

**FLEURIEU REGIONAL AQUATIC CENTRE AUTHORITY**  
**REGIONAL SUBSIDIARY**  
**CHARTER 2015**

**1. INTRODUCTION**

**1.1 Name**

The name of the subsidiary is the Fleurieu Regional Aquatic Centre Authority (referred to as 'the Authority' in this Charter).

**1.2 Definitions**

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

'**the Aquatic Centre**' means the Fleurieu Regional Aquatic Centre located at Lot 50, Corner of Waterport Road and Ocean Road, Hayborough South Australia 5212 consisting of:

- an 8 lane 25 meter lap swimming pool;
- a multi-use rehabilitation, leisure and children's pool;
- a crèche facility;
- a commercial kiosk;
- plant and equipment rooms;
- dedicated change rooms and toilet facilities;
- office, first aid and lifeguard accommodation;
- dedicated carparking, bus parking, pedestrian linkages and traffic management;
- other facilities and services as may be provided from time to time;

'**the Authority**' means the Fleurieu Regional Aquatic Centre Authority;

'**the Board**' means the Board of Management of the Authority set out at Clause 3;

'**Board Member**' includes a Constituent Council Board Member, an Independent Board Member and a Deputy Board Member;

'**Budget**' means the annual budget adopted by the Authority pursuant to Clause 5.1;

'**Business Plan**' means the business plan adopted by the Authority pursuant to Clause 6.2;

**'Chairperson'** means the member of the Board appointed pursuant to Clause 3.11;

**'Executive Officer'** means the person appointed pursuant to Clause 4.1 as the Executive Officer of the Authority;

**'Constituent Councils'** means those councils identified at Clause 1.4;

**'Constituent Council Board Member'** means a member of the Board appointed pursuant to Clause 3.4.1.1;

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

**'Date of Withdrawal'** means the date a Constituent Council's withdrawal from the Authority becomes effective pursuant to Clause 7.1;

**'Deputy Board Member'** means a deputy member of the Board appointed pursuant to Clause 3.6;

**'Financial Statements'** has the same meaning as in the Act;

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

**'Independent Board Member'** means a member of the Board appointed pursuant to Clause 3.4.1.2;

**'Long Term Financial Plan'** means the long term financial plan prepared by the Authority and approved by the Constituent Councils pursuant to Clause 5.5;

**'Net Assets'** means total assets (current and non-current) less total liabilities (current and non-current) of the Authority as reported in the annual audited financial statements of the Authority;

**'Selection Panel'** means the Panel established pursuant to Clause 3.6;

**'Strategic Plan'** means the strategic plan adopted by the Authority pursuant to Clause 6.1.

### 1.3 Interpretation

In this Charter, unless the context otherwise requires:

1.3.1 headings do not affect interpretation;

1.3.2 singular includes plural and plural includes singular;

1.3.3 words of one gender include any gender;

1.3.4 a reference to a person includes a partnership, corporation, association, government body and any other entity;

1.3.5 a reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;

- 1.3.6 an unenforceable provision or part of a provision of this Charter may be severed, and the remainder of this Charter continues in force, unless this would materially change the intended effect of this Charter;
- 1.3.7 the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- 1.3.8 a reference to a 'Clause' means a clause of this Charter.

#### **1.4 Establishment**

- 1.4.1 The Authority is a regional subsidiary established under Section 43 of the Act by the Constituent Councils.
- 1.4.2 The Constituent Councils are:
  - 1.4.2.1 Alexandrina Council; and
  - 1.4.2.2 the City of Victor Harbor.

#### **1.5 Local Government Act 1999**

This Charter must be read in conjunction with Parts 2 and 3 of Schedule 2 to the Act. The Authority shall conduct its affairs in accordance with Parts 2 and 3 of Schedule 2 to the Act except as modified by this Charter in a manner permitted by the Act.

#### **1.6 Objects and Purposes of the Authority**

The Authority is established for the following objects and purposes:

- 1.6.1 to enable the joint ownership of the Aquatic Centre by the Constituent Councils and the provision of facilities and services at the Aquatic Centre;
- 1.6.2 to manage the facilities of and services at the Aquatic Centre in accordance with this Charter and all applicable legislation;
- 1.6.3 to undertake the care, protection, management, operation and improvement of the Aquatic Centre and its associated facilities and services in an efficient, effective and sustainable manner;
- 1.6.4 to pro-actively manage the business of the Aquatic Centre in a competitive and changing environment;
- 1.6.5 to deliver effective and sustainable service provision for the Constituent Councils, customers of the Aquatic Centre and the regional communities of and surrounding the Constituent Councils;
- 1.6.6 to contribute to the education and welfare of the Constituent Councils and the wider community through the facilitation of various aquatic programs;
- 1.6.7 to foster social inclusion through the provision of a community place providing a variety of aquatic programs and associated services and facilities;

- 1.6.8 to maximise participation in and use of the aquatic programs provided at the Aquatic Centre and the facilities and services of the Aquatic Centre by users of all ages and abilities;
- 1.6.9 to undertake key strategic and policy decisions for the purpose of enhancing and developing the Aquatic Centre;
- 1.6.10 to establish and demonstrate ethical policies and standards, in accordance with the rights of customers and industry standards; and
- 1.6.11 to, as far as possible, be financially self-sufficient.

## 1.7 **National Competition Policy**

If the Authority is at any time involved in a significant business activity as defined in the Clause 7 Statement prepared under the Competition Principles Agreement of the National Competition Policy, it will implement the principles of competitive neutrality by way of annual review of its business operations in the market place and application of the relevant principle(s) where that is appropriate to do so, unless the benefits to be realised through the application of the principles of competitive neutrality outweigh the costs associated with implementation as provided for in Part 4 of the Government Business Enterprises (Competition) Act 1996.

## 2. **FUNCTIONS, POWERS AND DUTIES OF THE AUTHORITY**

The functions, powers and duties of the Authority are to be exercised in the performance and furtherance of the Authority's objects and purposes.

