



**Risk Assessment  
Transitioning to a Beneficial Enterprise**

### Risk likelihood

The Corporate Management Team has identified risks associated with the proposed change from a corporation under the LGA 1989 to a corporation limited by guarantee (viz a beneficial enterprise). CMT has assessed the likelihood that a risk may occur for each one. Risk likelihood can be divided into three categories:

- **Improbable** - Small chance of happening
- **Possible** - Some chance of happening
- **Probable** - Very likely to happen

### Impact on our business

CMT has determined the impact of the risk to the business if it were to happen. Risk impact can be divided into four categories:

- 0 - **Acceptable** - little to no effect on the business
- 1 - **Tolerable** - effects are felt but do not seriously affect the business
- 2 - **Unacceptable** - causes major disruption to the business
- 3 - **Intolerable** - business may not recover

### Risk matrix

With these parameters, CMT used the matrix below to determine the likelihood of the risk, the impact of the risk, and to devise measures to mitigate any risks.

			Impact			
			Acceptable	Tolerable	Unacceptable	Intolerable
			Little or no effect	Effects are felt but not critical	Serious impact to course of action and outcome	Could result in disaster
			RATING	RATING	RATING	RATING
Likelihood	Improbable	Risk unlikely to occur	0	1	1	2
	Possible	Risk will likely occur	0	1	2	3
	Probable	Risk will occur	1	2	2	3

## Managing the risk

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CMT has detailed for each risk one of four (4) ways to deal with the risk based on the matrix values above:

- Rating 0:** Accept and proceed
- Rating 1:** Reduce with advice and/or strategies
- Rating 2:** Avoid through strategies
- Rating 3:** Do not proceed

## Risk categories

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CMT has assessed the proposal against the following business risk categories:

- Strategic -** decisions concerning our business' structure and objectives
- Compliance -** the need to comply with laws, regulations, standards and codes of practice
- Financial -** our financial transactions and systems
- Operational -** our operational and administrative procedures
- Environmental -** internal and external operations that our business has some control over
- Reputational -** the character or goodwill of our business

## Strategic Risks

Key Risk	Risk Rating	Measures/Assurances
<p>Remain a corporation under the LGA 1989 until 2030</p> <ul style="list-style-type: none"> <li>• Serious impact if inaction for up to 9.5 years</li> <li>• Interim risks in dealing with Member Councils if the RLC falls further behind legislatively with further changes to the LGA 2020</li> </ul>	<p><b>2 - Unacceptable</b></p> <ul style="list-style-type: none"> <li>• Risk will occur</li> <li>• Could result in major business &amp; statutory complications</li> </ul>	<p><b>Mitigation</b></p> <p>Winding up the Corporation in accordance with LGA 2020</p> <p>Set up a beneficial enterprise in accordance with LGA 2020</p> <p>Using HLB Mann Judd and Sharrock Pitman Legal to step us through the process</p>
<p>Our Member Councils agree to wind up ERL, but one or more Councils decide not to participate in the new entity</p> <ul style="list-style-type: none"> <li>• Additional costs (contracts, overheads, etc.)</li> <li>• Redundancies/Transfer of staff</li> </ul>	<p><b>1 - Tolerable</b></p> <ul style="list-style-type: none"> <li>• Risk unlikely to occur</li> <li>• Some disruptions and costs</li> </ul>	<p><b>Mitigation</b></p> <p>Assessed as very unlikely for the following reasons</p> <ul style="list-style-type: none"> <li>• ERL provides excellent services to our Member Councils' communities, as witnessed by average satisfaction ratings of 8.5+ in annual surveys</li> <li>• An independent report by SGS Economics &amp; Planning shows that ERL returns \$4.52 for every \$1 invested in the Corporation</li> <li>• The Victorian Auditor General's report: Council Libraries indicated that ERL achieved the highest Data Envelopment Analysis (DEA) business efficiency rating of 1- one of only five (5) in the State.</li> </ul>
<p>Decision to transition or the implementation takes a prolonged period.</p> <ul style="list-style-type: none"> <li>• Member Councils may take longer to make decisions</li> <li>• Registrations and application processes may take longer (ASIC, ACNC, ATO, etc.)</li> </ul>	<p><b>1 - Tolerable</b></p> <ul style="list-style-type: none"> <li>• Risk likely to occur</li> <li>• Little or no effect</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• Clear timelines for decision making and implementation communicated to all stakeholders through a Staged Transition Plan</li> <li>• HLB Mann Judd and Sharrock Pitman Legal expertise and guidance throughout the process</li> <li>• Ability to operate as the current entity until the transition is complete</li> </ul>

