

LOCAL GOVERNMENT INSTRUMENTS

CITY OF ADELAIDE

LOCAL GOVERNMENT ACT 1999

Adelaide Economic Development Agency Charter 2021

The City of Adelaide has resolved to amend the Charter for the Rundle Mall Management Authority subsidiary, established pursuant to Section 42 of the *Local Government Act 1999* (the Act).

Pursuant to Clause 3 of Part 1 of Schedule 2 of the Act, the Charter of the Rundle Mall Management Authority, as amended and renamed the Adelaide Economic Development Agency, is set out below.

A copy of the amended Charter is available for inspection at cityofadelaide.com.au/aeda

Dated: 14 January 2021

MARK GOLDSTONE
Chief Executive Officer

CHARTER OF THE ADELAIDE ECONOMIC DEVELOPMENT AGENCY

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INTRODUCTION**1. Name of Agency**

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

2. Corporate Status

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

3. Dictionary

In this Charter:

- 3.1 **Act** means the *Local Government Act 1999* and all relevant Regulations made thereunder;
- 3.2 **Agency** means the Adelaide Economic Development Agency established as a single Council Subsidiary pursuant to Section 42 of the Act;
- 3.3 **Board** means the Board of Management of the Agency;
- 3.4 **Board Member** means a member of the Board;
- 3.5 **Budget** means the annual budget adopted by the Agency;
- 3.6 **Business Plan** means the business plan adopted by the Agency;
- 3.7 **Charter** means this Charter of the Agency adopted by the Council;
- 3.8 **Council** means the Corporation of the City of Adelaide;
- 3.9 **Deliberative Vote** means a vote cast by each Board Member (including the Chairperson) for the purpose of deciding a matter under deliberation;
- 3.10 **Financial Year** 1 July in each year to 30 June in the subsequent year;
- 3.11 **Managing Director** means the Adelaide Economic Development Agency Managing Director;
- 3.12 **Rundle Mall** means the precinct bordered by the North Side of Grenfell Street, West Side of Pulteney Street, South Side of North Terrace and East Side of King William Street and the land in between, as shown in Annexure 1;
- 3.13 **Simple Majority** a majority of those present and entitled to vote.

4. Interpretation

In this Charter:

- 4.1 The singular includes the plural and vice versa and words importing a gender include other genders;
- 4.2 Words importing natural persons include corporations;
- 4.3 Reference to a Section(s) is to a Section of the Act and includes any Section that substantially replaces that Section and deals with the same matter; and
- 4.4 Headings are for ease of reference only and do not affect the construction of this Charter.

5. Local Government Act

- 5.1 The Agency is established pursuant to Section 42 of the Act.
- 5.2 This Charter must be read in conjunction with Parts 1 and 3 of Schedule 2 to the Act.
- 5.3 The Agency shall conduct its affairs in accordance with and comply with Schedule 2 to the Act except as modified by this Charter in a manner permitted by Schedule 2.
- 5.4 The establishment of the Agency does not derogate from the power of Council to act independently in relation to a matter within the jurisdiction of the Agency.
- 5.5 Nothing in this Charter shall be construed as limiting or altering the existence of any right or entitlement of the Council under Schedule 2 of the Act.

6. About this Charter

- 6.1 This Charter is the charter of the Agency.
- 6.2 This Charter binds the Agency and the Council.
- 6.3 Despite any other provision in this Charter:
 - 6.3.1 If the Act prohibits a thing being done, the thing may not be done;
 - 6.3.2 If the Act requires a thing to be done, authority is given for that thing to be done; and
 - 6.3.3 If a provision of this Charter is, or becomes, inconsistent with the Act, that provision must be read down or, failing that, severed from this Charter to the extent of the inconsistency.
- 6.4 This Charter may not be amended except by the Council by passing a resolution in the same terms. An amendment is not effective unless and until published in the *South Australian Government Gazette*.
- 6.5 The Council may review this Charter at any time and must review this Charter whenever it is relevant to do so.

