

CITY OF ADELAIDE
LOCAL GOVERNMENT ACT 1999
Adelaide Economic Development Agency Charter 2023

The City of Adelaide has resolved to amend the Charter for the Adelaide Economic Development Agency subsidiary, established pursuant to Section 42 of the *Local Government Act 1999*.

Pursuant to Clause 3(5)(c) of Schedule 2 of the *Local Government Act 1999*, the Charter of the Adelaide Economic Development Agency, as amended is set out below.

Dated: (date published in Government Gazette)

CLARE MOCKLER
Chief Executive Officer

ADELAIDE ECONOMIC DEVELOPMENT AGENCY
Charter—2023

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1. INTRODUCTION

1.1 *Name of Subsidiary*

The name of the subsidiary is the Adelaide Economic Development Agency.

1.2 *Dictionary*

In this Charter:

1.2.1 **Act** means the *Local Government Act 1999* and all relevant Regulations made thereunder;

1.2.2 **Adelaide City Council** means the Corporation of the City of Adelaide;

1.2.3 **Agency** means the Adelaide Economic Development Agency established as a single Council Subsidiary pursuant to Section 42 of the Act;

1.2.4 **Board** means the Board of Management of the Agency established under this Charter;

1.2.5 **Board Member** means a member of the Board;

1.2.6 **Budget** means the annual budget adopted by the Agency and approved by Council;

1.2.7 **Annual Business Plan** means the annual business plan adopted by the Agency and approved by Council;

1.2.8 **Casual Vacancy** means when a Board Member vacates their office;

1.2.9 **Chairperson** means the then current appointed Chairperson of the Board;

1.2.10 **Charter** means this Charter of the Agency prepared and adopted by the Council;

1.2.11 **City of Adelaide** means the area of the Adelaide City Council;

1.2.12 **Council** means the body corporate consisting of members appointed or elected to the council in accordance with the Local Government Act or the Local Government (Elections) Act 1999 (the elected body of the Corporation of the City of Adelaide);

1.2.13 **Council's CEO** means the person occupying the office of Chief Executive Officer of the Corporation of the City of Adelaide, or their delegate;

1.2.14 **Deliberative Vote** means a vote cast by each Board Member (including the Chairperson) for the purpose of deciding a matter under deliberation;

1.2.15 **Financial Year** means 1 July in each year to 30 June in the subsequent year;

1.2.16 **Gazette** means the South Australian Government Gazette;

1.2.17 **General Manager** means the Adelaide Economic Development Agency General Manager, the person appointed by the Corporation of the City of Adelaide to that role to manage the business of the Agency and the Board;

1.2.18 **Rundle Mall** means the precinct bordered by the North Side of Grenfell Street, West side of Pulteney Street, South Side of North Terrace and East Side of King William Street and the land in between, as shown in Annexure 1;

1.2.19 **Simple Majority** means a majority of those present and entitled to vote.

1.3 Interpretation

In this Charter:

1.3.1 the singular includes the plural and vice versa and words importing a gender include other genders;

1.3.2 words importing natural persons include corporations;

1.3.3 reference to a Section(s) is to a section of the Act and includes any section that substantially replaces that Section and deals with the same matter; and

1.3.4 headings are for ease of reference only and do not affect the construction of this Charter.

2. THE AGENCY

2.1 *Establishment*

2.1.1 The Agency is established as a single council subsidiary pursuant to Section 42 of the Act.

2.1.2 The establishment of the Agency does not derogate from the power of Council to act independently in relation to a matter within the jurisdiction of the Agency.

2.2 *Corporate Status*

The Agency is a body corporate under the Act and in all things acts through the Board which has the responsibility to manage the business and other affairs of the Agency ensuring that the Agency acts in accordance with the Act and this Charter.

2.3 *About this Charter*

2.3.1 This Charter is the charter of the Agency.

2.3.2 The Charter binds the Agency and the Council.

2.3.3 Despite any other provision in the Charter:

2.3.3.1 if the Act prohibits a thing being done, the thing may not be done;

2.3.3.2 if the Act requires or permits a thing to be done, Board approval is given for that thing to be done;

2.3.3.3 if a provision of the Charter is, or becomes, inconsistent with the Act, that provision must be read down, or failing that severed from this Charter to the extent of the inconsistency.

2.3.4 The Charter may not be amended except by the Council passing a resolution in the same terms. An amendment is not effective unless and until a copy of the Charter, as amended, is published in the South Australian Government Gazette.

- 2.3.5 This Charter may be reviewed by the Council at any time and must in any event be reviewed at least once in every four years or whenever it is relevant to do so.
- 2.3.6 The Council's CEO has determined that a copy of the Charter must be published on the website of the Corporation of the City of Adelaide and the Agency.
- 2.3.7 This Charter must be read in conjunction with Schedule 2 to the Act. The Agency must conduct its affairs in accordance with Schedule 2 of the Act except as modified by this Charter as permitted by Schedule 2 of the Act.
- 2.3.8 Nothing in this Charter shall be construed as limiting or altering the existence of any right or entitlement of the Council under the Act including under Schedule 2 of the Act.