<p>Member Council specific obligations are not considered</p> <ul style="list-style-type: none"> <li>• Occupancy of building assets</li> <li>• Policies and procedures (procurement, competitive neutrality, etc. )</li> </ul>	<p><b>1 - Tolerable</b></p> <ul style="list-style-type: none"> <li>• Risk unlikely to occur</li> <li>• little or no lasting effect</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• Maintain policy and procedures in line with Member Council expectations</li> <li>• Audit and Risk Advisory Committee and the Board oversight</li> </ul>
<p>Strategies, service plans and goals not aligned with Member Councils</p> <ul style="list-style-type: none"> <li>• Library Strategies</li> <li>• Action/Service Plans</li> <li>• Ineffective planning and delivery</li> </ul>	<p><b>0 - Acceptable</b></p> <ul style="list-style-type: none"> <li>• Risk very unlikely to occur</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• Community and stakeholder engagement and consultation</li> <li>• Corporates Plans and annual reports reviewed and approved by the Board</li> <li>• Quarterly reporting to Board on achievements and service delivery</li> <li>• Proven long-term track record of delivering excellent library services</li> </ul>

## Compliance Risks

Key Risk	Risk Rating	Measures/Assurances
Setting up the Beneficial Enterprise and transfer of business is not conducted according to the Local Government Act 2020	<b>2 - Unacceptable</b> <ul style="list-style-type: none"> <li>Risk unlikely to occur</li> <li>Could result in complications</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>Legal advice and implementation by well-established legal firm, Sharrock Pitman Legal</li> <li>Tier 2 accounting firm HLB Mann Judd step us through the process of business transfer and setting up finance</li> <li>Member Council due diligence in accordance with the Local Government Act, section 111</li> </ul>
Corporations Act regulatory obligations and Australian Securities and Investments Commission (ASIC) requirements not identified	<b>0 - Acceptable</b> <ul style="list-style-type: none"> <li>Risk very unlikely to occur</li> </ul> Could result in complications	<b>Mitigation</b> <ul style="list-style-type: none"> <li>Legal advice and implementation by well-established lawyers, Sharrock Pitman Legal</li> <li>Tier 2 accounting firm HLB Mann Judd step us through the process of business transfer and setting up finance</li> <li>Training for Directors and Senior Officers on Corporations and Charities</li> </ul>
Reporting and other requirements of Australian Charities and Not-for-Profits Commission not identified	<b>0 - Acceptable</b> <ul style="list-style-type: none"> <li>Risk very unlikely to occur</li> <li>Could result in complications</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>Legal advice and implementation by well-established Sharrock Pitman Legal</li> <li>Tier 2 accounting firm HLB Mann Judd step us through the process of business transfer and setting up finance</li> <li>Training for Directors and Senior Officers on Corporations and Charities</li> </ul>

<p>Local Law NO. 1 of 2013: Meetings Procedure &amp; Use Of Common Seal</p> <p>ERL policies affecting our Members, Users, etc.</p>	<p><b>0 - Acceptable</b></p> <ul style="list-style-type: none"> <li>• Risk unlikely to occur</li> </ul> <p>Little or no effect</p>	<p><b>Mitigation</b></p> <p>Three-step approach</p> <ul style="list-style-type: none"> <li>• Local Law No 1 will be effectively incorporated in the new entity's constitution</li> <li>• An initial Omnibus By-Law that indicates that all the existing policies and regulations of the previous corporation in relation to library members and users will apply to the new entity</li> </ul> <p>A review of all existing memberships and user policies over time to reflect the new entity</p>
<p>Implications around Competitive Neutrality Policy - Victoria</p>	<p><b>0 - Acceptable</b></p> <ul style="list-style-type: none"> <li>• Risk unlikely to occur</li> <li>• Little or no effect</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• Transfer of Business agreement clearly outlines the use of council buildings or lease arrangements</li> <li>• Member Council Procurement Policies could include a clause specific to Beneficial Enterprises</li> </ul>
<p>Unidentified Member Council policies impacting or conflicting with operations</p>	<p><b>1 - Tolerable</b></p> <ul style="list-style-type: none"> <li>• Risk unlikely to occur</li> <li>• little or no lasting effect</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• Review and update operational practices</li> <li>• Recommend amendments to Member Council policies</li> </ul>

## Financial Risks

(see also the report on the financial implications and risks associated with the proposed restructure of ERL)