7. Objects and Purposes

The objects and purposes of the Agency are:

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

8. Powers, Functions and Duties

The powers, functions and duties of the Agency are to be exercised in the performance of the Agency's objects and purposes. In addition to those specified in the Act, the Agency shall have the following powers, functions and duties:

- 8.1 To work collaboratively with the State Government, strategic partners, peak bodies and key stakeholders and avoid duplication of effort in the delivery of its functions and duties;
- 8.2 To position the City of Adelaide as an attractive investment opportunity for commercial and residential property development;
- 8.3 To support the growth of existing businesses and attract new businesses, industries and entrepreneurs to establish in the City of Adelaide;
- 8.4 To support city businesses by building business capability and providing market research and intelligence;
- 8.5 To engage businesses within the City of Adelaide and foster connections and community between them;
- 8.6 To promote and facilitate avenues of professional development, training and education for business owners within the City of Adelaide;
- 8.7 To promote and market the City of Adelaide to local, interstate and international visitors and investors;
- 8.8 To position and promote the City of Adelaide as Australia's premier festival and event destination with the aim of increasing visitation and investment;
- 8.9 To attract and support growth of the visitor economy, including international students, festivals, events, conferences, conventions and exhibitions;
- 8.10 To promote and market the Rundle Mall;
- 8.11 To promote and develop mainstreet precincts as commercial hubs of economic, cultural and social significance;
- 8.12 To manage risks associated with the Objects and Purposes;
- 8.13 To expend funds raised through the separate rate declared by the Council on rateable land in the Rundle Mall and provided to the Agency to directly support Rundle Mall in accordance with the Annual Business Plan and Budget, expend other funds raised by Council and provided to the Agency in accordance with the Annual Business Plan and Budget and upon projects specifically designated and approved by Council, and to expend other funds in accordance with Clause 11;
- 8.14 To, in the performance of its functions and in all of its plans, policies and activities, give due weight to economic, social and environmental considerations;
- 8.15 Not to act outside the Council area unless the prior approval of the Council is obtained which approval may only be granted in accordance with the Act;
- 8.16 The power to compromise, compound, abandon or settle a debt or claim owed to the Agency;
- 8.17 The power to make submissions for and accept grants, subsidies and contributions to further the Agency's objects and purposes;
- 8.18 The power to, with the prior approval of the Council, invest funds in accordance with the Act;
- 8.19 The power to raise funds over and above those raised through general rates and the separate rate declared by the Council to further the Agency's objects and purposes through sponsorship, grants, advertising, fees and charges;
- 8.20 The power to accumulate surplus funds;
- 8.21 The power to, subject to Clause 11, enter into any kind of contract or arrangement;
- 8.22 The power to, with the prior approval of the Council, purchase, sell, lease, hire, rent or otherwise acquire or dispose of any real property or interests therein;
- 8.23 The power to, subject to Clause 11, institute, initiate and carry on legal proceedings;
- 8.24 The power to manage activation activities in the Rundle Mall;
- 8.25 Subject to Clause 11, employ, engage or retain professional advisers to the Agency;
- 8.26 To make recommendations to Council in relation to the maintenance and upgrade of the Rundle Mall's existing infrastructure and physical appearance to ensure it is maintained to a high standard;
- 8.27 To do all things incidental to the exercise of any other power of the Agency; and
- 8.28 To assess the contestability of contracts for Council services provided to the Agency.

9. Other Powers and Functions

The Agency may exercise such other powers and functions as are delegated to the Agency by the Council from time to time.

10. Competitive Neutrality

The Agency is not, and is not to be, involved in a significant business activity.

11. Borrowings and Expenditure

11.1 The Agency has the power to incur expenditure as follows:

- 11.1.1 In accordance with a budget adopted by the Agency and approved by the Council as required by the Act or this Charter;
or
- 11.1.2 With the prior approval of the Council; or
- 11.1.3 In accordance with the Act, and in respect of expenditure not contained in a budget adopted by the Agency and approved by the Council, for a purpose of genuine emergency or hardship.

11.2 Subject to Clause 11.3 the Agency has the power to borrow money as follows:

- 11.2.1 In accordance with a budget adopted by the Agency and approved by the Council as required by the Act or this Charter;
or
- 11.2.2 With the prior approval of the Council.

11.3 Unless otherwise approved by the Council any and all borrowings taken out by the Agency must be from the Local Government Financial Authority or a registered bank or financial institution within Australia.

