



CHARTER

NURIOOTPA CENTENNIAL PARK AUTHORITY

(Section 42 Subsidiary of The Barossa Council)

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PART 1 – PRELIMINARY

1. DICTIONARY

In this Charter:

Act means the *Local Government Act 1999 (SA)*.

ADI means an authorised deposit-taking institution.

Authority means the Nuriootpa Centennial Park Authority established as a single council subsidiary pursuant to section 42 of the Act.

Authority Precinct means the land in Certificates of Title Volume 5852 Folio 29, Volume 5767 Folio 951, Volume 5767 Folio 937 and Volume 5765 Folio 66 and Crown Record Volume 5660 Folio 149 and Volume 5753 Folio 271.

Board means the board of management of the Authority.

Board Member means at any time a member of the Board appointed in accordance with clause 25.2 of this Charter.

Budget means a budget that conforms to PART 12 – BUDGETS of this Charter and last adopted by the Board.

Business Plan means a business plan that conforms to PART 11 – BUSINESS PLANS of this Charter as last adopted by the Board.

Chief Executive Officer means the chief executive officer of the Authority and includes their deputy or a person acting in that position.

Council means The Barossa Council.

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

Elected Member means an elected member of the Council.

LGAMLS means Local Government Association Mutual Liability Scheme.

LGAWCS means Local Government Association Workers Compensation Scheme.

LGFA means Local Government Finance Authority.

LGRS means Local Government Risk Services.

LGSS means Local Government Superannuation Scheme.

Manager means a manager(s) appointed by the Authority and includes a person acting in that position.

Project means a project as provided for in the Business Plan last adopted by the Board.

Quorum means 6 of the Board Members.

Remuneration Fees mean fees paid to a Board Member in accordance with this Charter.

Significant Business Activity has its meaning in the *Revised Clause 7 Statement on the Application of Competition Principles to Local Government under the Competition Principles Agreement September 2002*.

Simple Majority means a majority of those Board Members present and entitled to vote.

Subject to the above, words and expressions in this Charter have the same meaning as in a provision of the Act that deals with the same matter.

2. INTERPRETATION

In this Charter:

2.1 the singular includes the plural and vice versa;

2.2 words importing a gender include other genders;

2.3 words importing natural persons include corporations;

- 2.4 reference to a section is to a section of the Act and includes any section that substantially replaces that section and deals with the same matter;
- 2.5 headings are for ease of reference only and do not affect the construction of this Charter.

3. ABOUT THIS CHARTER

- 3.1 This Charter is the charter of the Authority.
- 3.2 This Charter binds the Authority and the Council.
- 3.3 Despite any other provision in this Charter:
- 3.3.1 if the Act prohibits a thing being done, the thing may not be done;
 - 3.3.2 if the Act requires a thing to be done, Board approval is given for that thing to be done;
 - 3.3.3 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.
- 3.4 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 *Gazette*.¹
- 3.5 The Council may review this Charter at any time but must in any event review this Charter when it reviews its strategic management plans.²

PART 2 – THE AUTHORITY

4. ESTABLISHMENT

The Authority is a Council subsidiary established under the Act.

5. NAME

The name of the Authority is the Nuriootpa Centennial Park Authority. In relation to its commercial operations, the Authority trades as the Barossa Valley Tourist Park.

6. CORPORATE STATUS

The Authority is a body corporate, has the name assigned to it by its charter, has the powers, functions and duties specified in this Charter, and holds its property on behalf of Council.

PART 3 – PURPOSES AND POWERS

7. PURPOSES

- 7.1 The Authority has these purposes:
- 7.1.1 to promote and market the Authority Precinct;
 - 7.1.2 to position the Authority Precinct in a way that sustains retail, business and economic growth and supports economic viability for the region;
 - 7.1.3 to enhance and sustain the commercial aspects of the Authority Precinct to ensure ongoing competitiveness;
 - 7.1.4 to provide positive and productive engagement and partnership with key stakeholders of the Authority and the Authority Precinct to achieve ongoing sustainability.
 - 7.1.5 the development and success for the Authority and the Authority Precinct;
 - 7.1.6 to prepare a strategic management plan for the Authority Precinct;

¹ Schedule 2, clause 3(5) of the Act requires that a copy of the amended charter be given to the Minister and published in the *Gazette*.

