

CHARTER

OF THE

SOUTHERN & HILLS

LOCAL GOVERNMENT ASSOCIATION (REGIONAL

SUBSIDIARY)

Under the provisions of the Local Government Act 1999.

SOUTHERN & HILLS LOCAL GOVERNMENT ASSOCIATION

LOCAL GOVERNMENT ACT 1999

CHARTER

1. INTRODUCTION

1.1 Name

The name of the subsidiary is the Southern & Hills Local Government Association (referred to as 'the Subsidiary' in this Charter).

1.2 Definitions

'absolute majority' means a majority of the whole number of the Board Members;

'Act' means the *Local Government Act 1999* and includes all regulations made thereunder;

'Affiliate' has the meaning given by clauses 11.10 to **Error! Reference source not found.** (inclusive);

'Board Member' means at any time a member of the Board and, where the context so admits, includes a Deputy Board Member;

'Board' means the board of management of the Subsidiary;

'Budget' means a budget that conforms to Clause 25 of Schedule 2 to the Act and last adopted by the Board;

'Business Plan' means a business plan that conforms to Clause 24 of Schedule 2 to the Act and last adopted by the Board;

'Constituent Council' means the Councils listed in clause 1.4, minus any such Council which ceases to be a Constituent Council and plus any Council which becomes a Constituent Council in accordance with clause 11;

'Council' means a council as constituted under the Act;

'Deputy Board Member' means at any time a person appointed and holding office as a Deputy to a Board Member;

'Deputy President' means the person elected as Deputy President of the Board;

'Elected Member' means a Mayor, Chairperson or Councillor of a Council;

'Financial year' means a year beginning on 1 July in each year and ending on 30 June of the following year;

'LGA' means the Local Government Association of South Australia.

'Minister' means the Minister for the time being responsible for the administration of the Act;

'President' means the person elected as President of the Board and includes a person authorised by this Charter to act in place of the President;

'Principal Officer' means at any time the person appointed and holding office as Principal Officer of the Subsidiary under clause 8.1.1 (which office may be given a different title by resolution of the Board) and includes a person acting in that position;

'Subsidiary' means the Southern & Hills Local Government Association constituted under this Charter;

1.3 Interpretation

In this Charter, unless the context otherwise requires:

- 1.3.1 the term 'person' shall include a body corporate;
- 1.3.2 the singular includes the plural and vice versa;
- 1.3.3 a reference to the masculine includes the feminine and vice versa;
- 1.3.4 the headings to the Charter are for convenience only and do not form part of the Charter;
- 1.3.5 references to clauses are to clauses of the Charter.

1.4 Constituent Councils

At the time of the adoption of this Charter (as most recently amended), the Constituent Councils of the Subsidiary are:

- 1.4.1 District Council of Mount Barker;
- 1.4.2 City of Victor Harbor;
- 1.4.3 District Council of Yankalilla;
- 1.4.4 Adelaide Hills Council;
- 1.4.5 Alexandrina Council;
- 1.4.6 Kangaroo Island Council; and
- 1.4.7 The Barossa Council.

1.5 Establishment

- 1.5.1 The Subsidiary is established by the Constituent Councils as a regional subsidiary pursuant to Section 43 and Schedule 2 of the Act.

1.5.2 this Charter governs the affairs of the Subsidiary.

1.6 Approvals and directions by two thirds of Constituent Councils

1.6.1 In any case where the Act or this Charter refers to the 'Constituent Councils' granting any approval or consent, or making any request, or taking any other step, it will be sufficient if two thirds of the Constituent Councils (rounding up to the nearest whole number) take such step by resolution expressed in the same or similar terms. The Constituent Councils agree that the taking of any such step by two thirds of Constituent Councils will constitute the taking of that step on behalf of all Constituent Councils. The step is deemed to be taken at the time that there are resolutions in effect from two thirds of Constituent Councils for the taking of such step.

1.6.2 Clause 1.6.1 is subject to any contrary requirement expressed in this Charter, the Act, or any other law.

1.6.3 The Constituent Councils may issue directions to the Subsidiary by resolution of two thirds of the Constituent Councils (rounding up to the nearest whole number) expressed in the same or similar terms. The Constituent Councils agree that the issuing of a direction by two thirds of Constituent Councils will constitute the issuing of a direction on behalf of all Constituent Councils.