12. Property

All property held by the Agency is held by it on behalf of the Council.

13. Delegation by the Subsidiary

- 13.1 The Agency may, in accordance with the Act, delegate a power or function vested or conferred under the Act or another Act, to:
 - 13.1.1 A committee;
 - 13.1.2 An employee of the Council;
 - 13.1.3 The person for the time being occupying a particular office or position.
- 13.2 The Agency may not delegate:
 - 13.2.1 The power to borrow money or obtain any other form of financial accommodation not being a drawdown of an approved overdraft facility;
 - 13.2.2 The power to approve the reimbursement of expenses or payment of allowances to Board Members;
 - 13.2.3 The power to adopt budgets;
 - 13.2.4 The power to adopt or revise financial estimates and reports; and
 - 13.2.5 The power to make any application or recommendation to a Minister.
- 13.3 A delegation is:
 - 13.3.1 Subject to conditions and limitations determined by the Agency or specified by the regulations;
 - 13.3.2 Revocable at will and does not prevent the Agency from acting in a matter.

BOARD OF MANAGEMENT**14. Role of Board**

The Agency is a body corporate and is governed by a Board of Management which has the responsibility to manage the business and other affairs of the Agency ensuring that the Agency acts in accordance with this Charter and all relevant legislation including the Act.

15. Membership of the Board

- 15.1 A Board Member appointed under Clauses 16.1.2 and 16.1.3 must be a natural person but need not be an officer, employee or elected member of the Council.
- 15.2 It is intended that Board Members collectively have a range of knowledge, skills and experience across the following areas:
 - 15.2.1 Economic development;
 - 15.2.2 Brand, marketing and public relations;
 - 15.2.3 Retail;
 - 15.2.4 Visitor economy, tourism and events;
 - 15.2.5 Property development and management;
 - 15.2.6 Commercial acumen;
 - 15.2.7 Governance and people leadership;
 - 15.2.8 Strategic management; and
 - 15.2.9 Financial management.

16. Appointment of Board Members

- 16.1 The Board shall consist of a maximum of nine Board Members, to be appointed as follows:
 - 16.1.1 One Board Member must be the Lord Mayor of the Council.
 - 16.1.2 One Board Member must be a representative of the Advisory Committee established at Clause 38.2 of this Charter.
 - 16.1.3 Up to seven Board Members must be appointed by the Council as follows:
 - (a) The Council will appoint one person to be a Board Member and the Chairperson following a recommendation of the Selection Panel for a maximum three-year term determined by the Council.
 - (b) Up to six Board Members with an appropriate range of skills and experience, including at least two Board Members who are business owners within the City of Adelaide, with at least one being a small business owner.
 - (c) The Selection Panel will determine and undertake an expression of interest process for the position of Chairperson and Board Member and make a recommendation to the Council for the Council's approval and the appointment of a Chairperson.
 - (d) The Selection Panel will determine and undertake an expression of interest process for the position of Board Member and work with the Chairperson to make a recommendation to the Council for the Council's approval and the appointment of a Board Member(s).
 - (e) The Council will appoint a person(s) to be a Board Member(s) following a recommendation of the Selection Panel for a maximum three year term determined by the Council provided that the Council shall ensure that no more than three Board Members' terms of office expire in the same year.
- 16.2 A Board Member is eligible to apply for reappointment at the expiration of a term of office, for a maximum of three consecutive terms.
- 16.3 The Council must give the Agency a written notice of appointment of a Board Member.
- 16.4 Each Board Member must give the Council a signed written consent to act as a Board Member.
- 16.5 The Board will appoint a Board Member, other than the Chairperson, to be the Deputy Chairperson.

