

# Review of ACMA and AEDA Charters and amendments to AEDA Advisory Committee Terms of Reference

Tuesday, 19 September 2023  
City Finance and Governance  
Committee

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**Approving Officer:**  
Michael Sedgman - Chief  
Operating Officer

Strategic Alignment - Enabling Priorities

Public

## EXECUTIVE SUMMARY

This report responds to Council's request for the Charters of the Adelaide Central Market Authority (ACMA) and Adelaide Economic Development Agency (AEDA) to be internally reviewed for consistency where applicable.

The review has identified a number of differences in Governance matters between the two Charters. A table of amendments recommended for either the ACMA or AEDA Charters to ensure consistency where applicable between the Charters is shown in Attachment A. Proposed amendments to the ACMA and AEDA Charters do not change the objects and purposes of each subsidiary.

The ACMA Board has also requested changes to the ACMA Charter in relation to amending the Traders Advisory Group to the Open Trader Forum, minor changes relating to the Traders Representation Committee and .

If Council approves the proposed amendments to the ACMA and AEDA Charters, including the amendments proposed by the ACMA Board, in accordance with Schedule 2 of the *Local Government Act 1999* a copy of the amended ACMA Charter will be provided to the Minister for Local Government and the amended ACMA Charter will become effective from the date it is published in the Government Gazette. Provision of the amended AEDA Charter to the Minister and publishing in the Government Gazette will be held pending further discussions of Council regarding the outcomes of the AEDA reviews that may result in further amendments to the AEDA Charter.

Amendments are also sought to the AEDA Advisory Committee Terms of Reference for Council's approval. Once approved the amended Terms of Reference will be provided to the AEDA Advisory Committee members and published on the AEDA website.

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## RECOMMENDATION

The following recommendation will be presented to Council on 19 September 2023 for consideration

THAT THE CITY FINANCE AND GOVERNANCE COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Notes the table of proposed amendments to the Charters of the Adelaide Central Market Authority and Adelaide Economic Development Agency as set out in Attachment A to Item 4.2 on the Agenda for the meeting of the City Finance and Governance Committee held on 19 September 2023.
2. Approves the amendments to the Charter of the Adelaide Central Market Authority as set out in Attachment B to Item 4.2 on the Agenda for the meeting of the City Finance and Governance Committee held on 19 September 2023.
3. Authorises the Chief Executive Officer to make any necessary or desirable typographical or syntactical revisions to the amended Adelaide Central Market Authority Charter as set out in Attachment B to Item 4.2 on the Agenda for the meeting of the City Finance and Governance Committee held on 19 September 2023 before any publication is made in the Government Gazette. If any such revisions are made, then it is the version as revised which will become the Charter upon publication in the Government Gazette.