1.6.4 Whenever a Constituent Council resolves to take any step under this Charter or the Act, or to issue any direction to the Subsidiary, the chief executive officer of that Constituent Council must ensure that a copy of that resolution is provided to the Principal Officer as soon as practicable.

1.7 Local Government Act 1999

1.7.1 This Charter must be read in conjunction with the Act.

1.7.2 The Subsidiary must conduct its affairs in accordance with the Act and this Charter.

1.7.3 In the event of any inconsistency between the Act and this Charter, the Act prevails to the extent of the inconsistency.

1.8 Objects and Purposes

The objects and purposes of the Subsidiary are:

1.8.1 to work collaboratively with the LGA for the benefit of Constituent Councils and Affiliates;

1.8.2 to encourage, promote, protect and foster an efficient and effective autonomous, democratic system of local government elected by and responsible to local communities;

1.8.3 to identify available resources within the region of Constituent Councils and Affiliates and to co-ordinate or assist in co-

ordinating the management of these resources for the betterment of the region's community;

- 1.8.4 to encourage, assist, seek out, determine, assess and respond to the needs and aspirations of the region's constituents;
- 1.8.5 to develop, encourage, promote, foster and maintain consultation and co-operation between local government authorities, State and Commonwealth Governments and their instrumentalities;
- 1.8.6 to develop, encourage, promote, foster and maintain the financial and economic well-being and advancement of the region and if desirable for such purpose to undertake, establish, acquire, conduct or dispose of any business, enterprise, undertaking or venture which in the opinion of the Subsidiary is necessary, desirable or convenient;
- 1.8.7 to effectively liaise and work with the State and Commonwealth Governments and their instrumentalities on a regional basis for the general enhancement of the region;
- 1.8.8 to act as a forum for discussion and consideration of matters relating to the powers, functions and duties of the Constituent Councils and Affiliates under the Act and other statutory provisions in relation to the region.

2. POWER AND FUNCTIONS

- 2.1 The Subsidiary will have all the powers of a natural person, including the following powers (in addition to and without prejudice to any other powers herein expressed or implied or by virtue of any other legislation applicable):
 - 2.1.1 to subscribe to, become a member of and/or co-operate with any other association or organisation whose objects are altogether or in part similar or complementary to those of the Subsidiary and on such terms as the Subsidiary deems appropriate;
 - 2.1.2 to enter into any arrangements with any government or authority that are incidental or conducive to the attainment of the objects and the exercise of the powers of the Subsidiary;
 - 2.1.3 to appoint, employ, remunerate, manage, dismiss, remove or suspend employees, contractors and advisors;
 - 2.1.4 to raise revenue through subscriptions collected from Constituent Councils and Affiliates;
 - 2.1.5 to open, close and maintain bank accounts;
 - 2.1.6 to apply for grants from government authorities and to seek sponsorship from business enterprises;

- 2.1.7 to print or publish any newspapers, periodicals, books, leaflets, treatises, websites or other writing that the Subsidiary may think desirable for the promotion of its objects;
- 2.1.8 to acquire, deal with and dispose of assets including real and personal property (wherever situated) and rights in relation to real and personal property;
- 2.1.9 to enter into any kind of contract or arrangement;
- 2.1.10 to invest any of the funds of the Subsidiary in any investment, provided that the Subsidiary must avoid investments that are speculative or hazardous in nature;
- 2.1.11 to establish committees for the following purposes:
 - 2.1.11.1 inquiring into and reporting on any matter within the terms of reference determined by the Board;
 - 2.1.11.2 exercising, performing and discharging delegated powers, functions or duties;
 - 2.1.11.3 investigating opportunities for resource sharing within the region and implementing strategies to take advantage of any such opportunities;
- 2.1.12 to determine the terms of reference and membership of any committee which the Subsidiary may establish (and members of any committee shall hold office at the pleasure of the Subsidiary);
- 2.1.13 to delegate or (where permitted) subdelegate any function or duty in accordance with the Act;
- 2.1.14 to commence and maintain legal proceedings of any nature;
- 2.1.15 to do anything else necessary or convenient for, or incidental to, the exercise, performance or discharge of its powers, functions or duties;
- 2.1.16 to exercise or perform any functions, powers or duties delegated to the Subsidiary by a Constituent Council;
- 2.1.17 to carry out any lawful direction of the Constituent Councils.