- 16.6 In the event that the Chairperson resigns, is removed from office by the Council or is no longer eligible to act as a Board Member then the Deputy Chairperson shall act in that office or in the event of the Deputy Chairperson refusing or being unable to act as Chairperson the Board shall appoint from amongst the Board Members a Chairperson who shall hold office as Chairperson until a Chairperson has been appointed by the Council whereupon the person so appointed will hold office for the duration of the original appointment.
- 16.7 The Chairperson shall preside at all meetings of the Board and in the event of the Chairperson being absent from a meeting the Deputy Chairperson shall preside and in the event of both the Chairperson and the Deputy Chairperson being absent from a meeting the Board Members present shall appoint a Board Member from amongst them who shall preside for that meeting or until the Chairperson or the Deputy Chairperson is present.
- 16.8 The Chairperson and the Deputy Chairperson are eligible to apply for reappointment at the expiration of their term of office.
- 16.9 If any vacancy occurs in the membership of the Board during a term, the Council's Chief Executive Officer will have delegated authority to appoint a Board Member for the remainder of the term at his/her discretion.
- 16.10 Board Selection Panel
- 16.10.1 The Board Selection Panel shall comprise:
- (a) three Council Members appointed by resolution of Council;
 - (b) the Council's Chief Executive Officer and/or their delegate.

17. Function of the Board

- 17.1 The Board has these functions:
- 17.1.1 Formulating and observing strategic plans and strategies to achieve the objects and purposes of the Agency;
 - 17.1.2 Providing professional input and policy direction to the Agency;
 - 17.1.3 Monitoring, overseeing and measuring the performance of the Managing Director of the Agency;
 - 17.1.4 Ensuring that a code of conduct dealing with ethical behaviour and integrity is established and implemented in all business dealings of the Agency;
 - 17.1.5 Exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
 - 17.1.6 Ensuring that the Council is advised, as soon as practicable, of any material development that affects the financial or operating capacity of the Agency.
- 17.2 The Board and/or the Council may as required wish to co-opt, second or invite person/s to provide the Agency with information and specialist skills, or to assist with key tasks and projects.
- 17.3 The Board must ensure as far as practicable:
- 17.3.1 That all information furnished to the Council is accurate;
 - 17.3.2 That the Agency acts in a professional and ethical manner, ensuring transparency and accountability in its decision making, and preventing actual or perceived corruption, maladministration and misconduct; and
 - 17.3.3 That the activities of the Agency are conducted efficiently and effectively and that the assets of the Agency are properly managed and maintained.

18. Removal of Board Members

- 18.1 Neither the Agency nor the Board may remove a Board Member.
- 18.2 The Council may remove a Board Member from office by giving to the Agency a written notice of removal of the Board Member.
- 18.3 The Council may remove a Board Member who is absent, without leave of the Board, from three consecutive ordinary meetings of the Board.
- 18.4 The Council may remove a Board Member, either of its own volition or upon recommendation of the Board passed by a two-thirds majority vote of the Board Members present (excluding the Board Member subject to this subclause 18.4) for:
- 18.4.1 Any behaviour of the Board Member which, in the opinion of the Board or the Council, amounts to impropriety;
 - 18.4.2 Serious neglect of duty in attending to the responsibilities of a Board Member;
 - 18.4.3 Breach of fiduciary duty to the Board or the Council;
 - 18.4.4 Breach of the duty of confidentiality to the Board and/or the Council;
 - 18.4.5 Breach of the propriety requirements of the Board; or
 - 18.4.6 Any other behaviour which may discredit the Board.

19. Vacation of the Office of Board Member

- 19.1 A person vacates office as a Board Member if and when:
- 19.1.1 Clauses 18.2 to 18.4 inclusive requires;
 - 19.1.2 Schedule 2, Clause 4 (3) of the Act requires or permits; or
 - 19.1.3 The person was, when appointed, an elected member of the Council and ceases to be an elected member.
- 19.2 A Board Member can retire from office at any time.

20. Remuneration and Expenses of Board Members

- 20.1 The Agency is entitled to pay appropriate remuneration fees to Board Members as approved by the Council.
- 20.2 The Agency must pay to a Board Member any travelling and other expenses that are properly incurred in connection with the Agency's business and with the prior approval of the Board as recorded in the minutes of the Board meeting.
- 20.3 Attendance is recognised as a significant factor towards the success of the Agency and therefore the payment of remuneration fees to Board Members will be subject to Board meeting attendance.
- 20.4 Attendance of meetings as members of committees established under Clause 38 of the Charter can be remunerated subject to Council approval.

21. Register of Interests

A Board Member is required to submit returns to the Agency under Chapter 5, Part 4, Division 2 of the Act.

22. Protection from Liability

In accordance with Schedule 2, Clause 38 of the Act a Board Member is afforded protection from certain civil liabilities.