### 2.1 **Functions and Powers**

In addition to those specified in the Act, the functions and powers of the Authority are:

- 2.1.1 to be responsible for the operation, renewal and maintenance of the Aquatic Centre;
- 2.1.2 to promote the services and facilities of the Aquatic Centre;
- 2.1.3 to accumulate surplus funds for investment purposes;
- 2.1.4 to establish and maintain a reserve fund or funds clearly identified for the upkeep and/or replacement of fixed assets of the Authority or meeting any deferred liability of the Authority;
- 2.1.5 to establish and maintain a cash reserve development fund or funds clearly identified for future initiatives supported by the Strategic Plan;
- 2.1.6 subject to Clause 2.5 to enter into any kind of contract or arrangement;
- 2.1.7 to borrow funds and incur expenditure in accordance with Clause 2.6;
- 2.1.8 subject to Clause 2.5 to employ, engage determine conditions of employment/engagement, remunerate, remove, suspend or dismiss/terminate the Executive Officer of the Authority;

- 2.1.9 subject to Clause 2.5 to employ, engage or retain professional advisers to the Authority;
- 2.1.10 to set and charge fees for the use of facilities and services at the Aquatic Centre;
- 2.1.11 subject to Clause 2.5 to institute, initiate and carry on legal proceedings;
- 2.1.12 to adopt and use a trading name provided that the Authority must first register the trading name with Consumer and Business Services in accordance with the Business Names Act 1996;
- 2.1.13 subject to Clause 2.5 to agree to undertake a project in conjunction with any council or government agency or authority and in so doing to participate in the formation of a trust, partnership or joint venture with any council or government agency or authority to give effect to the project;
- 2.1.14 to open and operate bank accounts;
- 2.1.15 to make submissions for and accept grants, subsidies and contributions to further its objects and purposes;
- 2.1.16 to invest any funds of the Authority in any investment provided that:
  - 2.1.16.1 in exercising this power of investment the Authority must exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
  - 2.1.16.2 the Authority must avoid investments that are speculative or hazardous in nature;
  - 2.1.16.3 any investments must be with the Local Government Finance Authority only;
- 2.1.17 subject to Clause 2.2 undertaking and exercising such powers and functions as specified in this Charter outside the areas of the Constituent Councils;
- 2.1.18 provided that the consent of the Constituent Councils has first been obtained other than as set out in Clause 2.1.13, to participate in a trust, including by becoming and exercising the powers of a trustee, not inconsistent with this Charter or the objects and purposes of the Authority;
- 2.1.19 the power to do anything else necessary or convenient for or incidental to the exercise, performance or discharge of its powers, functions or duties or the attainment of its objects and purposes;
- 2.1.20 to directly market the facilities and services of the Aquatic Centre;

- 2.1.21 with the prior approval of the Constituent Councils to purchase, sell or otherwise acquire, dispose of or encumber any real property or interests therein other than by lease or licence;
- 2.1.22 subject to Clause 2.5, to lease, licence, hire or rent any real property or interests therein.

## 2.2 Duties

The Authority has the following duties:

- 2.2.1 to exercise the functions and powers of the Authority only in the performance and furtherance of the Authority's objects and purposes;
- 2.2.2 notwithstanding any other Clause or provision in this Charter not to act outside the areas of the Constituent Councils unless the prior approval of the Constituent Councils that such action is necessary or expedient to the performance of the Constituent Councils' or the Authority's functions has been obtained;
- 2.2.3 to comply with this Charter, the Act, all other applicable law and any lawful joint direction of the Constituent Councils.

## 2.3 Other Powers, Functions and Duties

The Authority may exercise such other functions, powers and duties as are delegated to the Authority or authorised by the Constituent Councils from time to time.

## 2.4 Common Seal

- 2.4.1 The Authority will have a common seal.
- 2.4.2 The common seal of the Authority must not be affixed to a document except to give effect to a resolution of the Board.
- 2.4.3 The affixation of the common seal of the Authority must be attested by two Board Members or the Executive Officer and one (1) Board Member.
- 2.4.4 The Executive Officer must 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 the particulars of persons who witnessed the fixing of the seal and the date that the seal was affixed.
- 2.4.5 The Authority may by instrument under common seal authorise a person to execute documents on behalf of the Authority subject to any limitations specified in the instrument of authority.

## 2.5 Borrowings and Expenditure

- 2.5.1 The Authority has the power to incur expenditure as follows:

- 2.5.1.1 in accordance with a budget adopted by the Authority and approved by the Constituent Councils as required by the Act or this Charter; or
  - 2.5.1.2 with the prior approval of both of the Constituent Councils; or
  - 2.5.1.3 in accordance with the Act, in respect of expenditure not contained in a budget adopted by the Authority for a purpose of genuine emergency or hardship.
- 2.5.2 Subject to Clause 2.5.3 the Authority has the power to borrow money as follows:
- 2.5.2.1 in accordance with a budget adopted by the Authority as required by the Act or this Charter;
  - 2.5.2.2 in respect of an overdraft facility or facilities up to a maximum amount of \$100,000;
  - 2.5.2.3 with the prior approval of the Constituent Councils.
- 2.5.3 Unless otherwise approved by both of the Constituent Councils any and all borrowings taken out by the Authority:
- 2.5.3.1 must be from the Local Government Financial Authority; and
  - 2.5.3.2 in the case of fixed loans, must be drawn down within a period of 24 months from the date of approval.

## 2.6 **Property**

- 2.6.1 All property held by the Authority is held by it on behalf of the Constituent Councils.
- 2.6.2 Except as provided in Clause 2.1.22 no property of the Authority may be sold, encumbered or otherwise dealt with without the prior approval of the Constituent Councils and the approval of the Authority by a resolution of the Board.

## 2.7 **Delegation by the Authority**

- 2.7.1 The Authority may, in accordance with this Charter, and the Act by resolution, delegate to a committee, an employee of the Authority or a Constituent Council or to a person for the time being occupying a particular office or position any of its powers and functions under this Charter but may not delegate:
  - 2.7.1.1 the power to borrow money or obtain any other forms of financial accommodation not contained in a Budget adopted by the Authority;
  - 2.7.1.2 the power to approve expenditure of money on works, services or operations of the Authority not contained in a Budget adopted by the Authority;

- 2.7.1.3 the power to approve the reimbursement of expenses or payment of allowances to Board Members;
  - 2.7.1.4 the power to adopt or revise a Budget of the Authority;
  - 2.7.1.5 the power to adopt or revise a Business Plan, Strategic Plan or Long Term Financial Plan of the Authority;
  - 2.7.1.6 the power to adopt or revise financial estimates and reports; and
  - 2.7.1.7 the power to make any application or recommendation to the Minister.
- 2.7.2 A delegation is revocable at will and does not prevent the Authority from acting in a matter.

### **3. BOARD OF MANAGEMENT**

#### **3.1 Structure**

- 3.1.1 The Authority is a body corporate and is governed by the Act and this Charter.
- 3.1.2 The Board is the Authority's governing body and has the responsibility for the administration of the affairs of the Authority ensuring that the Authority acts in accordance with this Charter and all relevant legislation including the Act.
- 3.1.3 All meetings of the Authority shall be meetings of the Board.