² Schedule 2, clause 3(4).

- 7.1.7 to refine and redefine the strategic management framework for the Authority Precinct in response to changing circumstances;
- 7.1.8 to promote the Authority Precinct and to encourage its use by sporting bodies, residents, tourists, visitors and the community in general;
- 7.1.9 to make recommendations to Council in relation to the maintenance and upgrade of the Authority Precinct's existing infrastructure and physical appearance to ensure it is maintained to a high standard;
- 7.1.10 to monitor that aspect of the annual budget approved by Council relating to the Authority's financial and general performance;
- 7.1.11 report regularly to Council on the Authority's financial and general performance;
- 7.1.12 to promote and co-ordinate strategic management actions in a way that will ensure ongoing participation and commitment from stakeholders and the Council; and
- 7.1.13 ensure that information provided to the Council is accurate and that the Council is kept informed of the solvency of the Authority as well as any material developments that may affect the operating capacity and financial affairs of the Authority.

8. POWERS

- 8.1 Subject to clause 10, the Authority may do anything necessary, expedient or incidental to performing its functions and duties, including the power to:
 - 8.1.1 Charge and adjust those fees considered appropriate by the Authority for public use of the facilities in the Authority Precinct;
 - 8.1.2 receive donations (including real and personal property) from any person for use or investment in the Authority Precinct;
 - 8.1.3 contract with any person for the provision of goods and services from any person for use by the Authority or the Authority Precinct;
 - 8.1.4 open and operate an account with an ADI or with the LGFA, or both;
 - 8.1.5 prosecute, defend, compromise, compound, abandon, refer to mediation or settle a dispute, debt or claim to which the Authority is a party;
 - 8.1.6 allocate receipts and expenditure between Projects;
 - 8.1.7 incur expenditure necessary in the performance of its functions and duties in accordance with the objects and purposes of this Charter and within Budgets approved by the Council;
 - 8.1.8 plan, cost, endorse and report upon Projects to the Council and to stakeholders of the Authority;
 - 8.1.9 subject to clause 11, borrow or apply for funds in accordance with the Business Plan and Budget of the Authority;
 - 8.1.10 invest funds in the manner described in section 139 of the Act as if the Authority were a "council" and review those investments in the manner described in section 140 of the Act as if the Authority were a "council";
 - 8.1.11 acquire, deal with and dispose of the Authority's real and personal property in line with approved budget;
 - 8.1.12 in accordance with the Business Plan and Budget of the Authority, employ, engage remunerate, suspend or dismiss staff of the Authority;
 - 8.1.13 subject to clause 23, return surplus revenue to the Council in such proportions as the Board considers appropriate at the end of each financial year or obtain written agreement from Council for the alternative use of that surplus revenue; and
 - 8.1.14 all things incidental to the exercise of any other power, duty or function of the Authority.

- 8.2 Unspent Project funds may with the prior agreement of Council (and taking into account any funding agreement binding on Authority) be accumulated for later expenditure within the Authority Precinct.
- 8.3 The Authority may assess the contestability of contracts for services provided to the Authority.

9. GUIDING PRINCIPLES

The Authority must, in the performance of its functions and in all of its plans, policies and activities, give due weight to economic, social and environmental considerations as are relevant to the Authority, the Authority Precinct and the Council.

PART 4 – COUNCIL

10. COUNCIL MAY ACT INDEPENDENTLY

- 10.1 The establishment of the Authority does not preclude the Council from performing for itself the same functions and powers as the Authority could on behalf of the Council.
- 10.2 The Authority is subject to the direction and control of the Council.
- 10.3 To be effective against the Authority, a determination, direction or other decision by the Council must be evidenced by either:
- 10.3.1 a minute signed by an authorised delegate of the Council; or
 - 10.3.2 a resolution in favour of that decision passed by the Council.

11. LIABILITIES

- 11.1 Clause 14 of Schedule 2 of the Act provides that liabilities incurred or assumed by the Authority are guaranteed by the Council and that a borrowing of the Authority requires the approval of the Council.

PART 5 – BOARD OF MANAGEMENT

12. BOARD

The Authority is governed by a board of management which has the responsibility to manage the business and other affairs of the Authority in accordance with this Charter.