23. Saving provision

In accordance with Schedule 2, Clause 40 of the Act no act or proceeding of the Agency is invalid by reason of:

23.1 A vacancy or vacancies in the membership of the Board; or

23.2 A defect in the appointment of a Board Member.

24. Governance Issues for Members of the Board

24.1 The principles regarding conflict of interest prescribed in the Act apply to all Board Members in the same manner as if they were elected members of a Council.

24.2 The Board Members will at all times act in accordance with their duties of confidence and confidentiality and individual fiduciary duties including honesty and the exercise of reasonable care and diligence with respect to the performance and discharge of official functions and duties as required by Chapter 5, Part 4, Division 1 of the Act and Schedule 2, Part 1, Clause 7 to the Act.

24.3 The Agency must, in consultation with the Council, maintain relevant policies sufficient to meet legislation and the effective management of the Agency. In the absence of any specific policies adopted by the Agency, relevant Council policies will apply.

25. Meetings of the Board

25.1 Subject to Schedule 2, Clause 5 of the Act, the Board may determine its own procedures for meetings, which must be fair and contribute to free and open decision making.

25.2 An ordinary meeting of the Board must take place at such times and places as may be fixed by the Board from time to time and in any event not less than once per quarter.

25.3 A Board meeting of the Board must be held at a reasonable time and if the meeting is to be held in person at a reasonable place.

25.4 An ordinary meeting of the Board will constitute an ordinary meeting of the Agency. The Board shall administer the business of the ordinary meeting.

25.5 Telecommunications Meeting

25.5.1 For the purposes of this Clause 25.5 the contemporary linking together by telephone, audio-visual or other instantaneous means (telecommunications meeting) of a number of the Board Members provided that at least a quorum is present is deemed to constitute a meeting of the Board.

25.5.2 Each of the Board Members taking part in the telecommunications meeting must at all times during the telecommunications meeting be able to hear and be heard by each of the Board Members present.

25.5.3 At the commencement of the meeting each Board Member must announce his/her presence to all other Board Members taking part in the meeting.

25.5.4 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.

25.6 Written Resolution

25.6.1 A proposed resolution in writing and given to all Board Members in accordance with proceedings determined by the Board will be a valid decision of the Board where a majority of Board Members vote in favour of the resolution by signing and returning the resolution to the Managing Director or otherwise giving written notice of their consent and setting out the terms of the resolution to the Managing Director.

25.6.2 The resolution shall thereupon be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held.

25.7 Notice of ordinary meetings of the Board must be given by the Managing Director to each Board Member not less than three clear business days prior to the holding of the meeting.

25.8 Notice of any meeting of the Board must:

25.8.1 Be in writing;

25.8.2 Set out the date, time and place of the meeting;

25.8.3 Be issued by the Managing Director;

25.8.4 Contain or be accompanied by the agenda for the meeting; and

25.8.5 Be accompanied by a copy of any documents or reports that are to be considered at the meeting (so far as this is practicable).

25.9 The Managing Director must maintain a record of all notices of meetings given to Board Members.

25.10 The Chair may convene urgent general meetings of the Board at the Chair's discretion.

25.11 The Chair shall convene other meetings of the Board as a general meeting may direct.

25.12 A majority of the Board Members present at a meeting of the Board may adjourn the meeting from time to time and from place to place.

25.13 The quorum for any meeting of the Board is half the total number of Board Members plus one and no business may be transacted at a meeting of the Board unless a quorum is present.

25.14 Each Board Member present at a Board meeting has one vote on a question arising for decision at that meeting and, if the votes are equal, the Chair or other person presiding at the meeting may exercise a casting vote.

25.15 Subject to Clause 27 and to the absolute discretion of the Board to conduct any meeting or part of any meeting in public, meetings of the Board will not be conducted in a place open to the public and Chapter 6 Part 3 of the Act does not extend to the Agency.

26. Special Meeting

- 26.1 The Council or any Board Member may by e-mail request to the Managing Director require a special meeting of the Board to be held.
- 26.2 On receipt of the request the Managing Director shall issue a notice of the special meeting to all Board Members at least twenty four hours prior to the commencement of the special meeting.
- 26.3 The request by any Board Member to the Managing Director of the Agency requiring a special meeting to be held must be accompanied by the proposed agenda for the meeting and any written reports intended to be considered at the meeting (and if the proposed agenda is not provided the request is of no effect).