#### **3.2 Role of the Board**

The Board, is responsible for the administration of the affairs of the Authority and ensuring that the Authority acts in accordance with this Charter and all relevant legislation including the Act.

#### **3.3 Functions of the Board**

In addition to the functions of the Board set out in the Act, the functions of the Board include:

- 3.3.1 striving to position the Authority as the premier provider of a regional aquatic facility and related services;
- 3.3.2 the formulation of strategic and business plans in accordance with Clauses 6.1 and 6.2 and the development of strategies aimed at improving the business of the Aquatic Centre;
- 3.3.3 providing professional input and policy direction to the Authority;
- 3.3.4 ensuring strong accountability and stewardship of the Authority;
- 3.3.5 monitoring, overseeing and measuring the performance of the Executive Officer of the Authority;



- 3.3.6 ensuring that ethical behaviour and integrity is established and maintained by the Authority, the Board and Board Members in all activities undertaken by the Authority;
- 3.3.7 subject to Clause 3.12.5, ensuring that the business of the Authority is undertaken in an open and transparent manner;
- 3.3.8 developing and adopting such policies and procedures as give effect to good governance and administrative practices;
- 3.3.9 exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
- 3.3.10 avoiding investments that are speculative or hazardous by nature.

#### 3.4 **Membership of the Board**

- 3.4.1 The Board shall consist of five (5) members appointed as follows:

- 3.4.1.1 Constituent Council Board Members

- Each Constituent Council must appoint for a maximum period of two (2) years taking into account the timing of local government general elections and on such other conditions as the Constituent Council may determine one (1) elected member of the Constituent Council to be a Board Member and may at any time terminate or revoke that appointment and appoint another elected member of the Constituent Council to be a Board Member;

- 3.4.1.2 Independent Board Members

- (a) Following the receipt of recommendations from the Selection Panel in accordance with Clause 3.4.3, the Constituent Councils must appoint three (3) persons to be Board Members for a maximum period of three (3) years each provided that no more than one (1) Independent Board Member's term of office will conclude per calendar year and on such other conditions as the Constituent Councils may determine and the Constituent Councils may at any time terminate or revoke one or more of those appointments and appoint one or more (as the case may be) other persons to be a Board Member(s).
    - (b) The Constituent Councils must as far as possible ensure that the Independent Board Members collectively possess the following skills and experience:
      - (i) chairing;
      - (ii) finance;
      - (iii) governance;

- (iv) community service delivery;
- (v) asset management; and
- (vi) risk management.

3.4.2 Each Constituent Council must give notice in writing to the Authority of its appointment of Board Members, the term of appointment, any other conditions, and of any termination or revocation of those appointments. A notice in writing signed by the Chief Executive Officer of the Constituent Council will be sufficient evidence of an appointment, termination or revocation of an appointment and will constitute notice as required by this Clause 3.4.2.

3.4.3 The Selection Panel shall invite applications for the position of Independent Board Member and assess such applications through such process as it considers appropriate and make recommendations to the Constituent Councils on the appointment of Independent Board Members including the terms and conditions to attach to such appointments.

### **3.5 Deputy Board Member**

3.5.1 Each Constituent Council must appoint an elected member of the Constituent Council (not being a Board Member) to be a Deputy Board Member for such term and on such other conditions as the Constituent Council may determine and may at any time terminate or revoke that appointment and appoint another elected member of the Constituent Council to be a Deputy Board Member.

3.5.2 A Deputy Board Member is entitled to act in place of the Board Member appointed by the same Constituent Council that appointed the Deputy Board Member if that Board Member is absent or unable for any reason to act as a Board Member.

3.5.3 In the absence of a Board Member or inability of a Board Member to act as a Board Member, a Deputy Board Member appointed by the same Constituent Council that appointed the Board Member may exercise all the rights and privileges of the Board Member and will be deemed to be the Board Member for the period of the Board Member's absence or inability to act as a Board Member.

### **3.6 Selection Panel**

3.6.1 The Selection Panel is to be comprised of five (5) members being the Mayors and the Chief Executive Officers of the Constituent Councils or in the case of the Mayors a proxy elected member appointed by the Mayor or in the case of the Chief Executive Officer a proxy officer appointed by the Chief Executive Officer (where the proxy must respectively be a member or officer from the appointer's council) and either a legal practitioner or a human resource specialist, not being an employee or elected member of a Constituent Council, unanimously agreed to by the Chief Executive Officers and Mayors of the Constituent Councils and engaged for the purpose – and who in the opinion of the Chief Executive Officers and Mayors will add value by

their abilities and experience to the effective performance of the Authority's business and management obligations.

- 3.6.2 Those members of the Selection Panel comprising the Mayors or Chief Executive Officers of the Constituent Councils will cease to hold office as a member of the Selection Panel upon ceasing to hold office as a Mayor of a Constituent Council or ceasing to be employed as a Chief Executive Officer of a Constituent Council.
- 3.6.3 Subject to Clause 3.6.4, the member of the Selection Panel being a legal practitioner or human resource specialist will hold office for up to three years as determined by the Chief Executive Officers and Mayors of the Constituent Councils and at the conclusion of their term of office will be eligible for reappointment.
- 3.6.4 The Chief Executive Officers and Mayors of the Constituent Councils may at any time terminate the appointment of the member of the Selection Panel being the legal practitioner or human resource specialist.
- 3.6.5 The member of the Selection Panel, being the legal practitioner or human resource specialist, shall be remunerated by the Authority in such amount as determined by the Chief Executive Officers and Mayors of the Constituent Councils.

### **3.7 Office of Board Member**

- 3.7.1 Subject to Clause 3.7.4, at the conclusion of a Constituent Council Board Member's term of office such Constituent Council Board Member will be eligible for re-appointment except that no person shall hold office as a Board Member for more than two (2) consecutive terms save that where a term of office held by a Constituent Council Board Member is less than one (1) year, that term of office shall not be counted as a term of office of that Constituent Council Board Member for the purposes of this Clause 3.7.1.
- 3.7.2 Subject to Clause 3.7.4, at the conclusion of an Independent Board Member's term of office such Independent Board Member will be eligible for re-appointment except that no person shall hold office as a Board Member for more than two (2) consecutive terms, save where a term of office held by an Independent Board Member is less than one (1) year, that term of office shall not be counted as a term of office of that Independent Board Member for the purposes of this Clause 3.7.2.
- 3.7.3 The Constituent Councils must ensure when appointing an Independent Board Member and determining the term of office of an Independent Board Member that no more than one (1) Independent Board Member's term of office will conclude per calendar year.
- 3.7.4 A Board Member, including where applicable an Independent Board Member, will cease to hold office:
  - 3.7.4.1 if any of the grounds or circumstances set out in the Act as to when a Board Member's office becomes vacant arises; or