3. SOURCE OF REVENUE

- 3.1 The sources of revenue of the subsidiary include:
 - 3.1.1 subscriptions to be applied equitably to Constituent Councils under such terms and conditions determined by the Board (and the Constituent Councils agree to pay such subscriptions);
 - 3.1.2 service charges for services to Constituent Councils under such terms and conditions determined by the Board;

- 3.1.3 grants from government authorities and the LGA;
- 3.1.4 sponsorship from business enterprises;
- 3.1.5 interest from the investment of funds;
- 3.1.6 loan funds or overdrafts on such conditions as the Subsidiary sees fit for the purposes of the Subsidiary, provided that:
 - 3.1.6.1 a proposal for borrowing by the Subsidiary must be provided to each Constituent Council;
 - 3.1.6.2 the proposal to borrow must be approved by the Constituent Councils in writing before it can be considered by the Board;
 - 3.1.6.3 a decision to borrow must be approved by an absolute majority of the Board.
- 3.2 Each Constituent Council shall be liable to contribute funds to the Subsidiary each financial year in accordance with the amount specified in the Budget adopted by the Subsidiary for that year (including a revised Budget). Any unpaid amounts may be recovered by the Subsidiary from a Constituent Council as a debt.

4. THE BOARD ROLE AND FUNCTION

- 4.1 The Board is responsible for the administration of the affairs of the Subsidiary.
- 4.2 The functions of the Board include the following:
 - 4.2.1 the formulation of strategic plans and strategies aimed at improving the activities of the Subsidiary;
 - 4.2.2 providing input and policy direction to the Subsidiary;
 - 4.2.3 appointing and managing (including suspending and removing) the Principal Officer;
 - 4.2.4 ensuring that ethical behaviour and integrity is followed in all activities undertaken by the Subsidiary;
 - 4.2.5 subject to this Charter, ensuring that the activities of the Subsidiary are undertaken in an open and transparent manner;
 - 4.2.6 assisting in the development of Business Plans;
 - 4.2.7 exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons;
 - 4.2.8 ensuring, insofar as it is practicable, that the Subsidiary observes the objectives set out in this Charter, that information provided to the Constituent Councils is accurate and that

Constituent Councils are kept informed of the solvency of the Subsidiary as well as any material developments which may affect the operating capacity and financial affairs of the Subsidiary.

5. MEMBERSHIP

5.1 Membership of the Board

- 5.1.1 Each of the Constituent Councils will appoint two persons to the Board, one of whom must be an Elected Member of the Constituent Council and the other of whom may be an Elected Member or an employee of the Constituent Council.
- 5.1.2 Each of the Constituent Councils may appoint one Deputy Board Member for each of that Constituent Council's Board Members. A Deputy Board Member may attend Board Meetings in the place of the Board Member for whom they are deputy, whenever that Board Member is absent.
- 5.1.3 If a Board Member and their Deputy Board Member are unable to attend a Board meeting, the relevant Constituent Council may appoint through its Mayor and CEO a representative with voting powers to attend that Board meeting (and such person will be considered to be a Board Member for the purposes of that meeting).
- 5.1.4 The Board may appoint observers to the Board. Such observers will not be entitled to vote at meetings.
- 5.1.5 Board members shall not be entitled to receive a sitting fee.
- 5.1.6 Subject to any requirement or limitations imposed under the Act or any other law, the Board may pay expenses to Board Members on terms and conditions determined by the Board.
- 5.1.7 A formal notification signed by the chief executive officer of the appointing Constituent Council will be sufficient evidence of appointment to the Board.

5.2 Term of Office – The Board

- 5.2.1 A Board member shall be appointed for a term expiring at the conclusion of the next periodic Local Government Election (for the Constituent Council which appointed them) following their appointment.
- 5.2.2 the Board may by a two-thirds majority vote of the members present (excluding the member subject to this Clause) make a recommendation to the relevant Constituent Council requesting that the Constituent Council terminate the appointment of a Board Member in the event of:

- 5.2.2.1 any behaviour of the Board Member which in the opinion of the Board amounts to impropriety;
 - 5.2.2.2 serious neglect of duty in attending to the responsibilities of a Board Member;
 - 5.2.2.3 breach of fiduciary duty to the Subsidiary or the Constituent Council(s);
 - 5.2.2.4 breach of the duty of confidentiality to the Subsidiary or the Constituent Council(s);
 - 5.2.2.5 breach of the conflict of interest provisions of the Act; or
 - 5.2.2.6 any other behaviour that may, in the opinion of the Board, discredit the Subsidiary or the Constituent Councils.
- 5.2.3 if the Constituent Council affected does not accept the recommendation of the Board in relation to the termination of the appointment of the member concerned then the matter is able to be dealt with in accordance with Clause 9;
- 5.2.4 The appointment of a Board Member shall terminate prior to the expiry of the term described in clause 5.2.1 in any of the following circumstances:
- 5.2.4.1 upon the death of the Board Member;
 - 5.2.4.2 upon the Board Member ceasing to be an Elected Member or employee (as the case may be) of the Council which appointed the Board Member;
 - 5.2.4.3 upon the Board Member's appointment being revoked by the Council which appointed the Board Member;
 - 5.2.4.4 upon the Board Member resigning his/her position as Board Member by notice in writing to the Principal Officer;
 - 5.2.4.5 upon the occurrence of any of the other circumstances described in clause 20(3) of Schedule 2 to the Act.
- 5.2.5 Where a vacancy occurs in the office of Board Member, the Constituent Council which appointed the person occupying that office may appoint a replacement Board Member by whatever method the Constituent Council sees fit, for the balance of the term of office.

- 5.2.6 Nothing in this Charter prevents a person from being appointed to any number of consecutive or non-consecutive terms as Board Member.

5.3 Propriety of members of the Board

- 5.3.1 The principles regarding conflict of interest prescribed in the Act extend to the Subsidiary and Board Members as if the Subsidiary were a Council and as if Board Members were Elected Members.
- 5.3.2 The Board Members will not be required to comply with Division 2 of Part 4 of Chapter 5 (Register of Interests) of the Act.
- 5.3.3 Board Members will at all times act in accordance with their statutory duties including duties honesty and the exercise of reasonable care and diligence with respect to the Board as required by Clauses 23 and 34 of Schedule 2 of the Act.

6. OFFICES OF THE BOARD

- 6.1 The Board shall, at the first meeting of the Subsidiary following the conclusion of local government periodic elections for all Constituent Councils:
- 6.1.1 appoint a Board Member as President, who shall be the chairperson of the Board;
- 6.1.2 appoint a different Board Member as Deputy President, who shall be the deputy chairperson of the Board.
- 6.2 A Board Member appointed as President or Deputy President will hold such office for a term of two years.
- 6.3 At the next meeting of the Board after the expiry of two years from the conclusion of local government periodic elections for all Constituent Councils, the Board shall again:
- 6.3.1 appoint a Board Member as President, who shall be the chairperson of the Board;
- 6.3.2 appoint a different Board Member as Deputy President, who shall be the deputy chairperson of the Board.
- 6.4 Where there is more than one nomination for the position of President or Deputy President under this clause, there will be an election decided by ballot in a manner determined by the Board.
- 6.5 Nothing in this Charter prevents a Board Member from being appointed to any number of consecutive or non-consecutive terms as President or Deputy President. In the event that:
- 6.5.1 the President resigns in writing (addressed to the Principal Officer) from that office or ceases to be a Board Member for any

reason whatsoever, the Deputy President will be appointed to the role of President for the balance of the term of office and the Board Members will appoint a different Board Member to hold the office of Deputy President for the balance of the term of office ;

- 6.5.2 the Deputy President resigns in writing (addressed to the Principal Officer) from that office or ceases to be a Board Member for any reason whatsoever, the Board Members will appoint a different Board Member to hold the office of Deputy President for the balance of the term of office;
- 6.5.3 both the President and Deputy President resign in writing (addressed to the Principal Officer) from office and/or cease to be a Board Member for any reason whatsoever, the Board Members will appoint different Board Members to hold the offices of President and Deputy President for the balance of the term of office.

7. PROCEEDINGS OF THE BOARD

7.1 General power to determine procedures

The Board may determine its own meeting procedures which must be fair and contribute to free and open decision making, provided such procedures are consistent with the Act and the provisions of this Charter.

7.2 Chairing of meetings

- 7.2.1 The President, when present at a meeting of the Board, will chair the meeting.
- 7.2.2 If the President is absent from a meeting of the Board, the Deputy President will chair the meeting for so long as the President remains absent.
- 7.2.3 If both the President and Deputy President are absent from a meeting, the Board Members present will appoint one of their number (by any means determined by the Board) to chair the meeting for so long as the President and Deputy President remain absent. The Principal Officer will preside for the purposes of determining this question.

7.3 Quorum

- 7.3.1 A quorum of the Board is half of the total number of Board Members (ignoring any fraction) plus 1.
- 7.3.2 No meeting of the Board will commence until a quorum of members is present and no formal transaction of business may continue unless there is a quorum of members present.