27. Minutes

- 27.1 The Managing Director must cause minutes to be kept of the proceedings at every meeting of the Board.
- 27.2 The minutes must be prepared and distributed to Board Members and the Council within five business days of the meeting to which they relate.
- 27.3 The minutes must be presented to the next ordinary meeting of the Board for confirmation and adoption.
- 27.4 Where the Managing Director is excluded from attendance at a meeting of the Board the person presiding at the meeting shall cause the minutes to be kept.

28. Annual General Meeting

- 28.1 An Annual General Meeting of the Board shall be held by the end of October in each year at a place and time determined by the Board.
- 28.2 Notice of the Annual General Meeting will be given by:
- 28.2.1 Placing a copy of the notice and agenda on public display at the principal office of the Agency and of the Council; and
- 28.2.2 In such other manner as the Managing Director considers appropriate.
- 28.3 The notice and agenda must be placed on public display at least fourteen clear days before the Annual General Meeting and must be available to the public:
- 28.3.1 For inspection, without charge;
- 28.3.2 By way of a copy, upon payment of a fee fixed by the Agency; and
- 28.3.3 On public display until the completion of the Annual General Meeting.
- 28.4 A reasonable number of copies of the notice and agenda and any document or report supplied to Board Members for the Annual General Meeting must be available for members of the public at the meeting.
- 28.5 The Annual General Meeting will be conducted in a place open to the public and will consider and deal with business of a general nature aimed at reviewing the progress and direction of the Agency over the immediately preceding financial year and shall include the following:
- 28.5.1 Chairperson's report;
- 28.5.2 Managing Director's report;
- 28.5.3 The audited financial statements for the previous financial year; and
- 28.5.4 Any other general business determined by the Board to be considered at the Annual General Meeting.
- 28.6 The minutes of the Annual General Meeting must be available to the public within five days of the Annual General Meeting for inspection or by provision of a copy on the AEDA website.

29. Adelaide Economic Development Agency Managing Director

- 29.1 All employees of the Agency are employees of the City of Adelaide.
- 29.2 The City of Adelaide Chief Executive Officer will lead a selection panel to determine and undertake an expression of interest process for the position of Managing Director of the Agency, for the purposes of managing the business of the Agency, and:
- 29.2.1 The selection panel members will be the Chairperson of the Agency, City of Adelaide Chief Executive Officer and/or their delegate.
- 29.2.2 The terms of the appointment of the Managing Director of the Agency will be determined by the City of Adelaide Chief Executive Officer.
- 29.3 The Managing Director shall cause records to be kept of the business and financial affairs of the Agency in accordance with this Charter in addition to other duties provided for by this Charter and those specified in the terms and conditions of appointment.
- 29.4 In the absence of the Managing Director for any period exceeding one week a suitable person to act in a position of Managing Director must be appointed by the City of Adelaide Chief Executive Officer.
- 29.5 Day to day management of the Agency is delegated to the Managing Director who will ensure that sound business and human resource management practices are applied in the efficient and effective management of the operations of the Agency.
- 29.6 The functions of the Managing Director shall be specified in the terms and conditions of appointment and shall include but are not limited to:
- 29.6.1 Attending at all meetings of the Board unless excluded by resolution of the Board;
- 29.6.2 Ensuring that the decisions of the Board are implemented in a timely and efficient manner;
- 29.6.3 Providing information to assist the Board to assess the Agency's performance against its Strategic and Business Plans;
- 29.6.4 Appointing, managing, suspending and dismissing employees of the Council engaged to perform work for the Agency;
- 29.6.5 Determining the conditions of employment of employees of the Agency within budgetary constraints set by the Board;
- 29.6.6 Providing advice and reports to the Agency and Board Members on the exercise and performance of its powers and functions under this Charter or any Act;
- 29.6.7 Ensuring that the Agency is at all times complying with Schedule 2 of the Act;
- 29.6.8 Ensuring that the Agency's annual report is prepared for approval by the Agency and distributed to Council in conformity with Clause 35;

- 29.6.9 Co-ordinating and initiating proposals for consideration of the Agency including but not limited to continuing improvement of the operations of the Agency;
- 29.6.10 Ensuring that the assets and resources of the Agency are properly managed and maintained;
- 29.6.11 Exercising, performing or discharging other powers, functions or duties conferred on the Managing Director by or under the Act or any other Act and performing other functions lawfully directed by the Agency;
- 29.6.12 Achieving financial outcomes in accordance with adopted plans and budgets of the Agency;
- 29.6.13 Inviting any person to attend at a meeting to act in an advisory capacity.