- 3.7.4.2 in relation to a Constituent Council Board Member and Deputy Board Member, immediately upon:
- (a) the Constituent Council which appointed the Board Member terminating or revoking the Board Member's appointment;
  - (b) the Constituent Council which appointed the Board Member ceasing to be a Constituent Council;
  - (c) the Board Member ceasing to be an elected member of the Constituent Council that appointed him or her;
  - (d) the conclusion of the next periodic local government election following their appointment.
- 3.7.5 The Authority may, by resolution supported by at least two thirds of the Board Members currently in office (excluding the Board Member subject to this Clause and ignoring any fraction) make a recommendation to a Constituent Council that it terminate the appointment of a Constituent Council Board Member appointed by that Constituent Council, or make a recommendation to the Constituent Councils that they terminate the appointment of an Independent Board Member, in the event of any behaviour of a Board Member which in the opinion of the Authority amounts to:
- 3.7.5.1 impropriety;
  - 3.7.5.2 serious neglect of duty in attending to the responsibilities as a Board Member;
  - 3.7.5.3 breach of fiduciary duty to the Authority;
  - 3.7.5.4 breach of any of the legislative obligations and duties of a Board Member including the conflict of interest provisions in the Act;
  - 3.7.5.5 breach of the duty of confidentiality to the Authority; or
  - 3.7.5.6 any other behaviour which may discredit the Board, the Authority or the Constituent Councils.
- 3.7.6 Where, for any reason, the office of a Constituent Council Board Member becomes vacant the Constituent Council which appointed the Board Member will be responsible for appointing a replacement Board Member.
- 3.7.7 Where, for any reason, the office of an Independent Board Member becomes vacant the Constituent Councils will be responsible for appointing a replacement Board Member.
- 3.7.8 Where any vacancy occurs in the membership of the Board it must be filled in the same manner as the original appointment and the person appointed to fill the vacancy will be appointed for the balance of the

term of the original appointment and at the expiry of that term shall be eligible for reappointment.

### **3.8 Remuneration of Board Members**

- 3.8.1 The Authority will pay each Board Member a sitting fee as determined by the Constituent Councils following the receipt of a recommendation from the Selection Panel having regard to the Guidelines for Agencies and Board Directors published from time to time by the Department of Premier and Cabinet for Government Boards and Committees or such publication as may succeed such Guidelines).
- 3.8.2 All Board Members will receive from the Authority reimbursement of expenses properly incurred in performing or discharging official functions and duties as determined by the Authority and set out in a policy adopted by the Authority for the purposes of this clause.
- 3.8.3 The Selection Panel will review the sitting fee to be paid to the Board Members and make recommendations to the Constituent Councils of the outcome of the review and any alteration to such fees.

### **3.9 Insurance**

The Authority must take out a suitable policy of insurance insuring Board Members and their spouses or another person who may be accompanying a Board Member, against risks associated with the performance or discharge of their official functions and duties or on official business of the authority.

### **3.10 Propriety of Members of the Board**

- 3.10.1 All provisions governing the propriety and duties of elected members of a council and public officers under the Act and other South Australian legislation apply to Board Members.
- 3.10.2 Board Members are required to submit returns under Chapter 5, Part 4, Division 2 of the Act.
- 3.10.3 The provisions regarding conflict of interest prescribed in the Act apply to all Board Members as if they were elected members of a council and the Authority were a council.
- 3.10.4 Board Members must act in accordance with their duties of confidence and confidentiality and other legal and fiduciary duties, to the Authority at all times while acting in their capacity as a Board Member including honesty and the exercise of reasonable care and diligence as required by Part 4, Division 1, Chapter 5 of the Act and Clause 23 of Schedule 2, Part 2 of the Act.
- 3.10.5 The Authority must adopt a Code of Conduct for Board Members to be approved by the Constituent Councils.

### 3.11 **Chairperson of the Board**

- 3.11.1 The Selection Panel must make a recommendation to the Constituent Councils on the appointment from amongst the Independent Board Members of a Chairperson.
- 3.11.2 Following the receipt of a recommendation by the Selection Panel, the Constituent Councils will appoint an Independent Board Member to be the Chairperson for a term of up to three (3) years and on such other terms as determined by the Constituent Councils and subject to Clauses 3.7.2 and 3.7.4 at the conclusion of the Chairperson's term of office, the Chairperson will be eligible for reappointment.
- 3.11.3 The Chairperson will cease to hold office as Chairperson in the event:
  - 3.11.3.1 the Chairperson resigns as Chairperson; or
  - 3.11.3.2 the Chairperson ceases to be a Board Member; or
  - 3.11.3.3 the Constituent Councils terminate the Chairperson's appointment as Chairperson.
- 3.11.4 In the event that the office of Chairperson becomes vacant, then the Constituent Councils must appoint a new Chairperson who shall hold office for the balance of the original term or until such later date as the Constituent Councils may determine.
- 3.11.5 The Board shall appoint a Board Member, other than the Chairperson to be the Deputy Chairperson for a term of up to three (3) years and at the conclusion of the Deputy Chairperson's term of office, the Deputy Chairperson is eligible for reappointment.
- 3.11.6 In the event that the Chairperson resigns, is removed from office by the Constituent Councils, refuses or is unable to act as Chairperson, or is no longer eligible to act as a Board Member, then the Deputy Chairperson shall act in that office and in the event that the Deputy Chairperson refuses or is unable to act as Chairperson, the Board shall appoint a Board Member to be the Chairperson until such time as a Chairperson has been appointed by the Constituent Councils whereupon the person so appointed shall hold office as the Chairperson for the balance of the original term.
- 3.11.7 The Chairperson must preside at all meetings of the Board and, in the event the Chairperson is absent from a meeting, the Deputy Chairperson shall preside and in the event of both the Chairperson and Deputy Chairperson being absent from a meeting, the Board must appoint one of the Board Members present to preside at that meeting only.