4. Approves the amendments to the Charter of the Adelaide Economic Development Agency as set out in Attachment C to Item 4.2 on the Agenda for the meeting of the City Finance and Governance Committee held on 19 September 2023.
  5. Authorises the Chief Executive Officer to make any necessary or desirable typographical or syntactical revisions to the amended Adelaide Economic Development Agency Charter as set out in Attachment C to Item 4.2 on the Agenda for the meeting of the City Finance and Governance Committee held on 19 September 2023, before any publication is made in the Government Gazette. If any such revisions are made, then it is the version as revised which will become the Charter upon publication in the Government Gazette.
  6. Notes the amended Charters of the Adelaide Central Market Authority and Adelaide Economic Development Agency will be provided to the Minister for Local Government.
  7. Notes the amendments will be effective from the date the Charters of the Adelaide Central Market Authority and Adelaide Economic Development Agency (as amended) are published in the Government Gazette.
  8. Approves the amended Terms of Reference for the Adelaide Economic Development Agency Advisory Committee as set out in Attachment D to Item 4.2 on the Agenda for the meeting of the City Finance and Governance Committee held on 19 September 2023.
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## IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Enabling Priorities
Policy	In addition to the proposed amendments arising from the review to standardise where applicable the Adelaide Central Market Authority (ACMA) Charter [Link 1 view <a href="#">here</a> ] and the Adelaide Economic Development Agency (AEDA) Charter [Link 2 view <a href="#">here</a> ], additional amendments specific to the ACMA and AEDA Charters are sought. Amendments are also proposed to the AEDA Advisory Committee Terms of Reference [Link 5 view <a href="#">here</a> ].
Consultation	Not as a result of this report
Resource	Not as a result of this report
Risk / Legal / Legislative	Pursuant to Schedule 2, Part 1, Section 3 of the <i>Local Government Act 1999 (SA)</i> (the Act), a council proposing to amend a charter of a subsidiary of council must furnish a copy of the charter, as amended, to the Minister and ensure that a copy of the charter, as amended, is published on a website determined by the Chief Executive Officer and ensure that notice of the fact of the amendment and a website address at which the charter is available for inspection is published in the Government Gazette.
Opportunities	Not as a result of this report
23/24 Budget Allocation	Not as a result of this report
Proposed 24/25 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	ACMA and AEDA operate under Section 42 of the Act until such time as Council resolves for a subsidiary to be wound up. Pursuant to Section 3(4) of Schedule 2 of the Act, a subsidiary charter may be reviewed by Council at any time. In accordance with clause 3.5.6.2 of the AEDA Charter, the Terms of Reference of the Advisory Committee will be approved by the Council.
23/24 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

# DISCUSSION

## Background

1. Council at its meeting on 14 June 2022 approved a minor amendment to the Charter of the Adelaide Central Market Authority (ACMA) to align the timing of the Annual General Meeting to be held prior to November instead of October each year. The amended Charter [Link 1 view [here](#)] was gazetted on 4 August 2022.
2. Prior to this minor amendment, the ACMA Charter had been reviewed in 2021 to ensure the Charter reflected:
  - 2.1. The current and future needs of the ACMA in relation to the management and operations of the Adelaide Central Market
  - 2.2. Marketing requirements
  - 2.3. The relationship with the development of the adjoining Central Market Arcade, and
  - 2.4. Expansion of offer.
3. Council at its meeting on 8 February 2022 approved amendments to the Charter of the Adelaide Economic Development Agency (AEDA) to:
  - 3.1. Simplify the long list of legacy Powers, Functions and Duties without detracting from the objects and purposes of the Agency
  - 3.2. Simplify the provisions relating to the prescription of the Membership of the Board to ensure flexibility to deal with a need for particular skill sets from time to time
  - 3.3. Provide greater clarity around the employment relationship for all staff.
4. The amended AEDA Charter [Link 2 view [here](#)] came into operation when it was published in the Government Gazette on 24 February 2022.
5. To note, BRM Advisory was engaged to review the ACMA Charter in 2021 and drafted the revised Charter for consideration by the ACMA Board and Council. Subsequently, BRM Advisory was engaged to review the AEDA Charter to ensure the AEDA Charter was consistent with the ACMA Charter.
6. Differences between the two Charters in clauses including the number of Council members on Board Member selection panels, limits to a number of terms served by Board Members, and who can appoint Board Members in the event of a vacancy during a term are as a result of Council decisions.

## Discussion

7. Council at its meeting on 26 April 2023 resolved:

“That the Charters for both the Adelaide Economic Development Agency (AEDA) and Adelaide Central Market Authority (ACMA) be internally reviewed for consistency where applicable.”
8. The review recognised there are a number of differences between the Charters that are specific to the relevant subsidiary. These differences include:
  - 8.1 Objects and Purposes
  - 8.2 Powers, Functions and Duties
  - 8.3 ACMA to establish a Traders Representation Committee and AEDA to establish an Advisory Committee and the relevant membership of each
  - 8.4 Funding of ACMA.
9. The review has also identified a number of differences between the ACMA and AEDA Charters including clarity of wording in different clauses, the different titles - General Manager and Managing Director - for the person appointed by the City of Adelaide to the role to manage the business of the subsidiary, governance matters relating to appointment of Board Members, delegations to the General Manager / Managing Director and Reporting.
10. Attachment A is a table outlining the differences in the current ACMA and AEDA Charters and proposed amendments to either the ACMA or AEDA Charters to ensure consistency. Key amendments include:
  - 10.1. Amending the AEDA Charter to have two Council Members on the Board Selection Panel to be consistent with ACMA
  - 10.2. Amending the ACMA Charter to set a limit of three consecutive terms for reappointment
  - 10.3. Amending the ACMA Charter to have casual vacancies appointed by Council not the Council's CEO