30. Delegations by the Adelaide Economic Development Agency Managing Director

- 30.1 The Managing Director may delegate or subdelegate to an employee of the Agency or a committee comprising employees of the Agency any power or function vested in the Managing Director.
- 30.2 Such delegation or sub-delegation may be subject to any conditions or limitations as determined by the Managing Director.
- 30.3 Where a power or function is delegated to an employee, the employee is responsible to the Managing Director for the efficient and effective exercise or performance of that power or function.
- 30.4 Where a power or function is delegated to an employee or a person occupying a particular office or position that employee or person is responsible to the Managing Director for the efficient and effective exercise or performance of that power or function.
- 30.5 A written record of all delegations and sub-delegations must be kept by the Managing Director at all times.
- 30.6 The Managing Director shall provide a report on his/her activities to the Agency at every Board meeting.

MANAGEMENT

31. Financial Management

- 31.1 Council shall keep proper books of account on behalf of the Agency in accordance with the requirements of the Act and the *Local Government (Financial Management) Regulations 2011* (the Regulations).
- 31.2 The Agency must review its budget at least three times in each Financial Year at intervals of not less than three months between 30 September and 31 May (inclusive) in accordance with the requirements of the Regulations.
- 31.3 The Agency's books of account must be available for inspection by any Board Member or authorised representative of Council at any reasonable time on request.
- 31.4 All payments must be authorised by the Managing Director in accordance with delegated authority or by resolution of the Board.
- 31.5 The Managing Director must act prudently in the handling of all financial transactions for the Agency and must provide quarterly financial and corporate reports to the Agency.

32. Audit

- 32.1 The Council's auditor shall be the auditor of the Agency.
- 32.2 The auditor will have the same powers and responsibilities as set out in the Local Government Act in relation to the Council.
- 32.3 The audit of financial statements of the Agency, together with the accompanying report from the Auditor, shall be submitted to both the Board and the Council.
- 32.4 The books of account and financial statements shall be audited at least once per year.
- 32.5 The Agency appoints Council's Audit Committee as its own Audit Committee.

33. Strategic Plan

- 33.1 The Agency shall prepare a Strategic Plan, with an operational period of no less than four years, linking the core business activities of the Agency to strategic, operational and organisational requirements with supporting financial projections setting out the estimates of revenue and expenditure as necessary for the period.
- 33.2 The Agency shall review the Strategic Plan annually in consultation with the Council.

34. Annual Business Plan and Budget

- 34.1 The Agency is required to produce an Annual Business Plan consistent with the Charter and submit it to Council for approval.
- 34.2 The Agency shall consult with the Council prior to or amending the Annual Business Plan.
- 34.3 The Annual Business Plan must set out or include:
 - 34.3.1 The performance targets that the subsidiary is to pursue; and
 - 34.3.2 A statement of the financial and other resources, and internal processes, that will be required to achieve the subsidiary's performance targets; and
 - 34.3.3 The performance measures that are to be used to monitor and assess performance against targets.
- 34.4 The Agency must prepare a Budget for each financial year, the budget must:
 - 34.4.1 Detail the estimated revenues and costs for the forthcoming financial year; and
 - 34.4.2 Otherwise comply with the requirements of Schedule 2, Clause 9 of the Act.
- 34.5 The Annual Business Plan and Budget must be submitted to the Council for approval by a date nominated by the Council from time to time in accordance with Council's budgetary approval process.