### 3.12 **Proceedings of the Board**

#### Board Meetings

- 3.12.1 Ordinary meetings of the Board will be held at such times and places as determined by the Board except that there must be at least one ordinary meeting of the Board every three months.
- 3.12.2 An ordinary meeting of the Board will constitute an ordinary meeting of the Authority. The Board shall administer the business of the Authority at the ordinary meeting.
- 3.12.3 For the purpose of this Clause 3.12, the contemporary linking together by telephone, audio-visual or other instantaneous means ('telecommunications meeting') of the Board Members provided that at least a quorum is present, is deemed to constitute a meeting of the Board. 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 other Board Members present. At the commencement of the meeting, each Board Member must announce his/her presence to all other Board Members taking part in the meeting. A Board Member must not leave a telecommunications meeting by disconnecting his/her telephone, audio-visual or other communication equipment, unless that Board Member has previously notified the Chair of the meeting.
- 3.12.4 A proposed resolution in writing and given to all Board Members in accordance with procedures determined by the Board will be a valid decision of the Board and will constitute a valid decision of the Authority where a majority of Board Members vote in favour of the resolution by signing and returning the resolution to the Executive Officer or otherwise giving written notice of their consent and setting out the terms of the resolution to the Executive Officer. The resolution will be deemed a resolution of the Board and will be as valid and effective as if it had been passed at a meeting of the Board duly convened and held.
- 3.12.5 Meetings of the Board will be open to the public and Chapter 6 Part 3 of the Act extends to the Authority as if the Authority were a council and the Board Members were members of the council.
- 3.12.6 The Executive Officer must within one calendar month following a local government periodic election, call an ordinary meeting of the Board at which meeting the time, date and place of ordinary meetings of the Board will be determined.

#### Notice of Meetings

- 3.12.7 Subject to Clause 3.12.11, notice of an ordinary meeting of the Board will be given by the Executive Officer to each Board Member not less than three (3) clear days prior to the holding of the meeting.
- 3.12.8 The Executive Officer must, in relation to a notice of meeting of the Board for the purpose of considering the making of a recommendation to the Constituent Councils to wind up the Authority, provide the notice

to all Board Members at least four (4) months before the date of the meeting.

- 3.12.9 Notice of a meeting of the Board must:
  - 3.12.9.1 be in writing; and
  - 3.12.9.2 set out the date, time and place of the meeting; and
  - 3.12.9.3 be signed by the Executive Officer; and
  - 3.12.9.4 contain, or be accompanied by, the agenda for the meeting.
- 3.12.10 Any Constituent Council, the Chairperson or three (3) Board Members may by delivering a written request to the Executive Officer require a special meeting of the Board to be held and any such special meeting shall constitute a special meeting of the Authority. The written request must be accompanied by the agenda for the special meeting and if an agenda is not provided the request has no effect.
- 3.12.11 On receipt of a written request pursuant to Clause 3.12.10, the Executive Officer and Chairperson must determine the date and time of the special meeting and the Executive Officer must give notice to all Board Members at least four (4) hours prior to the commencement of the special meeting.
- 3.12.12 The Executive Officer must, insofar as is reasonably practicable:
  - 3.12.12.1 ensure that items on an agenda given to Board Members are described with reasonable particularity and accuracy; and
  - 3.12.12.2 supply to each Board Member at the time that notice of a meeting is given a copy of any documents or reports that are to be considered at the meeting (so far as this is practicable).
- 3.12.13 Notice of a meeting of the Board may be given to a Board Member:
  - 3.12.13.1 personally; or
  - 3.12.13.2 by delivering the notice (whether by post or otherwise) to the usual place of residence of the Board Member or to another place authorised in writing by the Board Member; or
  - 3.12.13.3 in the case of a Constituent Council Board Member by leaving the notice for the Board Member at an appropriate place at the principal office of the Constituent Council which appointed the Board Member; or
  - 3.12.13.4 by a means authorised in writing by the Board Member as being an available means of giving notice.
- 3.12.14 A notice that is not given in accordance with Clause 3.12.13 is taken to have been validly given if the Executive Officer considers it



impracticable to give the notice in accordance with that Clause and takes action the Executive Officer considers reasonably practicable in the circumstances to bring the notice to the attention of the Board Member.

3.12.15 The Executive Officer must give notice to the public of the times and places of meetings of the Board at least three (3) clear days prior to the holding of the meeting by causing a copy of the notice and agenda for the meeting to be placed on public display at the principal offices of the Constituent Councils and the Authority.

3.12.16 Subject to Clause 3.12.18, the Executive Officer must also ensure that a reasonable number of copies of any document or report supplied to Board Members for consideration at a meeting of the Board are available for inspection by members of the public:

3.12.16.1 at the principal offices of the Constituent Councils and the Authority as soon as practicable after the time when the document or report is supplied to Board Members; or

3.12.16.2 in the case of a document or report supplied to Board Members at the Board Meeting, at the meeting as soon as practicable after the time when the document or report is supplied to Board Members.

3.12.17 The Executive Officer may indicate on a document or report provided to Board Members under Clause 3.12.12 any information or matter contained in or arising from a document or report that may, if the Board determines, be considered in confidence in accordance with Clause 3.12.5 provided that the Executive Officer at the same time specifies the basis on which an order could be made pursuant to the provisions of Chapter 6 Part 3 of the Act.

3.12.18 Clause 3.12.16 does not apply to a document or report:

3.12.18.1 that is subject to the operation of Clause 3.12.17; or

3.12.18.2 that relates to a matter dealt with by the Board on a confidential basis in accordance with Clause 3.12.5 and Chapter 6 Part 3 of the Act.

3.12.19 The Executive Officer must maintain a record of all notices of Board meetings given under Clause 3.12.9 to Board Members.

#### Quorum

3.12.20 A meeting of the Board must not commence until a quorum of Board Members is present and a meeting must not continue if there is not a quorum of Board Members present. A quorum of Board Members will comprise one half of the Board Members in office, ignoring any fraction, plus one.

### Majority Decision Making

- 3.12.21 Unless otherwise required at law or by this Charter, all matters for decision at a meeting of the Board will be decided by a simple majority of the Board Members present and entitled to vote on the matter. All Board Members including the Chairperson present and entitled to vote on a matter are required to vote. All Board Members including the Chairperson are entitled to a deliberative vote and if the votes are equal the Chairperson or other Board Member presiding at the meeting does not have a second or casting vote.

### Confidentiality

- 3.12.22 All Board Members must at all times keep confidential all documents and reports provided to them for their consideration prior to a meeting of the Board that is subject to the operation of Clause 3.12.17 or that relates to a matter dealt with by the Board on a confidential basis in accordance with Clause 3.12.5 and Chapter 6, Part 3 of the Act.