13. SPECIFIC FUNCTIONS OF THE BOARD

In administering the affairs of the Authority, the Board must ensure:

- 13.1 that the Authority observes all plans, targets, structures, systems and practices required or applied to the subsidiary by the Council;
- 13.2 that all information given to the Council is accurate; and
- 13.3 on the same day as occurs or, if that is not practicable, on the next working day, information to the Council of any material particular affecting the financial or operational ability of the Authority or which gives rise to the expectation that the Authority may not be able to meet its debts as and when they fall due.

14. STRATEGIC FUNCTIONS OF THE BOARD

In overseeing the affairs of the Authority, the Board must:

- 14.1 formulate strategic, management and business plans aimed at improving the business of the Authority;
- 14.2 provide professional input and policy direction to the Authority;
- 14.3 monitor, oversee and measure the performance of the Chief Executive Officer and Manager/s of the Authority; and

- 14.4 exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons.

15. PROCEEDINGS AT BOARD MEETINGS

- 15.1 Subject to clause 5 of Schedule 2 of the Act, the Board may determine its own processes to apply at or in relation to its meetings, which must be fair and contribute to free and open decision making provided that those procedures are not inconsistent with the provisions of this Charter.
- 15.2 The Chief Executive Officer or any two Board Members by written request to the Chief Executive Officer may call a special board meeting upon a minimum of 24 hours' notice.
- 15.3 A Board meeting must be held at intervals as determined by the Board, provided that the Board meets at least once in every calendar quarter.
- 15.4 A notice of meeting must:
- 15.4.1 set out the place, date and time for the meeting;
 - 15.4.2 state the general nature of the meeting's business;
 - 15.4.3 be accompanied by relevant information so far as reasonably available (if not already given to each Board Member); and
 - 15.4.4 be given at least three clear business days before the meeting other than a special meeting (or such other period as all the Board Members in office may, as a matter of general policy, determine otherwise).
- 15.5 Meetings of the Board will not be conducted in a place open to the public unless the Board determines otherwise.
- 15.6 Meetings must be held at a reasonable time and, if the meeting is to be held in person, at a reasonable place.
- 15.7 Clause 5(11) of Schedule 2 of the Act obliges the Board to keep minutes of its proceedings. All minutes must be prepared and distributed to both Board Members and the Council within five days of the meeting to which they relate.
- 15.8 Clause 5(5) of Schedule 2 of the Act permits a Board meeting to occur by telephone or videoconference. For a Board meeting to be effective notice of the telephone or videoconference must be provided to all Board Members and each participating Board Member must be able to communicate with the other.
- 15.9 Clause 5(6) of Schedule 2 of the Act, permits a valid resolution of the Board not at a meeting if notice of the proposed resolution is given to all Board Members and a Simple Majority of Board Members agree to the proposed resolution by means of written or electronic communications in the proposed resolution.
- 15.10 Clause 5(8)-(10) of Schedule 2 of the Act, permits a third party to attend if authorised in writing by the Council (*Council Representative*) (but not participate in) a Board meeting and have access to papers provided for the meeting. If the Board considers that a matter to be dealt with at the meeting should be treated as confidential, the Board may advise Council of its determination with reasons for that determination. If satisfied with the Board's advice that a duty of confidence is owed in respect of the matter, the Council must observe that duty unless such observance would prevent disclosure as required in the proper performance of Council's functions or duties.

16. CHAIR AND DEPUTY CHAIR OF THE BOARD

- 16.1 The Chairperson of the Board shall be appointed by the Board and subject to 26.3.2, shall hold office for a term determined by the Board, unless he or she resigns or is removed from office pursuant to a resolution of the Board or under clause 27, or until he or she is otherwise no longer eligible to act as a Board Member.
- 16.2 A Deputy Chairperson of the Board will be appointed by the Board from amongst its members and subject to 26.3.2, shall hold office for a term determined by the Board, unless

he or she resigns or is removed from office pursuant to a resolution of the Board or under clause 27 or until he or she is otherwise no longer eligible to act as a Board Member.