- 10.4. Amending the ACMA Charter to clarify that all employees of the Authority are employees of the City of Adelaide
- 10.5. New clause in each of the ACMA and AEDA Charters advising each Board will determine annually if Council Members can attend Board meetings as an observer
- 10.6. Amending the title of the AEDA Managing Director to AEDA General Manager to be consistent with the ACMA General Manager.
- 11. The only governance clauses that are different between the ACMA and AEDA Charters if the proposed amendments are approved are:
  - 11.1 Clause 4.4.1 relating to the maximum number of Board Members which for ACMA is seven and for AEDA is nine.
  - 11.2 Clause 4.11.14.1 relating to quorum for meetings of each subsidiary. The ACMA Charter states the quorum is four Board Members. The AEDA Charter states the quorum is half the total half the total number of Board Members plus one.

#### **Proposed changes specific to the ACMA Charter**

- 12. In addition to the proposed amendments to the ACMA Charter arising from this internal review, the ACMA Board at its meeting on 22 June 2023 and 24 August 2023 approved amendments to the ACMA Charter relating to the Traders Advisory Group. Specifically, the ACMA Board proposes the following clauses within the ACMA Charter to be amended:
  - 12.1 Dictionary definition - Clause 1.2.20 – that currently is: *TAG means the Traders Advisory Group which comprises the sub-lessees/licensees of ACMA at the Market and is established by the Authority for the purpose of engagement and communication in relation to the activities of the Authority;* to be amended to: Open Trader Forum mean sub-lessees/licensees of ACMA at the Market for the purpose of engagement and communication in relation to the activities of the Authority and must meet at least annually.
  - 12.2 Clause 3.5.5.1 that currently is: *The Traders Representation Committee shall consist of a maximum of seven members to be appointed as follows: (a) two Board Members, one of whom will be the Chair of the Traders Representation Committee; (b) three members of the TAG, one of whom should be the Chair of TAG, and (c) up to two other members.* to be amended to: The Traders Representation Committee shall consist of a maximum of nine members to be appointed as follows: (a) two Board Members, (b) five trader members, one of whom will be the Chair of the Traders Representation Committee and whom will be selected by the Committee through a Board approved process; and (c) up to two other trader members as appointed by the Board.
- 13. The ACMA Board at its meeting on 24 August 2023 also request the following amendments to the ACMA Charter:
  - 13.1 A further sentence at the end of clause 4.4.4 relating to a Board Member being eligible to re-apply at the end of their term of office for a maximum of three consecutive terms. The additional sentence being “The ACMA Board will make a recommendation to the Board member selection panel on the extension of current Board members based on the Board’s existing skills and requirements.” The proposed amendment has also been included in clause 4.4.3 of the AEDA Charter.
  - 13.2 Inclusion of a new clause 4.4.12 being “The appointment to fill a casual vacancy is not taken to be a period served in accordance with clause 4.4.4.” This proposed new clause has also been included as clause 4.4.11 in the AEDA Charter.
- 14. The proposed amendments to the current ACMA Charter are shown as tracked changes [Link 3 view [here](#)].
- 15. The proposed amended ACMA Charter is shown as Attachment B. If approved by Council a copy of the amended Charter will be provided to the Minister for Local Government and notice of the amended Charter will be placed in the Government Gazette. A copy of the amended Charter will be made available on the ACMA website.