2.4 *Objects and Purposes*

The objects and purposes of the Agency are:

- 2.4.1 To accelerate economic growth in the City of Adelaide by attracting investment and supporting businesses, festivals and events, as well as visitor, student and residential growth;
- 2.4.2 To promote the City of Adelaide as a destination and 'magnet city' and increase its visitation and use by residents, workers, visitors and the community in general;
- 2.4.3 To position the Rundle Mall as the State's premier retail and commercial shopping precinct in order to sustain retail, business and economic viability; and
- 2.4.4 To ensure that the Agency operates within the terms of this Charter and the Council's Strategic Plan.

2.5 *Property*

- 2.5.1 All property held by the Agency is held by it on behalf of the Corporation of the City of Adelaide.
- 2.5.2 The Agency may acquire or dispose of or otherwise deal with chattels, plant and equipment provided that such dealing is consistent with and permitted in the Council approved Annual Business Plan and Budget, or is otherwise expressly approved in writing by the Council's CEO.

2.6 *National Competition Policy*

The Agency must undertake any commercial activities which constitute a significant business activity in accordance with the principles of competitive neutrality.

3. POWERS, FUNCTIONS AND DUTIES

- 3.1 Subject to the Charter the powers, functions and duties of the Agency are to be exercised in the performance of the Agency's objects and purposes. In addition to those specified in the Act, the Agency shall have the following powers, functions and duties:
 - 3.1.1 To work collaboratively with the State Government, strategic partners, peak bodies and key stakeholders and avoid duplication of effort in the delivery of its functions and duties;
 - 3.1.2 To position the City of Adelaide as an attractive investment opportunity for commercial and residential property development;
 - 3.1.3 To support the growth and development of existing businesses and attract new businesses, industries and entrepreneurs to establish in the City of Adelaide;
 - 3.1.4 To promote and market the City of Adelaide to local, interstate and international visitors and investors;
 - 3.1.5 To position and promote the City of Adelaide as Australia's premier festival and event destination with the aim of increasing visitation and investment;
 - 3.1.6 To attract and support growth of the visitor economy, including international students, festivals, events, conferences, conventions and exhibitions;
 - 3.1.7 To activate, promote and market the Rundle Mall;
 - 3.1.8 To promote and develop mainstreet precincts as commercial hubs of economic, cultural and social significance;
 - 3.1.9 To manage risks associated with the Objects and Purposes and to ensure that the Agency complies with all relevant legislative and compliance requirements including those expressed by the Council's CEO;
 - 3.1.10 To expend funds raised through the separate rate declared by the Council on rateable land in the Rundle Mall and provided to the Agency to directly support Rundle Mall;
 - 3.1.11 To, in the performance of its functions and in all of its plans, policies and activities, give due weight to economic, social and environmental considerations;
 - 3.1.12 To compromise, compound, abandon or settle a debt or claim owed to the Agency;
 - 3.1.13 To make submissions for and accept grants, subsidies and contributions to further the Agency's objects and purposes;
 - 3.1.14 With the prior approval of the Council, invest funds in accordance with the Act;
 - 3.1.15 Raise and retain funds to further the Agency's objects and purposes through sponsorship, grants, advertising, fees and charges;
 - 3.1.16 The power to accumulate surplus funds;
 - 3.1.17 To enter into any kind of contract, purchase, sell, lease, hire, rent or otherwise acquire or dispose of any chattel, plant or equipment for the Agency;
 - 3.1.18 To institute, initiate and carry on legal proceedings;
 - 3.1.19 To make recommendations to Council in relation to the maintenance and upgrade of the Rundle Mall's existing infrastructure and physical appearance to ensure it is maintained to a high standard;
 - 3.1.20 To do all things reasonably necessary or convenient for or incidental to the exercise performance or discharge of the Agency's powers, functions or duties;