- 16.3 The Chairperson and the Deputy Chairperson are eligible for re-appointment at the expiration of their term of office.
- 16.4 In the event that the appointed Chairperson either resigns or is no longer eligible to act as a Board Member prior to the expiration of that persons term, then the Deputy Chairperson shall act in that office. In the event of the Deputy Chairperson refusing or being unable to so act, the Board shall elect from amongst the other Board Members a new Deputy Chairperson who shall hold office until a further appointment is made whereupon the person so appointed will hold office for the duration of the original appointment.
- 16.5 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. In the event of both the Chairperson and the Deputy Chairperson being absent from a meeting, the Board Members present shall appoint a member from amongst them, who shall preside for that meeting or until the Chairperson or the Deputy Chairperson is present.

17. QUORUM

- 17.1 Unless the Board Members determine otherwise, the Quorum for a Board meeting is six Board Members,. A Quorum must be present at all times during a meeting.
- 17.2 Each Board Member present at a Board meeting has one vote on a question arising for decision at that meeting and, if the votes are equal, the Board Member presiding at the meeting may exercise a casting vote in addition to their Deliberative Vote.
- 17.3 In the event that there is not a Quorum at two consecutive meetings of the Board, then an extraordinary meeting of the Board may be convened in the same manner as for a special meeting (clause 15.2), at which the business on the agendas for the two previous but failed meetings may be undertaken.

PART 6 – GOVERNANCE

18. BOARD MEMBER’S CONFLICT OF INTEREST

The provisions of Chapter 5, Part 4, Division 3 of the Act apply to Board Members.

19. BOARD MEMBER'S DUTIES OF CARE

Clause 7 of Schedule 2 of the Act (care and diligence) and clause 34 of Schedule 2 of the Act (honesty, use of information, use of position) and Chapter 5, Part 4, Division 1 of the Act set out certain statutory duties of, and requirements that apply to a Board Member.

20. BOARD POLICIES

- 20.1 The Authority must adopt the mandatory code of conduct as required under the Act to be observed by Board Members in the performance of their functions and duties.
- 20.2 The Authority must, in consultation with the Council, prepare and adopt, and thereafter keep under review as required by legislation, policies on:
 - 20.2.1 governance;
 - 20.2.2 human resource management;
 - 20.2.3 work health and safety;
 - 20.2.4 protection of the environment; and
 - 20.2.5 any other matters relevant to the operation of the Authority Precinct and the Authority.
- 20.3 The Board must ensure that code of conduct and Authority policies are complied with in the operation of the Authority.

21. BOARD DUTIES TO COUNCIL

Clause 6(2) of Schedule 2 of the Act is that the Board must ensure as far as practicable:

- 21.1 that the Authority acts in accordance with legislation, regulations, mandatory codes of practice and this Charter;
- 21.2 that the Authority observes all plans, targets, structures, systems and practices required or applied to the Council;
- 21.3 that all information furnished to the Council is accurate; and
- 21.4 that the Council is advised, as soon as practicable, of any material development that affects the financial or operating capacity of the Authority or gives rise to the expectation that the Authority may not be able to meet its debts as and when they fall due.

22. BOARD DUTIES TO THE AUTHORITY

- 22.1 The Board must ensure:
 - 22.1.1 that the Authority acts in accordance with legislation, regulations, mandatory codes of practice and this Charter;
 - 22.1.2 that the Board acts ethically and with integrity; and
 - 22.1.3 that the activities of the Authority are conducted efficiently and effectively and that the assets of the Authority are properly managed and maintained.
- 22.2 The Board must endeavour to ensure that the Authority adheres to its Business Plan and achieves the financial outcomes projected in its Budget.

23. FINANCIAL CONTRIBUTIONS TO THE AUTHORITY

- 23.1 The Board will determine annually the funds required by the Authority to enable it to meet its Business Plan objectives and targets & incorporate in its Budget for approval by Council.
- 23.2 The Council agrees to allow revenue from fees and charges raised from users of the Authority Precinct to be retained by the Authority unless financial records indicate that these are in excess of what is required to operate in accordance with the approved Budget and Business Plan.
- 23.3 In the event of excess revenue as per clause 8.1.13, the Authority will make written application to the Council for approval for any proposed use of excess revenue detailing the requirement and business case.

24. FINANCIAL CONTRIBUTIONS BY THE AUTHORITY

- 24.1 The Authority will reimburse the Council for any loan repayments in respect of any debenture loans that the Council has raised on behalf of Authority.
- 24.2 The Authority may be requested to pay (and when requested must pay) to the Council a dividend from the annual profit of the Authority where there is a surplus after funding its approved budgeted operational and capital expenditure.
- 24.3 The Authority may advocate for the redirection of any surplus funds to the betterment of the surrounding Nuriootpa community.
- 24.4 The Authority will reimburse the Council when required for any agreed recurrent or *ad hoc* expenditure made on behalf of the Authority (insurance premiums, utility accounts, centralised contract payments).