### Minutes

- 3.12.23 The Executive Officer must cause minutes to be kept of the proceedings at every meeting of the Board and ensure that the minutes are presented to the next ordinary meeting of the Board for confirmation. Where the Executive Officer is absent or excluded from attendance at a meeting of the Board pursuant to Clause 3.12.5, the person presiding at the meeting shall cause the minutes to be kept.
- 3.12.24 The Executive Officer must, within five (5) days after a meeting of the Board provide to each Board Member a copy of the minutes of the meeting of the Board.
- 3.12.25 Subject to Clause 3.12.26, a copy of the minutes of a meeting of the Board must be placed on public display at the principal offices of the Constituent Councils and the Authority within five (5) days after the meeting and kept on public display for a period of one (1) month.
- 3.12.26 Clause 3.12.25 does not apply to the minutes of a meeting of the Board that relates to a matter dealt with by the Board on a confidential basis in accordance with Clause 3.12.5 and Chapter 6 Part 3 of the Act.

### Code of Practice

- 3.12.27 The Board must adopt a Code of Practice for Meeting Procedures to apply to the proceedings at and conduct of meetings of the Board. The Code of Practice for Meeting Procedures must not be inconsistent with the Act or this Charter.
- 3.12.28 The Code of Practice for Meeting Procedures may be reviewed by the Board at any time and must be reviewed at least once every three (3) years.
- 3.12.29 In the event of any inconsistency between this Charter and the Code of Practice for Meeting Procedures, this Charter shall prevail.

### Board Committees

3.12.30 The Board may establish Committees as it considers necessary, and determine the membership and terms of reference and meeting procedures of such committees as it sees fit.

### **3.13 Board Annual Performance Review**

3.13.1 The Selection Panel will oversee an independent performance review of the Board to be undertaken every second year. The performance review will be conducted within two (2) calendar months of the commencement of a Financial Year in respect of the immediately preceding Financial Year and will be facilitated by an independent consultant experienced in such performance reviews on such conditions as the Selection Panel may determine.

3.13.2 In conducting the performance review the independent consultant will:

3.13.2.1 have regard to requirements of the Act and the Regulations;

3.13.2.2 be provided with access to Board papers, minutes, budgets, financial results, plans and procedures;

3.13.2.3 interview Board members individually or collectively;

3.13.2.4 make recommendations as to the:

(a) workings of the Board;

(b) replacement of individual Board members;

(c) addition of Board members;

3.13.2.5 consult with Board members individually or collectively before issuing the final report;

3.13.2.6 prepare a report for consideration by the Constituent Councils.

## **4. EXECUTIVE OFFICER AND APPOINTMENT OF OTHER STAFF**

4.1 The Authority may employ staff and must appoint an Executive Officer on a fixed term performance based employment contract, which does not exceed five years in duration and on such other terms as determined by the Authority. The Authority may at the end of the contract term enter into a new contract not exceeding five years in duration with the same person.

4.2 The Executive Officer is responsible for appointing, managing, suspending and dismissing the other employees of the Authority on behalf of the Authority.

4.3 In the absence of the Executive Officer for any period exceeding one week, the Executive Officer must appoint a suitable person as Acting Executive Officer. If the Executive Officer does not make or is incapable of making such an appointment a suitable person must be appointed by the Board.

- 4.4 The Authority delegates responsibility for day to day management of the Authority to the Executive Officer, who will ensure that sound business and human resource management practices are applied in the efficient and effective management of the operations of the Authority.
- 4.5 The functions of the Executive Officer include:
- 4.5.1 ensuring that the decisions of the Authority are implemented in a timely and efficient manner;
  - 4.5.2 providing information to assist the Authority to assess the Authority's performance against its Strategic, Long Term Financial and Business Plans;
  - 4.5.3 providing advice and reports to the Authority on the exercise and performance of its powers and functions under this Charter or any Act;
  - 4.5.4 co-ordinating and initiating proposals for consideration of the Authority including but not limited to continuing improvement of the operations of the Authority;
  - 4.5.5 ensuring that the assets and resources of the Authority are properly managed and maintained;
  - 4.5.6 ensuring that records required under the Act or any other legislation are properly kept and maintained;
  - 4.5.7 exercising, performing or discharging other powers, functions or duties conferred on the Executive Officer by or under the Act or any other Act, and performing other functions lawfully directed by the Authority;
  - 4.5.8 achieving financial outcomes in accordance with adopted plans and budgets; and
  - 4.5.9 establishing policies and procedures relating to work, health and safety.
- 4.6 The Authority must undertake a review of the performance of the Executive Officer at least once every two years.
- 4.7 The Executive Officer and other senior staff of the Authority as determined by the Authority, are required to submit returns under Chapter 7, Part 4, Division 2 of the Act, as if the Executive Officer and other staff of the Authority were employees of a council and the Authority was a council.
- 4.8 The Executive Officer may delegate or sub-delegate to an employee of the Authority or a committee comprising employees of the Authority, any power or function vested in the Executive Officer. Such delegation or sub-delegation may be subject to conditions or limitations as determined by the Executive Officer.
- 4.9 Where a power or function is delegated to an employee, the employee is responsible to the Executive Officer for the efficient and effective exercise or performance of that power or function.

- 4.10 A written record of delegations and sub-delegations must be kept by the Executive Officer at all times.

## 5. **FINANCIALS**

### 5.1 **Budget**

- 5.1.1 The Authority must before 30 April of each year prepare and submit a draft Budget to the Constituent Councils for the ensuing Financial Year (or, if appropriate, part Financial Year) in accordance with the Act for approval by the Constituent Councils.
- 5.1.2 The Authority must adopt after 31 May and within six (6) weeks of approval of the draft Budget by both of the Constituent Councils in each year, a Budget in accordance with the Act for the ensuing Financial Year consistent with the approval given by the Constituent Councils pursuant to Clause 5.1.1.
- 5.1.3 The Authority may in a Financial Year, after consultation with the Constituent Councils, incur spending before adoption of its Budget for the year, but the spending must be provided for in the appropriate Budget for the year.
- 5.1.4 The Authority must each Financial Year provide a copy of its adopted Budget to the Constituent Councils within five (5) business days after the adoption of the Budget by the Authority.
- 5.1.5 Quarterly reports summarising the financial position and performance of the Authority against the Budget must be prepared and presented to the Board at each ordinary meeting of the Board and copies provided to the Constituent Councils.
- 5.1.6 The Authority must reconsider its Budget in accordance with the Act in a manner consistent with the Act and may with the approval of the Constituent Councils amend its Budget for a Financial Year at any time before the year ends.
- 5.1.7 The contents of the Budget must be in accordance with the Act.

### 5.2 **Financial Contributions**

- 5.2.1 The Constituent Councils will contribute funds to the Authority as set out in the Budget adopted by the Authority and approved by the Constituent Councils.
- 5.2.2 The Constituent Councils may agree to provide the Authority with additional funds at any time on such terms and conditions, if any, as determined by the Constituent Councils.

### 5.3 **Financial Standards and Reporting**

- 5.3.1 The Authority must ensure that the Financial Statements of the Authority for each Financial Year are audited by the Authority's auditor.