- 7.3.3 If at any time during a meeting of the Board there is no quorum the Board Members may decide to continue informal discussions and any outstanding business shall be deferred until a quorum is again obtained, or to a future meeting. The meeting will be adjourned to a place and time to be determined by the person chairing the meeting.

7.4 **Telecommunications**

- 7.4.1 For the purpose of this Clause the contemporary linking together by telephone, audio-visual or other instantaneous means (“telecommunications meeting”) of a number of the Board Members is deemed to constitute a meeting of the Board, provided that there is collectively a quorum and provided that notice of the meeting is given to all Board Members in accordance with this Charter.

- 7.4.2 Each of the Board Members taking part in the telecommunications meeting must at all times during the meeting be able to hear and be heard by each of the Board Members present. At the commencement of a telecommunications meeting, each Board Member must announce his/her presence to all of the Board Members taking part in the meeting.

- 7.4.3 A Board Member must not leave a telecommunications meeting by disconnecting his/her audio-visual or other communication equipment, unless that Board Member has previously notified the chairperson of the meeting.

7.5 **Voting**

Subject only to any specific requirement of this Charter, all matters for decision at a meeting of the Board will be decided by a simple majority of the members present and entitled to vote on the matter. Board Members are entitled only to a deliberative vote. Board Members may not vote by proxy.

7.6 **No Casting Vote**

In the event of equality of votes, the chair will not have a casting vote and the matter will be deemed to have lapsed and may at some later time be reconsidered.

7.7 **Timing and calling of Meetings**

- 7.7.1 The Board will endeavour to meet at least four times per year, at times and places to be determined the Board.
- 7.7.2 The Principal Officer (or, if there is no Principal Officer, the chief executive officers of the Constituent Councils) will determine the time and place of the first meeting of the Board after the conclusion of local government periodic elections for all Constituent Councils (which will not be until at least two thirds of the Constituent Councils have appointed Board Members).

- 7.7.3 A special meeting of the Board may be called by the Principal Officer at any time at the request of the President (or in the President's absence, the Deputy President), or at the request of two thirds of the Board Members (rounding up to the nearest whole number), provided that any request will be in writing addressed to the Principal Officer and will be accompanied by an agenda and any written reports or other material to be considered at the meeting (and if an agenda is not provided, the request is of no effect).

7.8 **Notice of Meetings**

Notice of all meetings will be given to Board Members and to the public in a manner determined by the Board (or, in the absence of any determination by the Board, in a manner determined by the Principal Officer).

7.9 **Public Access**

- 7.9.1 Meetings of the Board will be open to the public unless the Board resolves to exclude the public (on whatever basis the Board sees fit).
- 7.9.2 Part 3 of Chapter 6 of the Act does not extend to the Subsidiary.
- 7.9.3 The Subsidiary will not exclude observers appointed by any Constituent Council under clause 21(8) of Schedule 2 to the Act.

7.10 **Confidentiality**

- 7.10.1 where the Board has considered any information or a matter in the absence of the public, all documents (including reports and minutes) relating to that matter will not be made available to the public unless the Board specifically resolves that any document(s) be made public.
- 7.10.2 all Board Members must at all times keep confidential all documents and any information provided to them on a confidential basis.

7.11 **Minutes**

- 7.11.1 The Board must ensure that accurate written minutes of its proceedings are kept and are produced for verification at the subsequent meeting of the Board.
- 7.11.2 The Principal Officer will ensure that all minutes, and any documents or reports supplied to the Board for consideration at a meeting of the Board, are available for inspection by members of the public at the principal office of the subsidiary or on a website determined by the Principal Officer unless the document or report is confidential in nature or the Board or the Principal Officer considers there is other good reason that the report should not be made available to the public.

7.12 Circular resolution

The Board may determine procedures by which a resolution may be made without a meeting of the Board, in accordance with and subject to clause 21(6) of Schedule 2 to the Act.