- 3.1.21 To assess the contestability of contracts for Council services provided to the Agency; and
- 3.1.22 Exercise such other powers and functions as are expressly delegated to the Agency in writing by the Council and Council's CEO from time to time.
- 3.2 The Agency is not authorised to act outside the area of the City of Adelaide unless the prior express written approval of the Council is obtained.
- 3.3 To the extent that a matter arises concerning the Agency for which the Agency does not have an adopted policy (which policies must be consistent with those of the Corporation of the City of Adelaide) the Agency must comply with this Charter and with any and all adopted policies of the Council that exist in relation to that matter, except where the Council has resolved otherwise or where the Council policy provides otherwise.
- 3.4 *Delegations*
- 3.4.1 In accordance with and subject to the Act, the Council may delegate to the Agency a power or function vested or conferred on the Council under the Act or another Act.
- 3.4.2 The Agency may, in accordance with the Act and this Charter, delegate such of its powers, functions and duties under this Charter as it determines to:
- 3.4.2.1 A committee;
- 3.4.2.2 An employee of the Corporation of the City of Adelaide;
- 3.4.2.3 A person for the time being occupying a particular office or position within the Agency.
- 3.4.3 The Agency must adopt and regularly review a formal written policy which sets out those powers, functions and duties which are to be the subject of delegation including the terms and conditions of such delegation and the limits and restrictions on the exercise of the relevant powers, functions and duties delegated.
- 3.4.4 The Agency may not delegate:
- 3.4.4.1 The power to borrow money or obtain any other form of financial accommodation not being a drawdown of an approved overdraft facility;
- 3.4.4.2 The power to approve expenditure of money on the works, services or operations of the Agency not set out or included in a Budget;
- 3.4.4.3 The power to approve the reimbursement of expenses or payment of remuneration fees or allowances to Board Members;
- 3.4.4.4 The power to adopt the Budget;
- 3.4.4.5 The power to adopt or revise financial estimates and reports; and
- 3.4.4.6 The power to make any application or recommendation to a Minister.
- 3.4.5 A delegation by the Agency is:
- 3.4.5.1 subject to conditions and limitations determined by the Agency or specified by the regulations;
- 3.4.5.2 revocable at will and does not prevent the Agency from acting in a matter which has been delegated.
- 3.5 *Committees*
- 3.5.1 The Board may establish a committee of the Board for the purpose of:
- 3.5.1.1 enquiring into and reporting to the Board on any matter within the Agency's functions and powers and as detailed in the terms of reference given by the Board to the committee or;
- 3.5.1.2 exercising, performing or discharging delegated powers, functions or duties.
- 3.5.2 The Board may authorise the formation, terms of reference and membership for any committee (and any changes to the terms of reference or membership of any existing committee) in each case as it sees fit.
- 3.5.3 The Board may establish advisory committees consisting of or including persons who are not Board Members for enquiring into and reporting to the Board on any matter within the Agency's functions and powers and as detailed in the terms of reference which must be given by the Board to the advisory committee.
- 3.5.4 Any committee formed by the Board must conform to any resolution, regulations or policies that may be imposed by the Board in the exercise of the powers and functions delegated and entrusted to the committee.
- 3.5.5 The meetings and proceedings of any committee or advisory committee are governed by the provisions in this Charter for regulating meetings and proceedings of the Board so far as those provisions are applicable and not affected by any resolution, regulations or policies made by the Board under clauses 3.5.2 and 3.5.3.
- 3.5.6 Without limiting the powers of the Board with respect to the formation of committees the Agency will establish an Advisory Committee for enquiring into and reporting to the Agency on any matter within the Agency's functions and powers, including to provide a formal mechanism for city businesses, mainstreets, precincts and other stakeholders to provide advice to the Board and;
- 3.5.6.1 The membership of the Advisory Committee will be established by the Committee's Terms of Reference.
- 3.5.6.2 The Terms of Reference of the Advisory Committee will be approved by the Council.
- 3.5.6.3 The Advisory Committee representative Board Member will be appointed by the Board once every twelve months to reflect the skills and experience required on the Board from time to time.
- 3.5.7 The Chairperson is an ex-officio member of any committee or advisory committee established by the Board.

3.5.8 A member of a committee established by the Board holds office at the pleasure of the Board.

4. BOARD OF MANAGEMENT

4.1 *Role of Board*

The Agency is a body corporate and is governed by a Board of Management which has the responsibility to manage the business and other affairs of the Agency in accordance with this Charter, all relevant legislation and any delegations made to it. A decision of the Board is a decision of the Agency.

4.2 *Functions of the Board*

In addition to the functions of the Board set out in the Act, the Board has the following functions, duties and powers:

- 4.2.1 formulating and observing strategic plans and strategies to achieve the objects and purposes of the Agency;
- 4.2.2 providing professional input and policy direction to the Agency;
- 4.2.3 provide input and support to the Council's CEO regarding monitoring, measuring and overseeing the performance of the General Manager;
- 4.2.4 ensuring that a code of conduct dealing with ethical behaviour and integrity is established and implemented in all business dealings of the Agency and Board Members;
- 4.2.5 exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons;
- 4.2.6 ensuring that the Council's CEO is advised, as soon as practicable, of any material risk or situation that affects the financial or operating capacity of the Agency;
- 4.2.7 ensuring that all information furnished to the Council and the Council's CEO is accurate;
- 4.2.8 ensure that the Agency acts in a professional and ethical manner, ensuring integrity, transparency and accountability in its decision making, and preventing actual or perceived corruption, maladministration and misconduct; and
- 4.2.9 ensure that the activities of the Agency are conducted efficiently and effectively and that the assets of the Agency are properly managed and maintained.

4.3 Membership of the Board

- 4.3.1 A Board Member appointed under clause 4.4 must be a natural person, but need not be an officer, employee or elected member of the Council.
- 4.3.2 It is intended that Board Members collectively have relevant experience and commercial acumen.