Key Risk	Risk Rating	Measures/Assurances
Member Councils' liability in the event of a winding-up	<b>0 - Acceptable</b> <ul style="list-style-type: none"> <li>Risk unlikely to occur</li> <li>Little or no effect</li> </ul>	<ul style="list-style-type: none"> <li>Your Library Ltd will be a company limited by guarantee</li> <li>Each Member's guarantee is \$1</li> </ul>
Member Council contributions/funding cuts	<b>2 - Unacceptable</b> <ul style="list-style-type: none"> <li>Risk unlikely to occur</li> <li>Could result in major impacts on service delivery</li> </ul>	<ul style="list-style-type: none"> <li>Funding arrangements clearly prescribed in the transfer of business agreement</li> <li>Annual budget adopted accordingly by the Board</li> <li>Members agree to an annual increase at least equal to the rate cap percentage</li> </ul>
Loss of alternative revenue streams <ul style="list-style-type: none"> <li>Grants</li> <li>Sponsorships</li> <li>Fee for Service</li> </ul>	<b>0 - Acceptable</b> <ul style="list-style-type: none"> <li>Risk unlikely to occur</li> <li>Little or no effect</li> </ul>	<b>Mitigation</b> Maintain and expand opportunities through <ul style="list-style-type: none"> <li>Not-for-Profit status by registering as a charity (ACNC)</li> <li>Deductible Gift Recipient (DGR) status as a Public Library Service</li> </ul>
Maintaining Member Councils <ul style="list-style-type: none"> <li>Equity</li> <li>Percentage Ownership</li> </ul>	<b>0 - Acceptable</b> <ul style="list-style-type: none"> <li>Risk unlikely to occur</li> <li>Little or no effect</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>Using HLB Mann Judd and Sharrock Pitman Legal to step us through the process will ensure that the Member Councils' equity and percentage ownership is maintained in the new entity Not-for-Profit status by registering as a charity (ACNC)</li> </ul>



<p>Inability to get New Members or provide fee for service</p> <ul style="list-style-type: none"> <li>• Constitution restricts new Members</li> <li>• Not an attractive proposition</li> </ul>	<p><b>0 - Acceptable</b></p> <ul style="list-style-type: none"> <li>• Risk unlikely to occur</li> <li>• Little or no effect</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• Clauses in the constitution accommodate New Members and fees for services</li> <li>• Options to provide Membership types or Fee for Service options</li> <li>• Proven excellence in delivering library services to diverse communities</li> <li>• Promotion through networks and online</li> </ul>
<p>Ineffective financial control</p> <ul style="list-style-type: none"> <li>• Ineffective budget management</li> <li>• Insufficient oversight of finances</li> </ul>	<p><b>0 - Acceptable</b></p> <ul style="list-style-type: none"> <li>• Risk unlikely to occur</li> <li>• Little or no effect</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• Budget reviewed and approved by the Board annually</li> <li>• Oversight of budget and finances through the Audit and Risk Advisory Committee (ARAC)</li> <li>• Quarterly Budget reports to Board</li> <li>• Annual Audits (VAGO)</li> </ul>
<p>Implications of distribution of equity (\$2m) to each Member Council for library projects</p>	<p><b>0 - Acceptable</b></p> <ul style="list-style-type: none"> <li>• Risk unlikely to occur</li> <li>• Little or no effect</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• ERL has received advice on this matter from Maddocks Lawyers and the distribution should occur before ERL is wound up</li> <li>• Any equity changes or adjustments can be made in the Transfer of Business agreement</li> </ul>
<p>Insufficient funds for winding up ERLC</p>	<p><b>0 - Acceptable</b></p> <ul style="list-style-type: none"> <li>• Risk unlikely to occur</li> <li>• Little or no effect</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• The Corporation's assets and liabilities as of 28 February 2022 are in a healthy position with Current Assets (\$7.3 m) greater than Current Liabilities (\$2.4 m)</li> <li>• The Corporation is in a position to meet all its liabilities, statutory or otherwise, including all short and long-term employee benefits</li> </ul>

## Operational Risks

Key Risk	Risk Rating	Measures/Assurances
Dilution of services to our communities	<b>0 - Acceptable</b> <ul style="list-style-type: none"> <li>Risk very unlikely to occur</li> <li>Could have service implications</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>Community and stakeholder engagement and consultation</li> <li>Library plans and annual reports reviewed and approved by the Board</li> <li>Quarterly reporting to Board on achievements and service delivery</li> <li>Proven long-term track record of delivering excellent library services</li> </ul>
Conflict between Members, Member Representatives, Directors of the Company	<b>2 - Unacceptable</b> <ul style="list-style-type: none"> <li>Risk unlikely to occur</li> <li>Could result in major impacts on service delivery</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>Clearly specified governance and decision making structure</li> <li>Dispute resolution processes and escalation points in the Constitution</li> </ul>
Board of Directors lack the diversity and specific skills required for the company	<b>2 - Unacceptable</b> <ul style="list-style-type: none"> <li>Risk unlikely to occur</li> <li>Could result in major impacts on governance</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>Specific training for appointed directors to cover key requirements and obligations</li> <li>The constitution allows for additional external directors</li> <li>Clear terms of appointments, eligibility for reappointments in the Constitution</li> <li>Ability for Members to appoint and terminate Directors as required</li> </ul>