- 5.3.2 The Financial Statements must be finalised and audited in sufficient time to be included in the Annual Report to be provided to the Constituent Councils pursuant to Clause 6.3.

#### 5.4 **Financial Transactions**

- 5.4.1 The Authority must establish and maintain a bank account with such banking facilities and at a bank to be determined by the Authority.
- 5.4.2 The Authority will develop and maintain appropriate policies for all financial transactions.
- 5.4.3 The Executive Officer must act prudently in the handling of all financial transactions for the Authority.

#### 5.5 **Long Term Financial Plan**

- 5.5.1 The Authority must prepare and submit to the Constituent Councils for their approval a Long Term Financial Plan covering a period of at least ten (10) years in a form and including such matters which, as relevant, is consistent with Section 122 of the Act and the Local Government (Financial Management) Regulations 2011 as if the Authority were a council.
- 5.5.2 The Authority may at any time review the Long Term Financial Plan but must undertake a review of the Long Term Financial Plan as soon as practicable after the annual review of its Business Plan and concurrently with any review of its Strategic Plan.
- 5.5.3 In any event, the Authority must undertake a comprehensive review of its Long Term Financial Plan every four (4) years.
- 5.5.4 The Long Term Financial Plan will be taken to form part of the Authority's Strategic Plan.

### 6. **MANAGEMENT FRAMEWORK**

#### 6.1 **Strategic Plan**

Consistent with the Long Term Financial Plan set out above, the Authority must:

- 6.1.1 prepare and adopt a Strategic Plan with a minimum operational period of ten (10) years which sets out the goals, objectives, strategies and priorities of the Authority over the period of the Strategic Plan;
- 6.1.2 prepare an Asset Management Plan, with detailed financials for the first ten years;
- 6.1.3 submit the Strategic Plan to the Constituent Councils for their approval.

#### 6.2 **Business Plan**

The Authority:

- 6.2.1 must in consultation with the Constituent Councils prepare and adopt a Business Plan for a minimum three (3) year period which will continue in force for the period specified in the Business Plan or until the earlier adoption by the Authority of a new Business Plan;
- 6.2.2 must in consultation with the Constituent Councils review the Business Plan annually and following such a review the Business Plan shall continue to operate for the period for which the Business Plan was adopted pursuant to Clause 6.2.1;
- 6.2.3 may, after consultation with the Constituent Councils amend its Business Plan at any time; and
- 6.2.4 must ensure the contents of the Business Plan is in accordance with the Act.

### 6.3 **Annual Report**

- 6.3.1 The Authority must each year, produce an Annual Report summarising the activities, achievements and financial performance of the Authority for the preceding Financial Year.
- 6.3.2 The Annual Report must incorporate the audited financial statements of the Authority for the relevant Financial Year.
- 6.3.3 The Annual Report must be provided to the Constituent Councils by 30 September each year.

### 6.4 **Audit**

- 6.4.1 The Authority must cause adequate and proper books of account to be kept in relation to all the affairs of the Authority and must establish and maintain effective auditing of its operations.
- 6.4.2 The Authority must appoint an Auditor in accordance with the Act on such terms and conditions as determined by the Authority.
- 6.4.3 The audited Financial Statements of the Authority, together with the accompanying report from the Auditor, shall be submitted to both the Board and the Constituent Councils by 30 September in each year.

### 6.5 **Audit and Risk Management Committee**

- 6.5.1 The Authority must establish an Audit and Risk Management Committee to be comprised of five (5) persons nominated by the Authority and approved by the Constituent Councils.
- 6.5.2 The members of the Audit and Risk Management Committee:
  - 6.5.2.1 must include two (2) professionally qualified officers, one of each from the staff of the Constituent Councils;
  - 6.5.2.2 must include at least 1 person who is not a member of the Board and who is determined by the Constituent Councils to

have financial experience relevant to the functions of the Audit and Risk Management Committee;

6.5.2.3 may include elected members of the Constituent Councils;

6.5.2.4 must have regard to the Act in performing their duties.

6.5.3 The term of appointment of a member of the Audit and Risk Management Committee shall be for a term not exceeding two (2) years at the expiry of which such member will be eligible for reappointment.

## **6.6 Insurance and Superannuation Requirements**

6.6.1 The Authority shall register with the Local Government Mutual Liability Scheme and the Local Government Workers Compensation Scheme and comply with the rules of the schemes.

6.6.2 The Authority shall advise Local Government Risk Management Services of its insurance requirements relating to Local Government Special Risks including buildings, structures, vehicles and equipment under the management, care and control of the Authority.

6.6.3 The Authority shall register with the Local Government Superannuation Scheme and comply with the rules of the Scheme.

## **7. MISCELLANEOUS PROVISIONS**

### **7.1 Withdrawal of a Constituent Council**

The withdrawal of either Constituent Council is inconsistent with the requirements of Section 43 of the Act and will result in the Authority being wound up pursuant to Clause 7.3 and Part 2 of Schedule 2 to the Act.

### **7.2 New Members**

Subject to the provisions of the Act, and in particular to obtaining the Minister's approval a council may become a Constituent Council by agreement of both Constituent Councils and this Charter may be amended to provide for the admission of a new constituent council or councils, with or without conditions.

### **7.3 Winding-Up**

7.3.1 The Authority may be wound up in accordance with the Act and will be wound up where either Constituent Council seeks to withdraw from the Authority.

7.3.2 Should the Board request the Constituent Councils to consider winding up the Authority or should one of the Constituent Councils request the other Constituent Council(s) to consider winding up the Authority or otherwise indicate an intention to withdraw from the Authority the Council or Councils as the case may be must call a special meeting in accordance with Clause 3.12.10.



- 7.3.3 On a winding-up of the Authority, the surplus assets or liabilities of the Authority, as the case may be, must be distributed between or become the responsibility of the Constituent Councils in proportion to each Constituent Councils' equity in the Authority as set out in the Authority's balance sheet for the current financial year.

#### 7.4 **Non-derogation and Direction by Constituent Councils**

- 7.4.1 The establishment of the Authority does not derogate from the power of any of the Constituent Councils to act independently in relation to a matter within the jurisdiction of the Authority.
- 7.4.2 Provided that the Constituent Councils have all first agreed as to the action to be taken, the Constituent Councils may jointly direct and control the Authority.
- 7.4.3 Where the Authority is required pursuant to the Act or this Charter to obtain the approval of one or more of the Constituent Councils that approval must only be granted and must be evidenced by a resolution passed by either or each of the Constituent Councils granting such approval.
- 7.4.4 Unless otherwise stated in this Charter where the Authority is required to obtain the consent or approval of the Constituent Councils this means the consent or approval of both of the Constituent Councils expressed in the same or similar terms.
- 7.4.5 For the purpose of this Clause 7.4, any direction given by the Constituent Councils must be communicated by notice in writing provided to the Executive Officer of the Authority together with a copy of the relevant resolutions of the Constituent Councils.