4.4 Appointment of Board Members

4.4.1 The Board shall consist of a maximum of nine Board Members to be appointed as follows:

- 4.4.1.1 one Board Member must be the Lord Mayor of the Council or an elected member nominated by the Lord Mayor;
- 4.4.1.2 one Board Member must be a representative of the Advisory Committee established under this Charter; and
- 4.4.1.3 up to another seven Board Members must be appointed by the Council following an expression of interest process as follows:
 - (a) one Board Member with board leadership experience will be nominated by a Board Member selection panel, comprising the Council's CEO or delegate, the Council's senior manager in charge of human resources, and two Council Members appointed by resolution of Council, to be a Board Member and Chairperson; and
 - (b) up to six Board Members with an appropriate range of skills and experience, including at least three Board Members who are business owners within the City of Adelaide, with at least one being a small business owner, will be nominated by a Board Member selection panel comprising the Council's CEO or delegate, the Council's senior manager in charge of human resources, the Chairperson and three Council Members.
 - (c) all nominations pursuant to sub paragraphs (a) and (b) will be recommended to the Council by the Board Member selection panel, for Council endorsement.

4.4.2 The Board Members, other than the Advisory Committee representative who is appointed for a 12 month term, or the Lord Mayor or elected member nominated by the Lord Mayor, shall be appointed for a maximum three year term as determined by the Council, provided that the Council shall endeavour to ensure that no more than half the Board Members' terms of office expire in the same year.

4.4.3 A Board Member is eligible to apply, through the expression of interest process, for re-appointment at the expiration of their term of office, for a maximum of three consecutive terms. The 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.

4.4.4 The Council's CEO must give to the Agency a written notice of appointment, termination, or revocation of appointment of a Board Member.

4.4.5 Each Board Member must give to the Council's CEO a signed written acceptance to act as a Board Member.

4.4.6 The Board will appoint a Board Member, other than the Chairperson, to be the Deputy Chairperson and will notify the Council's CEO of this appointment.

4.4.7 The Chairperson shall preside at all meetings of the Board and in the event of the Chairperson being absent from a meeting the Deputy Chairperson shall preside and in the event of both the Chairperson and the Deputy Chairperson being absent from a meeting the Board Members present shall appoint a

Board Member from amongst them who shall preside for that meeting or until the Chairperson or the Deputy Chairperson is present.

- 4.4.8 In the event that the Chairperson:
- 4.4.8.1 resigns; or
 - 4.4.8.2 is removed from office by the Council; or
 - 4.4.8.3 is no longer eligible to act as a Board Member,
- then the Deputy Chairperson shall act in that office or, in the event of the Deputy Chairperson refusing or being unable to act as Chairperson, the Board shall appoint from amongst the Board Members a Chairperson who shall hold office as Chairperson until a Chairperson has been appointed by the Council whereupon the person so appointed will hold office for the duration of the original appointment or such other term as determined by the Council and permitted by this Charter.
- 4.4.9 The Chairperson and the Deputy Chairperson are eligible to apply for re-appointment at the expiration of their term of office in accordance with clause 4.4.1.
- 4.4.10 If any vacancy of Council appointed Board Members occurs in the membership of the Board during a term, Council can appoint a Board Member for the remainder of the term at their discretion in accordance with clause 4.4.1.3.
- 4.4.11 The appointment to fill a casual vacancy is not taken to be a period served in accordance with clause 4.4.3.
- 4.5 *Removal of Board Members*
- 4.5.1 Neither the Agency nor the Board may remove a Board Member.
- 4.5.2 The Council may remove a Board Member from office by giving to the Agency and the Board Member a written notice of removal of the Board Member.
- 4.5.3 The Council's CEO may remove a Board Member who is absent, without leave of the Board, from three consecutive ordinary meetings of the Board.
- 4.5.4 The Council may remove a Board Member, either of its own volition or upon recommendation of the Board passed by a two thirds majority vote of the Board Members present (excluding the Board Member subject to this Clause 4.5.4) for:
- 4.5.4.1 any behaviour of the Board Member which, in the opinion of the Board or the Council amounts to impropriety;
 - 4.5.4.2 serious neglect of duty in attending to the responsibilities of a Board Member;
 - 4.5.4.3 breach of fiduciary duty to the Agency or the Corporation of the City of Adelaide;
 - 4.5.4.4 breach of the duty of confidentiality to the Agency or the Adelaide City Council;
 - 4.5.4.5 breach of the propriety requirements of the Board; or
 - 4.5.4.6 any other behaviour which may discredit the Board, the Agency or the Adelaide City Council.
- 4.6 *Vacation of the Office of Board Member*
- 4.6.1 A person vacates office as a Board Member if and when:
- 4.6.1.1 Clause 4.5 requires;
 - 4.6.1.2 Schedule 2, Clause 4(3) of the Act requires or permits; or
 - 4.6.1.3 the person was, when appointed, an elected Member of the Council and ceases to be an elected Member of the Council.
- 4.6.2 A Board Member may retire from office at any time by giving notice to the Council and to the Board.
- 4.7 *Remuneration and Expenses of Board Members*
- 4.7.1 The Agency is entitled to pay appropriate remuneration fees to all Board Members as expressly approved by resolution of the Council.
- 4.7.2 All Board Members will receive from the Agency reimbursement of expenses properly incurred in performing or discharging official functions and duties as determined by the Agency and set out in a policy adopted by the Agency for the purposes of this clause.
- 4.7.3 Attendance of meetings as members of committees established by the Board can be remunerated subject to prior Council approval.
- 4.8 *Register of Interests*
- A Board Member is required to submit returns to the Agency under Chapter 5, Part 4, Division 2 of the Act.
- 4.9 *Saving Provision*
- 4.9.1 In accordance with Schedule 2, Clause 40 of the Act no act or proceeding of the Agency is invalid by reason of:
- 4.9.1.1 a vacancy or vacancies in the membership of the Board; or
 - 4.9.1.2 a defect in the appointment of a Board Member.
- 4.10 *Governance Issues for Members of the Board*
- 4.10.1 The principles regarding conflict of interest prescribed in the Act apply to all Board Members in the same manner as if the Agency was a council and the Board Member was an elected member of a council.
- 4.10.2 The Board Members will at all times act in accordance with their duties of confidence and confidentiality and individual fiduciary duties including honesty and the exercise of reasonable care and diligence with respect to the performance and discharge of official functions and duties as required by Chapter 5, Part 4, Division 1 of the Act and Schedule 2, Part 1, Clause 7 to the Act.