PART 7 – BOARD MEMBERS

25. QUALIFICATIONS OF BOARD MEMBERS

- 25.1 A Board Member appointed under subclause 26.1.3 must be a natural person but need not be an officer, employee or elected member of the Council.

- 25.2 For the purposes of subclause 26.1.3, applicants must demonstrate a range of relevant knowledge, skills and experience in at least one of the following areas:
 - 25.2.1 commercial business management including financial management;
 - 25.2.2 marketing and/or advertising;
 - 25.2.3 commercial management preferably with property management;
 - 25.2.4 director or board member of a similar body;
 - 25.2.5 community development and significant contribution to a community based organisation/s; or
 - 25.2.6 local government experience at an elected member or senior officer level.

26. APPOINTMENT OF BOARD MEMBERS

- 26.1 The Board shall comprise nine Members appointed as follows:
 - 26.1.1 at all times, one Board Member will be an Elected Member of the Council appointed by the Council for a term specified by the Council; and
 - 26.1.2 one Board Member being a Senior Officer of the Council assigned by the Chief Executive Officer of the Council; and
 - 26.1.3 at all times, the remaining seven Board Members will be appointed by the Council by resolution following the process outlined at subclause 26.2.
- 26.2 The seven Board Members to be appointed pursuant to subclause 26.2 will be appointed as follows:
 - 26.2.1 all appointments will be made by the Council upon written recommendation of the Board detailing how the applicant meets the criteria detailed in 25.2 after a public expression of interest process including, the placing of notices in local newspapers. This requirement applies to new appointments and reappointments.
- 26.3 The intent is to have rolling appointments to the Board. The seven Board Members appointed pursuant to subclause 26.1.3 will be appointed for a term of office as follows:
 - 26.3.1 the first appointments (or reappointments) after the adoption of this Charter will be made upon the basis that three of the seven Board Members are appointed for a one year term and the remaining four of the seven Board Members for a two year term (if agreement on which Board Members will be appointed for which term cannot be reached, lots to be drawn stipulating one or two year terms); and
 - 26.3.2 Thereafter all appointments will be for a two year term.
- 26.4 A Board Member is eligible for reappointment at the expiration of a term of office.
- 26.5 Prior to the conclusion of the term of office of any Board Member, a further appointment will be made by the Council in accordance with clause 26.2.
- 26.6 The Council must give to the Authority a written notice of appointment of a Board Member.
- 26.7 Each Board Member must give to the Authority a signed written consent to act as a Board Member once 26.6 has been satisfied.

27. REMOVAL OF BOARD MEMBERS

- 27.1 Neither the Authority nor the Board may remove a Board Member.
- 27.2 The Council may remove a Board Member from office by giving to the Authority a written notice of removal of the Board Member.
- 27.3 The Council may remove a Board Member who is absent, without leave of the Board, from three consecutive ordinary meetings of the Board.
- 27.4 Subject to clause 4(3)(f) of Schedule 2 to the Act, the Council may remove a Board Member, either of its own volition or upon written recommendation of the Board, by a majority vote of the Board Members (excluding the Board Member subject to this subclause 27.4) for:

- 27.4.1 any behaviour of the Board Member which, in the opinion of the Board, amounts to impropriety;
- 27.4.2 serious neglect of duty in attending to the responsibilities of a Board Member;
- 27.4.3 breach of fiduciary duty to the Board or the Council;
- 27.4.4 breach of the duty of confidentiality to the Board and/or the Council;
- 27.4.5 breach of the propriety requirements of the Board;
- 27.4.6 any behaviour in violation of the Act or other legislation binding on the Authority; or
- 27.4.7 any other behaviour which may discredit the Board or the Council.

28. CESSATION AS BOARD MEMBER

- 28.1 A person is removed or vacates office as a Board Member if and when:
 - 28.1.1 clauses 27.2 to 27.4 inclusive requires;
 - 28.1.2 clause 4(3) of Schedule 2 of the Act applies;
 - 28.1.3 subject to clause 4(3) of Schedule 2 of the Act, if the person was, when appointed, an Elected Member of the Council and ceases to be an Elected Member; or
 - 28.1.4 the Board Member provides 30 days written notice of intention to resign to the Council and the Authority.