#### 7.5 **Review of Charter**

- 7.5.1 The Authority must review this Charter at least once in every four (4) years.
- 7.5.2 This Charter may be amended with the approval of both of the Constituent Councils.
- 7.5.3 The Executive Officer must ensure that the amended Charter is published in the *Gazette* in accordance with the Act and a copy of the amended Charter provided to the Minister.
- 7.5.4 Before the Constituent Councils vote on a proposal to alter this Charter they must take into account any recommendation of the Board.

#### 7.6 **Transitional Provisions**

##### 7.6.1 ***Executive Officer***

The Constituent Councils must appoint a person to act in the position of Executive Officer as soon as possible after the establishment of the Authority until such time as the Authority appoints an Executive Officer in accordance with Clause 4.1.

7.6.2 **First Board Meeting**

7.6.2.1 The first meeting of the Board following the establishment of the Authority will be called by the Acting Executive Officer appointed pursuant to Clause 7.6.1 to be held within three (3) months of the appointment by the Constituent Councils of the Board Members.

7.6.2.2 At the first meeting of the Board, the Board will determine the time, date and place of ordinary meetings of the Board up to the following local government periodic election.

7.6.2.3 The Acting Executive Officer must give notice of the first Board meeting to Board Members and the public in accordance with Clause 3.12.

7.6.3 **Code of Practice**

The Code of Practice to be adopted by the Authority pursuant to Clause 3.12.27 must be adopted within twelve (12) months of the establishment of the Authority.

7.6.4 **First Budget**

7.6.4.1 Notwithstanding Clause 5.1, the first draft Budget of the Authority following its establishment for the current part financial year must be submitted to the Constituent Councils for their approval within four (4) months of the first Board meeting held in accordance with Clause 7.6.2.

7.6.4.2 Notwithstanding Clause 5.1, the Authority must, within six (6) weeks of approval by the Constituent Councils of the first draft budget for the current part financial year submitted in accordance with Clause 7.6.4.1, adopt a Budget consistent with the approval given by the Constituent Councils pursuant to Clause 7.6.4.1 and in accordance with the Act.

7.6.5 **Plans**

The first Long Term Financial Plan, Strategic Plan and Business Plan of the Authority following its establishment must be submitted to the Constituent Councils for their approval within twelve (12) months of the establishment of the Authority.

7.6.6 **Audit Committee**

The Authority must establish an Audit and Risk Management Committee in accordance with Clause 7.6.5 within six (6) months of the first Board meeting held in accordance with Clause 7.6.2.

## 7.7 Disputes

### 7.7.1 General

7.7.1.1 Where a dispute arises between the Constituent Councils or between a Constituent Council and the Authority (the parties to this Charter) which relates to this Charter or the Authority, ('the Dispute') the parties will use their best endeavours to resolve the Dispute and to act at all times in good faith.

### 7.7.2 Mediation

7.7.2.1 A party is not entitled to initiate arbitration or court proceedings (except proceedings seeking urgent equitable or injunctive relief) in respect of a Dispute unless it has complied with this Clause 7.7.2.

7.7.2.2 If the parties are unable to resolve the Dispute within thirty (30) days, the parties must refer the Dispute for mediation in accordance with the Mediation Rules of the Law Society of South Australia Incorporated, within seven (7) days of a written request by any party to the other party that the Dispute be referred for mediation, to:

- (a) a mediator agreed by the parties; or
- (b) if the parties are unable to agree on a mediator at the time the Dispute is to be referred for mediation, a mediator nominated by the then President of the Law Society or the President's successor.

7.7.2.3 In the event the parties fail to refer the matter for mediation in accordance with Clause 7.7.2.2, one or more of the parties may refer the matter for mediation in accordance with the Mediation Rules of the Law Society of South Australia Incorporated to a mediator nominated by the then President of the Law Society or the President's successor.

7.7.2.4 The role of any mediator is to assist in negotiating a resolution of the dispute. A mediator may not make a decision that is binding on a party unless that party has so agreed in writing.

7.7.2.5 If mediation does not resolve the Dispute within 28 days of referral of the Dispute for mediation or such longer period agreed unanimously by the parties as evidenced by resolutions of each of the parties, any party may then refer the Dispute to Arbitration in accordance with Clause 7.7.3.

### 7.7.3 Arbitration

7.7.3.1 An arbitrator may be appointed by agreement between the parties.

- 7.7.3.2 Failing agreement as to an arbitrator the then Chairperson of the South Australian Chapter of the Institute of Arbitrators or his successor shall nominate an Arbitrator pursuant to these conditions.
- 7.7.3.3 A submission to arbitration shall be deemed to be a submission to arbitration within the meaning of the Commercial Arbitration Act 1985 (South Australia).
- 7.7.3.4 Upon serving a notice of arbitration the party serving the notice shall lodge with the arbitrator a deposit by way of security for the cost of the arbitration proceedings.
- 7.7.3.5 Upon each submission to arbitration, the costs of and incidental to the submission and award shall be at the discretion of the arbitrator who may in his or her sole discretion determine the amount of costs, how costs are to be proportioned and by whom they are to be paid.
- 7.7.4 Whenever reasonably possible performance of the obligations of the parties pursuant to this Charter shall continue during the mediation or arbitration proceedings and no payment by or to a party shall be withheld on account of the mediation and arbitration proceedings.

Dated 6 August 2015

P. Dinning, Chief Executive Officer, Alexandrina Council

G. Maxwell, Chief Executive Officer, City of Victor Harbor

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#### Document History

VERSION	DOCUMENT	ACTION	DATE
0.1	Draft	Joint Council workshop	25 March 2015
0.2	Draft	Via email to elected members for feedback	April 2015
0.3	Final draft	Alexandrina Council – Council endorsement City of Victor Harbor – Council endorsement	18 May 2015 25 May 2015
1.0	Approved version 1.0	Minister for Local Government Gazetted	3 August 2015 <b>6 August 2015</b>
2.0	Amended – clause 3.8.1 and 3.8.3	<b>delete</b> 'annual fee' <b>insert</b> 'sitting fee' City of Victor Harbor – Council endorsement Alexandrina Council – Council endorsement	14 December 2015 21 December 2015
	Amendment notice	Gazetted	<b>14 April 2016</b>