4.11 *Meetings of the Board*

- 4.11.1 Subject to Schedule 2, Clause 5 of the Act, the Board may determine its own procedures for meetings, which must be fair and contribute to free and open decision making.
- 4.11.2 An ordinary meeting of the Board must take place at such times and places as may be fixed by the Board from time to time and in any event not less than once per quarter.
- 4.11.3 A Board meeting must be held at a reasonable time and, if the meeting is to be held in person, at a reasonable place.
- 4.11.4 An ordinary meeting of the Board will constitute an ordinary meeting of the Agency. The Board shall administer the business of the ordinary meeting.
- 4.11.5 Telecommunications Meeting
- 4.11.5.1 For the purposes of this Clause 4.11.5 the contemporary linking together by telephone, audio-visual or other instantaneous means (telecommunications meeting) of a number of the Board Members, provided that at least a quorum is present, is deemed to constitute a meeting of the Board and is deemed attendance for those respective Board Members taking part.
- 4.11.5.2 Each of the Board Members taking part in the telecommunications meeting must at all times during the telecommunications meeting be able to hear and be heard by each of the Board Members present.
- 4.11.5.3 At the commencement of the meeting each Board Member must announce their presence to all other Board Members taking part in the meeting.
- 4.11.5.4 A Board Member must not leave a telecommunications meeting by disconnecting their telephone, audio-visual or other communication equipment unless that Board Member has previously notified the Chairperson of the meeting.
- 4.11.6 Written Resolution
- 4.11.6.1 A proposed resolution in writing and given to all Board Members in accordance with proceedings determined by the Board will be a valid decision of the Board where a majority of Board Members vote in favour of the resolution by signing and returning the resolution to the General Manager or otherwise giving written notice of their consent and setting out the terms of the resolution to the General Manager.
- 4.11.6.2 The resolution shall thereupon be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held.
- 4.11.7 Notice of ordinary meetings of the Board must be given by the General Manager to each Board Member not less than three clear business days prior to the holding of the meeting.
- 4.11.8 Notice of any meeting of the Board must:
- 4.11.8.1 be in writing; and
- 4.11.8.2 set out the date, time and place of the meeting; and
- 4.11.8.3 be issued by the General Manager; and
- 4.11.8.4 contain or be accompanied by the agenda for the meeting; and
- 4.11.8.5 be accompanied by a copy of any documents or reports that are to be considered at the meeting (so far as this is practicable).
- 4.11.9 The General Manager must maintain a record of all notices of meetings given to Board Members.
- 4.11.10 The Chairperson may convene urgent general meetings of the Board at the Chairperson's discretion.
- 4.11.11 The Chairperson shall convene other meetings of the Board as a general meeting may direct.
- 4.11.12 A majority of the Board Members present at a meeting of the Board may adjourn the meeting from time to time and from place to place.
- 4.11.13 At the first meeting of the Board held after the Annual General Meeting each year, the Board will determine if Council Members, excluding the Lord Mayor or an elected member nominated by the Lord Mayor as per clause 4.4.1.1, can attend AEDA Board meetings as an observer.
- 4.11.14 Quorum and Voting
- 4.11.14.1 The quorum for any meeting of the Board, including special meetings, is half the total number of Board Members plus one and no business may be transacted at a meeting of the Board unless a quorum is present.
- 4.11.14.2 Each Board Member present at a Board meeting has one vote on a question arising for decision at that meeting and, if the votes are equal, the Chairperson or other person presiding at the meeting may exercise a casting vote.
- 4.11.14.3 Subject to the Act and this Charter each Board Member validly present at a Board meeting must vote on a matter arising for decision at that meeting.
- 4.11.15 Subject to Clause 4.14 and to the absolute discretion of the Board to conduct any meeting or part of any meeting in public, meetings of the Board will not be conducted in a place open to the public and Chapter 6 Part 3 of the Act does not extend to the Agency.

4.12 *Special Meeting*

- 4.12.1 The Council or any Board Member may by e-mail request to the General Manager require a special meeting of the Board to be held.
- 4.12.2 On receipt of the request the General Manager shall issue a notice of the special meeting to all Board Members at least 24 hours prior to the commencement of the special meeting.
- 4.12.3 The request by any Board Member to the General Manager of the Agency requiring a special meeting to be held must be accompanied by the proposed agenda for the meeting and any written reports

intended to be considered at the meeting (and if the proposed agenda is not provided the request is of no effect).