29. REMUNERATION AND EXPENSES OF BOARD MEMBERS

- 29.1 Board Members are not entitled to payment of Remuneration Fees unless approved by the Council.
- 29.2 A Board Member is entitled to claim for any travelling and other expenses that are properly incurred in connection with the Authority's business and with the prior approval of the Board as recorded in minutes of a Board meeting.

Attendance at Board Meetings is recognised as a significant factor towards the success of the Authority and therefore the payment of any fees approved by the Council will be subject to attendance.

30. CASUAL VACANCIES

If any casual vacancy occurs in the membership of the Board, it will be filled in accordance with clause 26. The person appointed to the Board to fill a casual vacancy will be appointed for the balance of the term of the original appointee.

31. REGISTER OF INTERESTS

A Board Member is not required to submit returns to the Authority under Chapter 5, Part 4, Division 2 of the Act but is required to comply with section 73 of the Act which applies to all Board Members in the same way as it applies to the elected members of a council.

32. PROTECTION FROM LIABILITY

Clause 38 of Schedule 2 of the Act is that no civil liability attaches to a Board Member for an honest act or omission in the exercise, performance or discharge of the Board Member or Authority's powers, functions or duties.

PART 8 – OTHER OFFICERS

33. CHIEF EXECUTIVE OFFICER

- 33.1 The Authority may appoint a Chief Executive Officer of the Authority on terms and conditions to be determined by Council.
- 33.2 The Chief Executive Officer will be responsible to the Board:
 - 33.2.1 to ensure that the policies and lawful decisions of the Authority are implemented in a timely manner;

- 33.2.2 for the efficient and effective management of the operations and affairs of the Authority;
 - 33.2.3 to provide advice and reports to the Board on the exercise and performance of the Authority's powers and functions; and
 - 33.2.4 to assist the Authority and the Board in maintaining compliance with all relevant legislation, this Charter, the Budget and the Business Plan.
- 33.3 The Chief Executive Officer has such powers, functions and duties prescribed by this clause and as determined necessary by the Board from time to time to ensure the efficient and effective management of the operations and affairs of the Authority.
- 33.4 The Chief Executive Officer is subject to the same legislative responsibilities and duties as a chief executive officer of a council including those matters set out in Parts 1 and 3 of Chapter 7 of the Act.

34. MANAGER

- 34.1 The Board may appoint a person or persons to Management positions within the Authority for a period, and on terms (including as to remuneration), as the Board sees fit and subject to the approved Budget.
- 34.2 The Board may revoke or vary an appointment of a Manager, subject to any agreement made between the Manager and the Authority and in accordance with any legislative and/or policy requirements.
- 34.3 The Board may delegate responsibility for the appointment and management of Manager(s) to the Chief Executive Officer.
- 34.4 The Board may delegate to a Manager any of the powers that the Board can exercise.
- 34.5 All delegations must be made in writing and recorded.
- 34.6 The Board may revoke or vary a delegation of powers on the Manager(s).

35. STAFF

- 35.1 The Board may employ other officers and it may authorise the Chief Executive Officer or a Manager to employ such other officers on its behalf as are required for the efficient and effective operations and affairs of the Authority and within the last approved Budget and Business Plan.
- 35.2 A Manager (in consultation with the Chief Executive Officer) of the Authority is responsible for appointing, managing, suspending and dismissing any other subordinate employees of the Authority (on behalf of the Authority) in accordance with legislative requirements, Authority policy and applying the principles of procedural fairness.
- 35.3 The Board and the Council may arrange for the Council to make available its staff in connection with the Authority's affairs for such remuneration (if any) as the parties may agree.
- 35.4 The appointment of staff will be and remain consistent with the Council's employment policies the Act and relevant legislation.

36. CONTRACTORS / CONSULTANTS

The Board may engage professional contractors and consultants and it may authorise the Chief Executive Officer or a Manager to engage professional consultants to provide services to the Authority to ensure the proper execution of its decisions, the efficient and effective management of the operations and affairs of the Authority and for giving effect to the general management objectives prescribed by this Charter.

