



Item No: 4.1

Date: 5 September 2022

Attachment: A, B

<b>Meeting:</b>	Council
<b>Title:</b>	Appointment of Independent Member to ERA Water Audit Committee
<b>Responsible Manager:</b>	Acting Chief Executive Officer, Scott Reardon
<b>Author:</b>	Acting Chief Executive Officer, Scott Reardon
<b>Key Pillar:</b>	<b>Financial Guiding Principle 1- Finances managed responsibly</b>
<b>Key Focus Area:</b>	<b>Strategic Community Plan Focus area 3 - Transparent and accountable local tier of Government</b>
<b>Type of Report:</b>	<b>Decision Required</b>

Pursuant to section 83(5) of the *Local Government Act 1999*, the Chief Executive Officer indicates that the matter contained in this report may, if the Council so determines, be considered in confidence pursuant to section 90(2) of the *Local Government Act 1999* on the basis that the information contained in the attached report is information of the nature specified in subsections 90(3)(a) of the Act being information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

### **Recommendation (Public)**

#### Pursuant to s90(3)(a)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Acting Chief Executive Officer Scott Reardon, Group Manager Assets & Infrastructure James Kelly, Manager Finance & Information Management Vikki Purtle, Manager Public Relations & Customer Service Sarah Spencer, Manager Community Development & Engagement Fiona Deckert, and Council Secretariat Danielle Edwards be excluded from attendance at the meeting for Agenda Item 4.1 Appointment of Independent Member to ERA Water Audit Committee.

The Council is satisfied that, pursuant to section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person (living or dead), being persons who expressed interest in being appointed as an Independent Member to the ERA Water Audit Committee.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because disclosure of details may be released to the public before the successful applicant has been formally notified of their appointment.

### **Recommendation (Confidential)**

That Council approves the reappointment of Mr Michael Parkinson as the Town of Walkerville's Independent Member to ERA Water Audit Committee for a subsequent term of two years commencing on or after 1 October 2022.

## Recommendation (Public)

### Pursuant to s.91(7)

That having considered Agenda Item 19.1 Appointment of Independent Member to ERA Water Audit Committee in confidence under section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, minutes and attachments relevant to this Agenda Item be retained in confidence until the matter has been finalised, excepting that Council authorises the release of the minutes to substantive party/parties to enable enactment of the resolution and that pursuant to Section 91(9)(c) of the *Local Government Act 1999* the Council delegates to the Chief Executive Officer the review and power to revoke this Order

and

That Council resolves to end its confidential deliberations pursuant to Section 90(2) of the *Local Government Act 1999* Council and re-admit the public.

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## Summary

Following an Expression of Interest process undertaken in 2020, at their Ordinary Meeting of 15 June 2020 Council resolved (**CNC396/19-20**) to nominate Mr Michael Parkinson as preferred appointee to the ERA Water Audit Committee. Following this, Mr Parkinson was subsequently endorsed by the ERA Water Board and other constituent Council's for his appointment as Independent Member to the ERA Water Audit Committee for a two year term.

Council is now required to consider the nomination of a suitable qualified person to the ERA Water Audit Committee as the term of the Town of Walkerville's current representative, Mr Michael Parkinson, is due to expire on 30 September 2022.

Pursuant to Clause 6.4 of the ERA Water Charter, following the expiry of their initial two year term, Independent Audit Committee Members are eligible for reappointment for a subsequent two year term. On the basis that: Mr Michael Parkinson has expressed an interest in continuing in his current position for a subsequent two years; it is considered best practice to seek expressions of interest from suitably qualified persons at least every four years (that being two consecutive terms of appointment); and that the current ERA Water Audit Committee has proven to have both a positive and beneficial influence over the operations and financial management of ERA Water; it is recommended that Council endorse the recommendations of this report.

## Background

At their Ordinary Meeting of 17 February 2020, Council resolved:

### **CNC279/19-20**

1. *That Council requests that Administration conduct an expression of interest process, for the nomination of a suitable person to the ERA Water Audit Committee for a two year term commencing 28 May 2020.*
2. *That at the conclusion of the expression of interest period a report shortlisting suitable candidates be presented to Council in order for Council to select the preferred nominee.*
3. *That Council notes that in accordance with the ERA Water Charter all appointments to the ERA Water Audit Committee must be approved unanimously by the Constituent Councils.*

At their Ordinary Meeting of 15 June 2020, Council resolved in confidence:

**CNC396/19-20**

*The Council approves the appointment of Mr Michael Parkinson as the Town of Walkerville's Independent Member to ERA Water Audit Committee for a two year period to commence on or after 16 June 2020.*

**Discussion / Issues for Consideration**

Pursuant to ERA Water Charter (**Charter**),<sup>1</sup> appearing as Attachment A to this report, ERA Water must establish an Audit Committee (**Committee**) to be comprised of between three and five persons determined or approved unanimously by the Constituent Councils.

