknowledge and agree that:

- LfWSEQ is only one of many activities undertaken by each Participating Council. Except as expressly provided in the ToR, nothing in the ToR restricts a Participating Council from undertaking any of its other activities or doing so in any manner and without any obligation of disclosure to the other Participating Councils concerning the other activities.
- Except as expressly provided in the ToR, each Participating Council and its Representative can act in the Participating Council's discretion and interests when exercising any voting or other discretionary rights and powers under the ToR or otherwise in connection with LfWSEQ.

7.10 Subcommittees

- The LfWSEQ Steering Committee can establish one or more Subcommittees.
- Subcommittees are advisory only. They do not have delegated decision-making authority from the LfWSEQ Steering Committee.
- Subcommittee Representatives can include:
 - Representatives, including the LfWSEQ Regional Coordinator.
 - Any individual officers, employees, contractors or agents of a Participating Council.
 - Any individual officers or employees of a contractor or agent of a Participating Council.
 A Subcommittee need not include an individual representing each Participating Council and can include multiple individuals from any Participating Council.
- In establishing a Subcommittee, the LfWSEQ Steering Committee must determine its name, purpose and Subcommittee Representatives and can determine any other requirements, such as activities, priorities, timeframes and governance.
- A Subcommittee can determine its own activities, priorities, timeframes and governance to the extent not determined by the LfWSEQ Steering Committee.
- The Steering Committee can remove or add any Subcommittee Representative at any time.
- The LfWSEQ Steering Committee can abolish a Subcommittee at any time.
- At the commencement of the Interim Period, the only Subcommittee is the Transition Subcommittee.

8. Default & Dispute

- If a Participating Council:
 - breaches any obligation pursuant to the ToR which cannot be remedied; or
 - breaches any obligation pursuant to the ToR which can be remedied and the breach is not remedied within 30 days of receipt by the Participating Council of a written notice from the LfWSEQ Steering Committee specifying the breach and action required to remedy,
 the LfWSEQ Steering Committee can (by unanimous resolution of all Representatives appointed by the Participating Councils and entitled to vote) exclude the defaulting Participating Council from any further participation pursuant to the ToR.
- If a defaulting Participating Council is excluded from further participation, any Contributions it has paid will not be refunded.
- Until a defaulting Participating Council is excluded:
 - It will be treated as having a Conflicting Interest concerning its breach, its exclusion and other consequences of its breach.
 - It will be treated as having a Conflicting Interest concerning any breach by any other defaulting Participating Council and exclusion or other consequences of breach by the other defaulting Participating Council.
 - The procedures outlined in the ToR for managing a Conflicting Interest apply accordingly.
- If the LfWSEQ Steering Committee becomes deadlocked on any decision, the decision will be referred to appropriate senior managers of the Participating Councils for resolution.
- If any dispute arises between Participating Councils concerning the ToR, the dispute will be referred to appropriate senior managers of the relevant Participating Councils for resolution.
- An appropriate senior manager of a Participating Council is:
 - Senior to its Representative.

- Familiar with LfWSEQ, but not involved in LfWSEQ day-to-day.

9. Expiry & Early termination

- The ToR expires at 5pm on the last day of the Interim Period, unless the LfWSEQ Steering Committee resolves to continue it for a further period.
- The ToR will automatically terminate on its replacement with a new document or new documents establishing long term arrangements for continuing to deliver LfWSEQ.

10. Confidentiality

- Each Participating Council acknowledges the utmost importance of protecting the privacy of LfWSEQ members, including complying with the Privacy Act 1988 (Cth) and Information Privacy Act 2009 (Qld) (collectively referred to as Privacy Legislation).
- A Participating Council must not use a member's information except for LfWSEQ purposes pursuant to the ToR or with the prior written consent of the member.
- Each Participating Council will establish, maintain and comply with procedures for collecting, managing and using member information which comply with Privacy Legislation. The Sponsoring Council will ensure that the LfWSEQ Regional Coordinator's engagement requires the LfWSEQ Regional Coordinator to comply with the Participating Councils' procedures.
- A Participating Council must not make public any information from which a member might be identified, including property data or maps, without the prior written consent of the member. The Sponsoring Council will ensure that the LfWSEQ Regional Coordinator's engagement prohibits the LfWSEQ Regional Coordinator making such information public without such consent.

11. Definitions

- Expressions defined or explained anywhere in this ToR have the same meaning throughout.
- The definitions below apply throughout the ToR.

11.1 Activities

- Activities are undertaken by a Participating Council to deliver LfWSEQ in its local government area and do not include Joint Activities.
- The minimum Activities that a Participating Council must undertake are to:
 - Respond to enquires concerning LfWSEQ.
 - Register member properties in LfWSEQ.
 - Respond to member communications.
 - Distribute the LfWSEQ Newsletter to members at least quarterly.
 - Maintain and manage its local government area data in the LfWSEQ database, including to:
 - Pay database subscription fees.
 - Establish and maintain its LfWSEQ officer(s) database accounts.
 - Provide access to its data to the LfWSEQ Regional Coordinator.
 - Add a minimum of landholder and property data including: landholder name and contact details (postal address, phone and email (if supplied)); property address; property Lot and Plans; date of LfW registration; hectares of retained habitat and habitat under restoration (whichever is applicable).
 - Update database information to keep landholder contact information current and property LfW status (registered, working toward registration or deregistered) current.
- Other activities that a Participating Council can undertake using LfWSEQ branding (whether alone or in conjunction with complementary programs) include:
 - Offering member incentives and grants.
 - Events such as workshops and field days.
 - Paper and digital publications.

11.2 Business Day

A day on which banks are open for business, other than a Saturday, Sunday or public holiday, in Brisbane.

11.3 Guidelines

The set of documents entitled *Land for Wildlife Queensland Guidelines* including:

- *Gu01 – Background to the Land for Wildlife Program.*
- *Gu02 – Office Procedures.*
- *Gu03 – Property Assessment.*

- *Gu04 – Regional Property Register.*
- *Gu05 – Notes.*
- *Gu06 – Training of Land for Wildlife Assessors.*
- *Gu07 – Community Owned Land.*
- *Gu08 – Groups.*
- *Gu09 – Financial Assistance and Incentives.*
- *Gu10 – Commercial Use of Land for Wildlife Logo.*

11.4 Joint Activities

Joint Activities include:

- Maintaining and managing the LfWSEQ Database, including determining database structure and functionality.
- Engaging and determining the work plan of the LfWSEQ Regional Coordinator.
- Maintaining the LfWSEQ Website and social media.
- Events such as workshops and field days.
- Paper and digital publications such as the LfWSEQ Newsletter and Notes.
- Annual reporting.
- Strategic planning.

11.5 National Arrangement

The *Agreement to Coordinate the Land for Wildlife Scheme* between the State of Victoria and the LfWSEQ Steering Committee dated 29 November 2018.