37. AUDITOR

- 37.1 The Authority must appoint an auditor. Subject to the Act, and this Charter, an auditor holds office on the terms and conditions (including as to remuneration) that the Board determines.

- 37.2 The Authority must provide its audited financial statements to the Chief Executive Officer of the Council by 30 September in each year.

PART 9 – AUDIT COMMITTEE

38. AUDIT COMMITTEE

- 38.1 The Authority is required to establish an Audit Committee and clause 13(4) of Schedule 2 of the Act governs the constitution and functions of the Audit Committee. The Authority may set up its own Audit Committee or use the Council's Audit Committee with agreement of the Council.
- 38.2 If the Authority sets up its own Audit Committee the following conditions to apply:
- 38.2.1 A senior officer(s) of the Council designated by the Chief Executive Officer of the Council to attend Audit Committee meetings in a nonvoting capacity.
- 38.2.2 Two Independent Members to be appointed, one to be the Presiding Member of the Audit Committee.
- 38.2.3 All Audit Committee appointments (including the Independent Members) to meet the requirements set out in 25.2; 26.2.1 and 26.3.2 of the Charter.
- 38.2.4 Members of the Audit Committee are not entitled to payment of Remuneration Fees unless approved by the Council.
- 38.2.5 Minutes of the Audit Committee Meetings to be copied to the Chief Executive Officer of the Council.

PART 10 – COMPETITIVE NEUTRALITY

39. COMPETITIVE NEUTRALITY

If and so long as the Authority is involved in a Significant Business Activity, the Authority must comply with the principles of competitive neutrality as specified under the *Government Business Enterprises (Competition) Act 1996 (SA)*.

PART 11 – BUSINESS PLANS

40. BUSINESS PLAN

The Authority is required to produce an annual Business Plan and submit to Council for approval. Clause 8 of Schedule 2 of the Act sets out requirements for the Business Plan.

41. BUSINESS PLAN TERM

A Business Plan must address at least the next 48 months and must be reviewed annually as part of the budget development process.

PART 12 – BUDGETS

42. BUDGETS

- 42.1 The Authority must review its Budget in accordance with Regulation 9 of the *Local Government (Financial Management) Regulations 2011 (SA)*.
- 42.2 Clause 9 of Schedule 2 of the Act sets out requirements for Budgets.

43. ABOUT A BUDGET

- 43.1 An adopted Budget binds the Authority and the Council and is the basis for the Authority to perform work and incur debts and obligations according to its own terms without reference back to the Council (except to any extent the Budget otherwise requires or is amended).
- 43.2 The Authority shall prepare a draft budget for the next financial year, which must be delivered to the Council by end of March in each year, and must prepare and adopt a final

proposed annual budget to be delivered to the Council before the end of May each year for consideration and consultation in the Council budget process.

44. EXPENDITURE OUTSIDE A BUDGET

44.1 Clause 9(4) of Schedule 2 provides that the Authority may incur, for the purpose of genuine emergency or hardship, spending that is not authorised by its Budget.

44.2 Clause 9(5) of Schedule 2 provides that the Authority may, in a financial year, after consultation with the Council, incur spending before adoption of its Budget for the year, but the spending must be provided for in the appropriate Budget for the year. In all instances, quarterly adjustments to the Budget must be provided to Council for approval.

45. DEBT FUNDING

The Authority may not borrow or raise money except as provided by clause 8.

46. REVENUE

The Authority may earn revenue from activities undertaken within its purposes and powers.

47. INTEREST IN COMPANIES

See clause 39 of Schedule 2 of the Act.

PART 13 – INSURANCE

48. INSURANCE

48.1 The Authority must register with the LGAMLS and comply with the rules of that Scheme.

48.2 If the Authority employs any person, it must register with the LGSS and the LGAWCS and comply with the rules of those Schemes.

48.3 The Authority must advise LGRS of its insurance requirements relating to risks including: buildings, structures, vehicles and equipment under the ownership, management, care and control of the Authority.

PART 14 – FINANCIAL PRACTICES

49. ACCOUNTING RECORDS

The Authority must comply with sections 124 and 125 of the Act as if the Authority were a council and ensure that its financial practices are undertaken in accordance with all applicable accounting standards, legislation and regulations.