4.13 *Minutes*

- 4.13.1 The General Manager must cause minutes to be kept of the proceedings at every meeting of the Board, including special meetings and the Annual General Meeting.
- 4.13.2 Other than the minutes of an Annual General Meeting which are dealt with in accordance with clause 4.14.6, for every meeting of the Board, including special meetings, the minutes must be:
 - 4.13.2.1 prepared and distributed to Board Members and the Council's CEO within five business days of the meeting to which they relate; and
 - 4.13.2.2 presented to the next ordinary meeting of the Board for confirmation and adoption. The minutes must be provided to Council within two business days following the meeting at which they are confirmed and adopted.
- 4.13.3 Where the General Manager is excluded from attendance at a meeting of the Board the person presiding at the meeting shall cause the minutes to be kept.

4.14 *Annual General Meeting*

- 4.14.1 An Annual General Meeting of the Board shall be held prior to November in each year at a place and time determined by a resolution of the Board.
- 4.14.2 Notice of the Annual General Meeting will be given by:
 - 4.14.2.1 placing a copy of the notice and agenda on public display at the principal office of the Agency and at the Adelaide City Council; and
 - 4.14.2.2 in such other manner as the General Manager considers appropriate.
- 4.14.3 The notice and agenda must be placed on public display for at least 14 clear days before the Annual General Meeting and must be available to the public:
 - 4.14.3.1 for inspection, without charge;
 - 4.14.3.2 by provision of a copy on the Agency's website; and
 - 4.14.3.3 on public display until completion of the Annual General Meeting.
- 4.14.4 A reasonable number of copies of the notice and agenda and any document or report supplied to Board Members for the Annual General Meeting must be available for members of the public at the meeting.
- 4.14.5 The Annual General Meeting will be conducted in a place open to the public and will consider and deal with business of a general nature aimed at reviewing the progress and direction of the Agency over the immediately preceding Financial Year and shall include the following:
 - 4.14.5.1 Chairperson's report;
 - 4.14.5.2 General Manager's report;
 - 4.14.5.3 the audited financial statements of the Agency for the previous Financial Year; and
 - 4.14.5.4 any other general business determined by the Board to be considered at the Annual General Meeting.
- 4.14.6 The minutes of the Annual General Meeting must be available to the public within five days of the Annual General Meeting for inspection or by provision of a copy on the Agency's website and presented to the next Annual General Meeting of the Board for confirmation.

4.15 *Board Annual Performance Review*

- 4.15.1 The Board of the Agency will undertake an annual performance evaluation of the Agency.
- 4.15.2 The Board will provide the Council with a report on the outcome of the annual performance review.

5. AEDA GENERAL MANAGER

5.1 *Appointment of General Manager*

- 5.1.1 All employees of the Agency are employees of the Adelaide City Council.
- 5.1.2 The Council's CEO will lead a selection panel to determine and undertake an expression of interest process to appoint a person to be the General Manager of the Agency, on terms and conditions determined by the Council's CEO, to manage the business of the Agency.
- 5.1.3 The selection panel members will be the Chairperson of the Agency, and the Council's CEO.
- 5.1.4 In the absence of the General Manager for any period, the Council CEO may, in consultation with the Chairperson, appoint a suitable person to act in a position of General Manager during the absence of the General Manager.

5.2 *Duties and Powers of the General Manager*

- 5.2.1 The General Manager is responsible for the day to day management of the Agency who will ensure that:
 - 5.2.1.1 sound business management practices are applied in the efficient and effective management of the operations of the Agency; and
 - 5.2.1.2 records are kept of the business and financial affairs of the Agency in accordance with this Charter in addition to other duties provided for by this Charter and those specified in the terms and conditions of appointment of the General Manager.
- 5.2.2 The duties, functions, responsibilities and authority of the General Manager will be specified in the terms and conditions of their appointment with the Adelaide City Council and will include:
 - 5.2.2.1 attending at all meetings of the Board unless excluded by resolution of the Board;
 - 5.2.2.2 inviting any person to attend at any meeting to act in an advisory capacity;

- 5.2.2.3 ensuring that the lawful decisions of the Board are implemented in a timely and efficient manner;
- 5.2.2.4 providing information to assist the Board to assess the Agency's performance against its strategic management plans and the Annual Business Plan and Budget;
- 5.2.2.5 appointing, managing, suspending and dismissing employees engaged to perform work for the Agency;
- 5.2.2.6 determining the conditions of employment of employees engaged to perform work for the Agency within the Budget;
- 5.2.2.7 providing advice and reports to the Agency and Board Members on the exercise and performance of its powers and functions under this Charter, the Act or any other legislation;
- 5.2.2.8 ensuring that the Agency is at all times complying with Schedule 2 of the Act;
- 5.2.2.9 ensuring that the Agency's Annual Report is prepared for approval by the Agency and distributed to Council in conformity with this Charter;
- 5.2.2.10 co-ordinating and initiating proposals for consideration of the Agency including, but not limited to, continuing improvement of the operations of the Agency;
- 5.2.2.11 ensuring that the assets and resources of the Agency are properly managed and maintained;
- 5.2.2.12 exercising, performing or discharging other powers, functions or duties conferred on the General Manager by or under the Act or any other Act and performing other functions lawfully directed by the Agency;
- 5.2.2.13 achieving financial outcomes in accordance with adopted plans and budgets of the Agency;
- 5.2.2.14 such other duties, functions, responsibilities and powers contained in this Charter or under the Act.