<p>Industrial relations</p> <ul style="list-style-type: none"> <li>• Transfer of staff to the new entity</li> <li>• Enterprise agreement</li> </ul>	<p><b>2 - Unacceptable</b></p> <ul style="list-style-type: none"> <li>• Risk unlikely to occur</li> <li>• Could result in major impacts to service delivery and costs</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• Received legal advice that the change does not trigger eligibility for redundancies if employment conditions are maintained</li> <li>• Clause added to the new EA negotiation to make it explicitly clear for staff</li> <li>• Clear communication to staff and ASU</li> </ul>
<p>Voiding current contracts and other agreements (e.g. IT service provider etc.)</p>	<p><b>0 - Acceptable</b></p> <ul style="list-style-type: none"> <li>• Risk very unlikely to occur</li> <li>• Could have service implications</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• All our agreements and contracts have a clause that covers our successor entities or transfers</li> </ul>
<p>Continuity of ICT systems</p> <ul style="list-style-type: none"> <li>• Library Management System</li> <li>• Internet Service Providers</li> <li>• Etc.</li> </ul>	<p><b>0 - Acceptable</b></p> <ul style="list-style-type: none"> <li>• Risk very unlikely to occur</li> <li>• Could have service implications</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• All our agreements and contracts with SaaS providers have a clause that covers our successor entities or transfers</li> <li>• Internal infrastructure will have no impact</li> </ul>
<p>General Business Operational Risks</p> <ul style="list-style-type: none"> <li>• Occupational Health &amp; Safety</li> <li>• Child Safety</li> <li>• Privacy and Copyrights</li> <li>• Fraud</li> <li>• Cyber security risks</li> <li>• Etc.</li> </ul>	<p><b>1 - Tolerable</b></p> <ul style="list-style-type: none"> <li>• Risk likely to occur</li> <li>• Little or no lasting effect</li> </ul>	<p><b>Mitigation</b></p> <ul style="list-style-type: none"> <li>• Maintaining current business continuity plans</li> <li>• Maintaining cyber security strategy</li> <li>• Internal Policy and procedures reflecting best practice</li> <li>• Periodical and systematic review of controls (policies, systems, etc.)</li> </ul>

## Environmental Risks

Key Risk	Risk Rating	Measures/Assurances
Amendments/changes to the Local Government Act 2022	<b>1 - Tolerable</b> <ul style="list-style-type: none"> <li>• Risk likely to occur</li> <li>• Little or no lasting effect</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>• Contribute and participate in law reform consultations through Members</li> <li>• Identify and plan for changes proactively</li> </ul> <b>Respond</b> <ul style="list-style-type: none"> <li>• Implement changes under the direction of the Board and Members</li> </ul>
Rate Capping and other financial constraints outside of our control	<b>1 - Tolerable</b> <ul style="list-style-type: none"> <li>• Risk likely to occur</li> <li>• Little or no lasting effect</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>• Identify constraints and budget/forecast accordingly</li> </ul> <b>Respond</b> <ul style="list-style-type: none"> <li>• Work in partnership with Member Councils to respond appropriately</li> </ul>

## Reputational Risks

Key Risk	Risk Rating	Measures/Assurances
Not completing the transition to the new entity	<b>2 - Intolerable</b> <ul style="list-style-type: none"> <li>Risk unlikely to occur</li> <li>Could result in a negative reputation</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>Legal advice and implementation by well-established Sharrock Pitman Legal</li> <li>Tier 2 accounting firm HLB Mann Judd step us through the process of business transfer and setting up finance</li> <li>Member Council due diligence in accordance with the Local Government Act, section 111</li> <li>Guidance and direction from the Board and ARAC</li> </ul>
Unsatisfactory service delivery and negative backlash from the community	<b>0 - Acceptable</b> <ul style="list-style-type: none"> <li>Risk very unlikely to occur</li> <li>Could have service implications</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>Community and stakeholder engagement and consultation</li> <li>Corporate plans and annual reports reviewed and approved by the Board</li> <li>Quarterly reporting to Board on achievements and service delivery</li> <li>Proven long-term track record of delivering excellent library services</li> </ul>
Community objection to transition due to fear of change	<b>1 - Tolerable</b> <ul style="list-style-type: none"> <li>Risk likely to occur</li> <li>Little or no lasting effect</li> </ul>	<b>Mitigation</b> <ul style="list-style-type: none"> <li>Clear and simple communication to the community</li> <li>Continuing with the same trusted name/brand of Your Library</li> <li>No operational or material differences to services and resources</li> </ul>