8. ADMINISTRATION

8.1 Principal Officer

- 8.1.1 There will be a Principal Officer of the Subsidiary appointed by the Board on such terms and conditions as may be determined by the Board.
- 8.1.2 The Principal Officer may, but need not, be an employee of the Subsidiary.
- 8.1.3 The Principal Officer:
- 8.1.3.1 is responsible for the appointing, employing, remunerating, managing, dismissing, removing or suspending subordinate employees of the Subsidiary (on behalf of the Subsidiary);
 - 8.1.3.2 is responsible for determining the conditions of employment and organisational structure with respect to subordinate employees;
 - 8.1.3.3 will give effect to the principles of human resource management generally applicable within the local government industry;
 - 8.1.3.4 will ensure that the policies and lawful decisions of the Board are implemented in a timely manner;
 - 8.1.3.5 is responsible for the efficient and effective day-to-day management of the operations and affairs of the Subsidiary;
 - 8.1.3.6 shall cause records to be kept of all activities and financial affairs of the Subsidiary in accordance with this Charter;
 - 8.1.3.7 shall provide advice and reports to the Board on the exercise and performance of the Subsidiary's powers and functions;
 - 8.1.3.8 may on behalf of the Subsidiary engage any professional advisors or other contractors to provide any services which are necessary or convenient to assist in the exercise or fulfilment of the powers, functions or duties of the Principal Officer and/or the Subsidiary.

- 8.1.4 The Principal Officer has such powers, functions and duties prescribed by this Clause and such additional, powers, functions and duties as may be determined by the Board from time to time to ensure the efficient and effective management of the operations and affairs of the Subsidiary.
- 8.1.5 In any case where the Subsidiary delegates a power, function or duty to the Principal Officer under clause 36 of Schedule 2 to the Act, such delegation includes (unless the Subsidiary expressly determines to the contrary) the power for the Principal Officer to subdelegate that power, function or duty to any of the persons or bodies listed in clause 36 of Schedule 2 to the Act.

8.2 The Business Plan

- 8.2.1 The Subsidiary shall have a rolling Business Plan in respect of the forthcoming four years.
- 8.2.2 The Business Plan must:
 - 8.2.2.1 state the services to be provided by the Subsidiary;
 - 8.2.2.2 identify how the Subsidiary intends to manage service delivery;
 - 8.2.2.3 identify the performance targets which the Subsidiary is to pursue;
 - 8.2.2.4 provide a statement of financial and other resources and internal processes that will be required to achieve the performance targets and purposes of the Subsidiary; and
 - 8.2.2.5 specify the performance measures that are to be used to monitor and assess performance against targets.
- 8.2.3 Prior to setting the draft budget each year, the Subsidiary must review the Business Plan in conjunction with the Constituent Councils;
- 8.2.4 The Board shall:
 - 8.2.4.1 compare the Business Plan against performance targets at least twice every Financial Year;
 - 8.2.4.2 review the contents of the Business Plan annually; and
 - 8.2.4.3 undertake reasonable consultation with the Constituent Councils prior to adopting or amending the Business Plan.

8.3 Budget

- 8.3.1 The Subsidiary must prepare and adopt an annual Budget for the forthcoming financial year. The Budget must:
- 8.3.1.1 deal with each principal activity of the Subsidiary on a separate basis;
 - 8.3.1.2 be consistent with and account for activities and circumstances referred to in the Subsidiary's Business Plan;
 - 8.3.1.3 identify the amount of surplus (deficit) brought forward from the previous year;
 - 8.3.1.4 identify the amount of subscriptions to be made by each Constituent Council;
 - 8.3.1.5 be submitted in draft form to each Constituent Council before 30 April for information of its proposed contribution for the ensuing year;
 - 8.3.1.6 be adopted by the Subsidiary after 31 May but before 31 July.
- 8.3.2 The adoption of the budget requires a two-thirds majority of the Board Members present.
- 8.3.3 The Subsidiary must provide a copy of its budget to each Constituent Council within five business days after adoption.
- 8.3.4 The Subsidiary must review its budget in accordance with the *Local Government (Financial Management) Regulations 2011*.
- 8.3.5 The Subsidiary must submit to each Constituent Council for approval any proposed amendment to the Budget. Any amendment to the Budget will not be approved unless it is approved by all Constituent Councils which would be required to contribute more funds under the proposed amended budget than they would under the Budget as originally adopted for that year (as well as there needing to be a two-thirds majority of Constituent Councils approving the amendment as per clause 1.6.1).
- 8.3.6 The Subsidiary may incur spending in accordance with clauses 25(4) and (5) of Schedule 2 to the Act.

8.4 Accounting

The Subsidiary must ensure that its accounting records, accounts and financial statements are prepared and maintained in accordance with all relevant Australian Accounting Standards and the *Local Government (Financial Management) Regulations 2011*.