35. Reporting

- 35.1 The Agency must submit to the Council by 30 September in each year in respect of the immediately preceding Financial Year, the Annual Report on the work and operations of the Agency detailing achievement of the aims and objectives of its Business Plan and incorporating the audited Financial Statements of the Agency and any other information or reports as required by the Council.
- 35.2 At the end of each quarter the Agency shall submit a report to the Council on progress against milestones and performance indicators as outlined in the Agency's Strategic and Annual Business Plans.
- 35.3 The Agency shall submit to Council any other information or reports required by Council in a timeframe determined by Council.

MISCELLANEOUS**36. Insurance and Superannuation Requirements**

- 36.1 The Agency shall be a member of the Local Government Association Mutual Liability Scheme and comply with the Rules of that Scheme.
- 36.2 The Agency shall advise Council of its assets insurance needs, so Council can take out appropriate insurance cover on behalf of the Agency through its membership of the Local Government Association Asset Mutual Fund.

37. Winding Up

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

38. Committees

- 38.1 The Agency may establish a committee of Board Members for the purpose of:
- 38.1.1 enquiring into and reporting to the Agency on any matter within the Agency's functions and powers and as detailed in the terms of reference given by the Agency to the committee;
- 38.1.2 exercising, performing or discharging delegated powers, functions or duties.
- 38.2 The Agency will establish an Advisory Committee for enquiring into and reporting to the Agency on any matter within the Agency's functions and powers, including to provide a formal mechanism for city businesses, mainstreets, precincts and other stakeholders to provide advice to the Board and;
- 38.2.1 The membership of the Advisory Committee will be established by the Committee's Terms of Reference.
- 38.2.2 The Terms of Reference of the Advisory Committee will be approved by the Council.
- 38.2.3 The Advisory Committee will determine its representative Board Member outlined at Clause 16.1.2 of this Charter by an ordinary resolution once every twelve months.
- 38.3 The Chair of the Board is an ex-officio member of any committee or advisory committee established by the Agency.
- 38.4 A member of a committee established under Clause 38 holds office at the pleasure of the Agency.

39. Common Seal

- 39.1 The Agency shall have a common seal upon which its corporate name shall appear in legible characters.
- 39.2 The common seal shall not be used without the express authorisation of a resolution of the Agency and every use of the common seal shall be recorded in the minute book of the Agency.
- 39.3 The affixing of the common seal shall be witnessed by the Chair or the Deputy Chair and the Managing Director or such other person as the Agency may appoint for the purpose.
- 39.4 The common seal shall be kept in the custody of the Managing Director or such other person as the Agency may from time to time decide.

40. Principal Office

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

41. Service of Documents

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

42. Circumstances Not Provided For

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

43. Performance and Accountability of Agency

- 43.1 The Council shall be entitled on an ongoing basis to review the performance of the Agency and the Board in the conduct of their respective activities under this Charter.
- 43.2 If at any time the Council is of the view that either the Agency and/or the Board is not performing its duties under this Charter the Council shall be entitled to provide a notice in writing to the Agency (Council notice) identifying those matters in respect of the performance by the Agency and/or the Board of its duties under this Charter which are not satisfactory to the Council together with details of any corrective action which the Council requires the Agency and/or the Board to take in order to rectify the identified performance issues.
- 43.3 The Board shall within thirty days of receipt of the Council notice provide a written response to the Council as to the matters raised in the Council notice (notice in response) which notice shall identify any corrective action which the Agency and/or the Board intends to undertake in order to address the issues raised in the Council notice.
- 43.4 If the Agency or the Board disputes any matters raised in the Council notice then the notice of response must identify any matters in respect of which the Agency and/or the Board do not agree.
- 43.5 The Chief Executive Officer of the Council and the Chair of the Board shall meet within fourteen days of receipt by the Council of the notice in response to discuss the matters raised in the Council notice and the notice in response.

43.6 Either:

43.6.1 Following the meeting between the Chief Executive Officer of the Council and the Chair of the Board pursuant to Clause 43.5 and having considered the matters raised in the notice of response and the matters discussed between the Chief Executive Officer of the Council and the Chair of the Board at their meeting; or

43.6.2 If the Board does not provide a Notice in Response,

the Council shall be entitled to take such further action (if any) as it determines with respect to the matters raised in the Council Notice which action may include but shall not be limited to the removal of the Board and the appointment of a replacement Board in accordance with this Charter.

ANNEXURE 1