5.3 *Delegation by the General Manager*

- 5.3.1 The General Manager may delegate or sub-delegate to an employee seconded to the Agency (including an employee for the time being occupying a particular office or position), or a committee comprising employees seconded to the Agency, any power or function vested in the General Manager.
- 5.3.2 Any delegation or sub-delegation by the General Manager may be subject to any conditions or limitations as determined by the General Manager.
- 5.3.3 Where a power or function is delegated to an employee, the employee is responsible to the General Manager for the efficient and effective exercise or performance of that power or function.
- 5.3.4 The General Manager must keep a written record of all delegations and sub-delegations at all times.
- 5.3.5 The General Manager shall provide a report on his/her activities to the Agency at every Board meeting.

6. MANAGEMENT

6.1 *Strategic Management Plans*

- 6.1.1 The Agency must prepare the following strategic management plans:
 - 6.1.1.1 a Strategic Plan with an operational period of four years which sets out the goals, objectives, strategies, priorities and relevant key performance indicators of the Agency for the period; and
 - 6.1.1.2 a Long Term Financial Plan for a period of at least 10 years.
- 6.1.2 The Agency must ensure that the strategic management plans are aligned and consistent with the Council's current strategic management plans.
- 6.1.3 The Agency must review the Strategic Plan annually in consultation with the Council.

6.2 *Annual Business Plan and Budget*

- 6.2.1 The Agency must, before the end of June in each Financial Year, prepare an Annual Business Plan and Budget for the ensuing Financial Year in accordance with Act and Regulations.
- 6.2.2 The Annual Business Plan and Budget must be consistent with the Charter and the Strategic Plan and submitted to the Council for approval by a date nominated by the Council's CEO from time to time in accordance with Council's budgetary approval process.
- 6.2.3 Neither the Annual Business Plan nor the Budget shall be amended without reasonable consultation with the Council and the prior express written approval of the Council.
- 6.2.4 Reports summarising the financial position and performance of the Agency against the Annual Budget shall be prepared and presented to the Board no less than once in every three calendar months.

6.3 *Reporting*

- 6.3.1 The Agency must submit to the Council by 30 September in each year a report, in respect of the immediately preceding Financial Year, on the work and operations of the Agency detailing achievement of the aims and objectives of its Strategic Plan and Annual Business Plan and Budget and incorporating the audited Financial Statements of the Agency and any other information or reports as required by the Council or the Council's CEO.
- 6.3.2 Within 14 days of the end of each quarter the Agency must submit to the Council's CEO a quarterly report on progress against the strategic milestones and key performance indicators as outlined in the Strategic Plan and the Annual Business Plan and Budget.
- 6.3.3 The Agency shall submit to Council or the Council's CEO any other information or reports required by Council or the Council's CEO in a timeframe determined by Council or the Council's CEO.
- 6.3.4 The Chairperson and or the General Manager shall attend meetings of the Council or any Committee as requested.

6.4 *Financial Management*

- 6.4.1 The Adelaide City Council shall keep proper books of accounts on behalf of the Agency in accordance with the requirements of the Act and the *Local Government (Financial Management) Regulations 2011* (the Finance Regulations).
- 6.4.2 The Agency must review its Budget in accordance with the requirements of the Financial Regulations at least three times in each Financial Year at intervals of not less than three months between 30 September and 31 May (inclusive).
- 6.4.3 The Agency's books of account must be available for inspection by any Board Member or authorised representative of the Adelaide City Council at any reasonable time on request.
- 6.4.4 All payments made on account of the Agency must be authorised by the General Manager in accordance with delegated authority or by resolution of the Board.
- 6.4.5 The General Manager must act prudently in the handling of all financial transactions for the Agency and must provide quarterly financial and corporate reports to the Agency.

6.5 *Audit*

- 6.5.1 The Adelaide City Council's auditor will be the auditor of the Agency.
- 6.5.2 The Auditor will have the same powers and responsibilities as set out in the Act in relation to the Adelaide City Council.
- 6.5.3 The audit of the financial statements of the Agency, together with the accompanying report from the Auditor, shall be submitted to both the Board and the Council.
- 6.5.4 The books of account and financial statements shall be audited at least once per year.
- 6.5.5 The Audit Committee of the Adelaide City Council will act as the Audit Committee of the Agency.