50. OTHER FINANCIAL PRACTICES

Except as may be stated elsewhere in this Charter, there are no special accounting, internal auditing or financial systems or practices to be established or observed by the Authority.

PART 15 – ACCESS TO INFORMATION

51. ACCESS TO RECORDS

The Council has a right to inspect and take copies of the books and records of the Authority for any proper purpose.

52. PROVISION OF INFORMATION

Clause 11 of Schedule 2 of the Act entitles the Council to be furnished with information or records of the Authority.

53. MANAGEMENT REPORTS

The Authority must provide management reports to the Board Members at such times, in such format and with such content as the Board may determine.

54. ANNUAL REPORTS

Clause 12 of Schedule 2 of the Act requires the Authority to furnish an annual report to the Council. The report is required by the end of September each year.

PART 16 – DISPUTE RESOLUTION

55. DISPUTE RESOLUTION

About this clause:

- 55.1 The process in this clause must be applied to any dispute that arises between the Authority and the Council concerning the affairs of the Authority, including a dispute as to the meaning or effect of this Charter and whether the dispute concerns a claim in common law, equity or under statute.
- 55.2 The Authority and the Council must continue to observe and perform this Charter notwithstanding the dispute and the application or operation of this clause.
- 55.3 This clause does not prejudice the right of a party to require the continuing observance and performance of this Charter by all parties or to institute proceedings to enforce payment due under this Charter or to seek injunctive relief to prevent immediate and irreparable harm.

56. DISPUTE RESOLUTION PROCESS

- 56.1 In the event that any disputes or grievance may arise between the parties, then the parties agree to first attempt to resolve the matter within 14 days of the matter arising.
- 56.2 If the parties are unable to resolve the matter in accordance with clause 56.1, the matter will be dealt with under Council's Complaints Handling Policy. If the matter cannot be resolved at that level, then it may be escalated for resolution in accordance with Council's Internal Review of Decisions Policy.
- 56.3 The Authority retains the right to seek resolution via alternative dispute resolution methods under section 271 of the Act.

In the event that costs arise in connection with the dispute, each party will be responsible for all its own costs.

PART 17 – COMMITTEES

57. COMMITTEES

- 57.1 The Authority may establish committees for such purposes and with terms of reference as the Authority determines from time to time.
- 57.2 The members of committees need not be members of the Board.
- 57.3 The Chairperson or Chief Executive Officer is *ex officio* a member of all committees.

PART 18 – WINDING UP

58. WINDING UP

- 58.1 The Authority may be wound up in circumstances that clause 16(1) of Schedule 2 of the Act allows or requires.
- 58.2 In the event that the Authority wishes to cease operation it will agree the process with Council and the requirements of clause 16(1) of Schedule 2 of the Act will apply.

59. DISTRIBUTION OF ASSETS AND LIABILITIES ON WINDING UP

- 59.1 Liabilities incurred or assumed by the Authority are guaranteed by the Council.
- 59.2 In event the Authority commences to wind up, all of the Authority's assets and liabilities vest in the Council by operation of clause 16(3) of Schedule 2 to the Act.

- 59.3 Council will consult with the community regarding the future of the Authority Precinct in accordance with its Community Consultation Policy and as otherwise determined by Council.

PART 19 – OTHER MATTERS

60. EXECUTION OF DOCUMENTS

Clause 37 of Schedule 2 of the Act governs the execution of documents by the Authority.

61. PRINCIPAL OFFICE

The Authority's principal office must be Penrice Road, Nuriootpa or as the Board may determine otherwise.

62. SERVICE OF DOCUMENTS

62.1 A document to be given by the Authority to the Council, or by the Council to the Authority, may be given in a manner that section 280 of the Act permits.

62.2 A written notice given by the Authority to the Council must be marked, "Attention: Chief Executive Officer".

62.3 At any time on written request from the Council, the Authority will report to the Council on matters being undertaken.

63. SAVING PROVISION

No act or proceeding of the Authority is invalid by reason of:

63.1 a vacancy or vacancies in the membership of the Board; or

63.2 a defect in the appointment of a Board Member.

64. CIRCUMSTANCES NOT PROVIDED FOR

If any circumstances arise about which this Charter is silent, or are incapable of taking effect or being implemented according to its terms, the Board may consider the circumstances and determine the action to be taken and consult with Council where appropriate.

Version Control