8.5 Financial Management

- 8.5.1 The Subsidiary shall maintain an operations bank account and such other accounts as it may determine from time to time.
- 8.5.2 The Principal Officer shall cause adequate and proper books of account to be kept in relation to all affairs of the Subsidiary;
- 8.5.3 the financial year for the Subsidiary is from 1 July to 30 June;
- 8.5.4 the Subsidiary shall appoint no less than two Board Members, the Principal Officer, the President and Deputy President as authorised operators of the bank accounts. A minimum of two authorised operators must be required to sign cheques and deal with the bank account;
- 8.5.5 any payments made by Electronic Funds Transfer must be made in accordance with procedures set by the Board and approved by the Auditor;
- 8.5.6 the Subsidiary may distribute to the Constituent Councils (in equitable proportions determined by the Subsidiary) any surplus revenue as determined by the Board, having regard to estimated future expenditure that the Business Plan or Budget envisages in any financial year;
- 8.5.7 the Principal Officer must act prudently in the handling of all financial transactions for the Subsidiary and must provide quarterly financial and corporate reports to the Board and, if requested, the Constituent Councils.

8.6 Audit

- 8.6.1 the Subsidiary must appoint an Auditor in accordance with the *Local Government (Financial Management) Regulations 2011*.
- 8.6.2 the Subsidiary is exempt from the requirement to establish an audit committee. However, should the Subsidiary become not so exempt, an audit committee will be appointed in accordance with the *Local Government (Financial Management) Regulations 2011*.

8.7 Reports & Information

- 8.7.1 the Subsidiary must submit its annual report on its work and operations including its audited financial statements, to each Constituent Council before 30 September;
- 8.7.2 the Board shall report at any other time at the written request of a Constituent Council on matters being undertaken by the Subsidiary. Any such report shall be provided to all Constituent Councils.

8.8 Common Seal

- 8.8.1 The Subsidiary will have a common seal which may be affixed to documents requiring execution under common seal and its affixation must be witnessed by the President and one other Board Member (or, if the President is not available, any two Board Members).
- 8.8.2 The common seal must not be affixed to a document except to give effect to a resolution of the Board. The Principal Officer will maintain a register which records the resolutions of the Board giving authority to affix the common seal and details of the documents to which the common seal has been affixed with particulars of the persons who witnessed the fixing of the seal and the date.
- 8.8.3 The Board may by instrument under common seal authorise a person to execute documents on behalf of the Subsidiary. The Principal Officer will maintain a register of such resolutions and details of any documents executed in this way, together with particulars of the person executing the document.
- 8.8.4 The common seal shall be kept in the custody of the Principal Officer or such other person as the Board may from time to time decide.

8.9 Indemnity Schemes

The subsidiary shall register with the Local Government Mutual Liability scheme and Local Government Workers compensation scheme where applicable and comply with the rules of those schemes.

9. DISPUTES

In the event of any dispute or difference between one or more Constituent Councils and/or the Subsidiary concerning the operations or affairs of the Subsidiary, the following process will apply:

- 9.1 a Constituent Council will serve a notice of dispute on the Subsidiary with a contemporaneous copy being served on all other Constituent Councils.
- 9.2 the Constituent Councils will attempt to settle the dispute or difference by negotiating in good faith;
- 9.3 if good faith negotiations do not settle the dispute or difference within one month of the dispute arising, then the dispute shall be referred to an expert for determination. The expert shall be a person with the skills and expertise necessary to resolve the dispute and shall be nominated by the President of the LGA. The expert is an expert and not an arbitrator. The expert's determination shall be final and binding on the Constituent Councils. The costs of the expert will be apportioned and payable in accordance with the expert's determination;
- 9.4 if the dispute is unable to be resolved by the expert within six months of the dispute arising, then any Constituent Council may request the

Minister to wind up the Subsidiary (and such request will be taken to be a request made on behalf of the Constituent Councils for the purposes of clause 33(1)(a) to Schedule 2 to the Act); and

- 9.5 notwithstanding the existence of a dispute or difference, the Constituent Councils will continue to meet any and all of their obligations to the Subsidiary including all obligations arising under this Charter.