6.6 *Borrowings and Expenditure*

- 6.6.1 The Agency has the power to incur expenditure as follows:
 - 6.6.1.1 in accordance with a Budget of the Agency; or
 - 6.6.1.2 with the prior approval of the Council or the Council's CEO; or
 - 6.6.1.3 in accordance with the Act, and in respect of expenditure not contained in a Budget adopted by the Board for a purpose of genuine emergency or hardship.
- 6.6.2 Subject to Clause 6.6.3 the Agency has the power to borrow money as follows:
 - 6.6.2.1 in accordance with a budget adopted by the Board and approved by the Council; or
 - 6.6.2.2 with the prior approval of the Council.
- 6.6.3 Unless otherwise approved by the Council any and all borrowings taken out by the Agency must be from the Local Government Finance Authority of SA or a registered bank or financial institution within Australia.

7. MISCELLANEOUS

7.1 *Insurance*

- 7.1.1 The Agency shall be a member of the Local Government Association's Mutual Liability Scheme and the Agency must comply with the Rules of that Scheme unless expressly directed otherwise in writing by the Council's CEO.
- 7.1.2 The Agency shall advise the Council's CEO of its insurance needs so the Adelaide City Council can take out appropriate insurance cover on behalf of the Agency.

7.2 *Winding Up*

- 7.2.1 The Agency may be wound up by the Minister acting upon a resolution of the Council or by the Minister in accordance with Schedule 2, Part 1, Clause 16 (1) (b) of the Act.
- 7.2.2 In the event of a winding up of the Agency any surplus assets after payment of all expenses shall be returned to the Council prior to the passing of the resolution to wind up.

7.3 *Common Seal*

- 7.3.1 The Agency shall have a common seal upon which its corporate name shall appear in legible characters.
- 7.3.2 The common seal must not be used without the express authorisation of a resolution of the Board and every use of the common seal shall be recorded in the minute book of the Agency.
- 7.3.3 The affixing of the common seal shall be witnessed by the Chairperson or the Deputy Chairperson and the General Manager or such other person as the Agency may appoint for the purpose.
- 7.3.4 The common seal shall be kept in the custody of the General Manager or such other person as the Agency may from time to time decide.

7.4 *Principal Office*

The Agency's principal office is 25 Pirie Street, Adelaide or as the Agency may otherwise determine.

7.5 *Service of Documents*

- 7.5.1 A document to be given by the Agency to the Council or the Council's CEO or by the Council or the Council's CEO to the Agency may be given in a manner that Section 280 of the Act permits.
- 7.5.2 A written notice given by the Agency to the Council or the Council's CEO must be marked 'Attention: Chief Executive Officer'.

7.6 *Access to Information/Records*

- 7.6.1 As a matter of record Schedule 2, Clause 11 of the Act entitles Council or the Council's CEO to be furnished with information or records of the Agency.

7.6.2 The Council or the Council's CEO and a Board Member each have a right to inspect and take copies of the books and records of the Agency.

8. CIRCUMSTANCES NOT PROVIDED FOR

- 8.1 If any circumstance arises about which this Charter is silent, incapable of taking effect or being implemented according to its strict provisions the Chairperson may decide the action to be taken to ensure achievement of the objects of the Agency and its effective administration.
- 8.2 The Chairperson shall report any such decision at the next ordinary meeting of the Agency and the Agency shall subsequently report any such decision to the Council at the next ordinary meeting of the Council.

9. PERFORMANCE AND ACCOUNTABILITY OF SUBSIDIARY

- 9.1 The Council and the Council's CEO shall be entitled on an ongoing basis to review the performance of the Agency and the Board in the conduct of their respective activities under this Charter.
- 9.2 Without limiting the Council's or the Council's CEO's powers under the Act, if at any time the Council or the Council's CEO is of the view that either the Agency and/or the Board is not performing its duties under this Charter the Council or the Council's CEO shall be entitled to provide a notice in writing to the Agency (Council Notice) identifying those matters in respect of the performance by the Agency and/or the Board of its duties under this Charter which are not satisfactory to the Council or the Council's CEO together with details of any corrective action which the Council or the Council's CEO requires the Agency and/or the Board to take in order to rectify the identified performance issues.
- 9.3 The Board shall within 30 days of receipt of the Council Notice provide a written response to the Council or the Council's CEO as to the matters raised in the Council Notice (Notice in Response) which shall identify any corrective action which the Agency and/or the Board intends to undertake in order to address the issues raised in the Council Notice.
- 9.4 If the Agency or the Board disputes any matters raised in the Council Notice then the Notice of Response must identify any matters in respect of which the Agency and/or the Board do not agree.
- 9.5 The Council's CEO and the Chairperson of the Board shall meet within 14 days of receipt by the Council or the Council's CEO of the Notice in Response to discuss the matters raised in the Council Notice and the Notice in Response.
- 9.6 Either:
 - 9.6.1 following the meeting between the Council's CEO and the Chairperson of the Board and having considered the matters raised in the Council Notice and the Notice of Response and the matters discussed between the Council's CEO and the Chairperson of the Board at their meeting; or
 - 9.6.2 if the Board does not provide a Notice in Response,
the Council shall be entitled to take such further action (if any) as it determines with respect to the matters raised in the Council Notice which action may include, but shall not be limited to, the removal of the Board and the appointment of a replacement Board in accordance with the provisions of this Charter.

ANNEXURE 1