#### **Proposed changes specific to the AEDA Charter**

- 16. The internal review of the AEDA and ACMA Charters to ensure consistency where applicable between the two charters was undertaken at the same time that the external reviews of AEDA by Deloitte and KPMG were conducted.
- 17. The external reviews did not recommend any amendments to the AEDA Charter.
- 18. The proposed amendments to the current AEDA Charter are shown as tracked changes [Link 4 view [here](#)].

19. The proposed amended AEDA Charter is shown as Attachment C. If approved by Council, providing a copy of the amended Charter to the Minister for Local Government and publishing of the amended AEDA Charter in the Government Gazette will be held pending the further discussions of Council regarding the outcomes of the AEDA reviews that may result in further amendments to the AEDA Charter. When the amended Charter is published in the Government Gazette, a copy of the amended Charter will be made available on the AEDA website.

### **Proposed amendments to the AEDA Advisory Committee Terms of Reference**

20. The current Terms of Reference for the AEDA Advisory Committee [Link 5 view [here](#)] were last reviewed and approved by the AEDA Board and Council in February 2022.
21. Clause 4 of the Terms of Reference outlines the membership of the Advisory Committee, namely:

“A representative from the collective of the Precinct Groups within the City of Adelaide.  
A small business representative.  
Representatives from across the following sectors – education, retail, culture / arts, health / wellbeing, entrepreneur / space / cyber technology and youth.”
22. When the Terms of Reference were prepared in 2021, the identified sectors were an outcome of stakeholder consultation to be complimentary to the skills and knowledge of existing AEDA Board members at that time.
23. With the recent expiry in terms of office of three Board Members and appointment of new Board Members, the skills and knowledge mix of the AEDA Board has changed.
24. It is proposed that the AEDA Advisory Committee Terms of Reference state that the Committee members would be representatives from a broad range of sectors within the City of Adelaide and complimentary to the skills and knowledge on the AEDA Board.
25. In addition to the proposed amendment within the Membership clause, the following syntactical and typographical amendments are proposed:
  - 25.1 Clause 7.2 Advisory Committee Representative on the Advisory Committee should read Advisory Committee Representative on the AEDA Board.
  - 25.2 Clause 7.4 Quorum – Amending the quorum to five Committee Members to meet the requirement that ‘The quorum for any meeting is half the appointed Advisory Committee members plus one, rounded to the nearest whole number’.
  - 25.3 Update the Table of Contents.
26. The proposed amendments to the Terms of Reference were endorsed by the AEDA Board at its meeting on 25 July 2023.

### **Next Steps**

27. Subject to Council’s approval of the proposed amendments to the ACMA Charter, a copy will be provided to the Minister for Local Government and the amended Charter will be published in the Government Gazette and on the ACMA website.
28. The amended AEDA Charter, if approved by Council, will be held from providing to the Minister and publishing in the Government Gazette subject to Council’s consideration of the outcomes of the AEDA reviews and any implications that might have for further potential Charter amendments.
29. Subject to Council’s approval of the proposed amendments to the AEDA Advisory Committee Terms of Reference, a copy will be provided to the AEDA Board and Advisory Committee members and published on the AEDA website.

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## **DATA AND SUPPORTING INFORMATION**

**Link 1** – Charter of the Adelaide Central Market Authority 2022

**Link 2** – Charter of the Adelaide Economic Development Agency 2022

**Link 3** – Adelaide Central Market Charter with tracked changes amendments

**Link 4** – Adelaide Economic Development Agency with tracked changes amendments

**Link 5** – AEDA Advisory Committee Terms of Reference with tracked changes amendments

# ATTACHMENTS

**Attachment A** – Table of proposed amendments to ACMA and AEDA Charters

**Attachment B** – Proposed amended Adelaide Central Market Authority Charter

**Attachment C** – Proposed amended Adelaide Economic Development Agency Charter

**Attachment D** – Proposed amended AEDA Advisory Committee Terms of Reference

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