10. ALTERATION TO THE CHARTER

- 10.1 The Constituent Councils may amend this Charter at any time in accordance with clause 1.6.1. The amended Charter must be ratified at the next meeting of the Board after a unanimous resolution of the Constituent Councils have resolved to adopt the amended Charter. The amended Charter comes into effect upon ratification by the Board (or a later time if all of the Constituent Councils resolve that the amended Charter shall come into effect at such later time).
- 10.2 Before the Constituent Councils vote on a proposal to alter this Charter they will take into account any recommendations of the Board.
- 10.3 The Principal Officer must, on behalf of the Constituent Councils, ensure that:
- 10.3.1 the amended Charter is published on a website (or websites) determined by the chief executive officers of the Constituent Councils;
 - 10.3.2 a copy of the amended Charter is provided to the Minister; and
 - 10.3.3 a notice of the fact of the amendment and a website address at which the amended Charter is available for inspection is published in the Gazette.

11. CONSTITUENT COUNCILS

Addition of a Constituent Council

- 11.1 A Council which is not a Constituent Council may write to the President seeking to become a Constituent Council.
- 11.2 If a Council writes to the President under clause 11.1, the Board will consider whether the Council should be admitted as a Constituent Council and will communicate its views to the Constituent Councils.
- 11.3 A Council will not be admitted as a Constituent Council unless the Constituent Councils and the Minister approve the addition of the new Constituent Council (and the admission of the Council as a Constituent Council takes effect upon the last such approval being obtained).
- 11.4 If a new Constituent Council is admitted, the Charter shall be amended in accordance with the procedure for amendment of the Charter set out in clause 10 to make reference to the new Constituent Council.

Withdrawal of a Constituent Council

- 11.5 Subject to the approval of the Minister under the Act, a Constituent Council may withdraw as a Constituent Council of the Subsidiary by giving not less than 6 months' notice of its intention to do so to all other Constituent Councils and the Principal Officer, provided that its subscription of the current year and other monies outstanding prior to the date of its giving notice of withdrawal have been paid to the Subsidiary.
- 11.6 In any event a withdrawal cannot become effective until 30 June following the expiry of the six months in the preceding subclause. Until withdrawal becomes effective, the Constituent Council proposing withdrawal from the Subsidiary will remain liable for all financial contributions in the remaining period and, through its members on the Board, the responsibility of ensuring the continued proper conduct of the affairs of the Subsidiary.
- 11.7 A withdrawing Constituent Council is not entitled to any refunds of any contributions made.
- 11.8 The withdrawal of any Constituent Council does not extinguish liability of that Constituent Council to contribute to any loss or liability incurred by the Subsidiary at any time before or after such withdrawal in respect of any act or omission by the Subsidiary prior to such withdrawal.
- 11.9 A Constituent Council may not withdraw from the Subsidiary except with the approval of the Minister and subject to the Act and this Charter.

Affiliates

- 11.10 A Council which is not a Constituent Council may write to the President seeking to become an Affiliate.
- 11.11 An Affiliate is not a Constituent Council.
- 11.12 The Subsidiary may exercise functions and powers for the benefit of an Affiliate (or for a particular region within the area of the Affiliate) in exchange for contributions from the Affiliate.
- 11.13 The Subsidiary may agree to admit an Affiliate on whatever terms and subject to whatever conditions the Subsidiary and the Affiliate may agree (subject to any applicable laws).

12. CIRCUMSTANCES NOT PROVIDED FOR

If any circumstances arise in respect of which this Charter is silent or is incapable of taking effect or being implemented according to its strict provisions, the Subsidiary will have the power to determine what action may be taken to ensure the effective administration and objectives of the Subsidiary provided that such action will be determined at a meeting of the Subsidiary.

13. WINDING UP

- 13.1 If the Subsidiary is wound up in accordance with clause 33 of Schedule 2 to the Act, then, after payment of all debts and expenses of the Subsidiary, any surplus assets shall be returned to Constituent Councils in proportion to the subscription paid in the financial year prior to the winding up (or otherwise in such manner as all of the Constituent Councils may agree).
- 13.2 In the event that the Subsidiary is wound up and there are insufficient funds to pay all debts and expenses of the Subsidiary, the Constituent Councils will pay all such debts and expenses in proportion to the subscription payable in the financial year prior to the winding up.
- 13.3 To avoid doubt, a request made to the Minister pursuant to clause 1.6.1 or pursuant to clause 9.4 to wind up the Subsidiary will be taken to be a request made on behalf of the Constituent Councils for the purposes of clause 33(1)(a) to Schedule 2 to the Act.

14. INSOLVENCY

In the event of the insolvency of the Subsidiary, each Constituent Council shall be responsible for the liabilities of the Subsidiary in proportion to the subscription payable in the financial year prior to its insolvency.