The Committee must include at least two members who are not employees or Board Members of the Subsidiary, or employees or Elected Members of a Constituent Council.

The current members of the Committee are:

- Mr Michael Parkinson, Independent Member, representing the Town of Walkerville;
- Ms Brigid O'Neill, Independent Member, representing the City of Norwood, Payneham & St Peters – term expires September 2023;<sup>2</sup>
- Cr Grant Piggott, representing the City of Burnside – term expires January 2024.<sup>3</sup>

Administration has received advice from the General Manager ERA Water informing that Mr Michael Parkinson's initial two year term as the Town of Walkerville's representative on the Committee will expire on 30 September 2022. It is recommended that Council reappoint Mr Michael Parkinson for a subsequent two year term.

**Options for Consideration**Option 1

That Council approves the reappointment of Mr Michael Parkinson as the Town of Walkerville's Independent Member to ERA Water Audit Committee for a subsequent term of two years commencing on or after 1 October 2022.

Option 2

That Council does not resolve to reappoint Mr Michael Parkinson, and instead directs Administration to conduct an open Expressions of Interest process to seek out interested and qualified persons to be appointed to the forthcoming vacancy.

**Analysis of Options**

The purpose of the ERA Water Audit Committee is to review the financial operations of the regional subsidiary and provide for appropriate controls and risk mitigation.

Option 1 delivers an outcome that maintains consistent oversight of the Board based on current conditions.

Whereas Option 2 will result in a casual vacancy being created on the Committee while Administration undertakes the EOI process.

<sup>1</sup> Eastern Region Alliance Water Regional Subsidiary Charter, as endorsed 21 July 2015, Clause 6.4.

<sup>2</sup> Ms Brigid O'Neill's original term was extended for a subsequent by the City of Norwood Payneham & St Peters in January 2022.

<sup>3</sup> Cr Grant Piggott's original term was extended by two years by the City of Burnside in January 2022 subject to Cr Piggott's re-election to Council in November 2022, otherwise expires at the end of the current Council term.

## Financial Implications

There are no known financial implications to Council in reappointing Mr Michael Parkinson to ERA Water Audit Committee. All sitting fees are borne by ERA Water.

## Community Implications

There are no known community implications in reappointing Mr Michael Parkinson to ERA Water Audit Committee.

## Regional Implications

The Cities of Burnside and Norwood Payneham & St Peters are fellow constituent councils to ERA Water. The appointment of Mr Michael Parkinson will allow for the continuation of a consistent approach the oversight of the regional subsidiary.

## Governance Implications

Pursuant to Clause 6.4 ERA Water Charter, ERA Water must establish an Audit Committee to be comprised of between three and five persons determined or approved unanimously by the Constituent Councils. Appointment to the ERA Water Audit Committee must be by the unanimous decision of all three Member Councils.

Should Council determine to endorse Option 1, the ERA Water Board will consider the matter at their scheduled meeting in September 2022, then will seek the unanimous support from the constituent councils.

The commencement date of Mr Parkinson's reappointment will likely be the date that the last Member Council considers and approves his appointment.

## Preferred Option & Reasoning

Option 1 is the preferred option for the aforementioned reasons.

## Attachment

Attachment A	ERA Water Charter
Attachment B	Mr Michael Parkinson application

LOCAL GOVERNMENT ACT 1999  
NOTICE OF APPROVAL OF A REGIONAL SUBSIDIARY  
*Eastern Region Alliance Water*

THE CITY OF BURNSIDE, THE CITY OF NORWOOD, PAYNEHAM & ST PETERS AND THE CORPORATION OF THE TOWN OF WALKERVILLE, have resolved to establish a subsidiary pursuant to Section 43 of the Local Government Act 1999, to develop, implement, oversee and manage practical solutions to provide water supply diversity within and outside the Region; to supply water to the Constituent Councils and other persons for irrigation purposes within and outside the Region except that priority shall be given to the supply of water for irrigation within the Region.

Pursuant to Clause 17 of Part 2 of Schedule 2 of the Local Government Act 1999, I approve the establishment of the Eastern Regional Alliance (ERA) Water.

The charter of the Eastern Regional Alliance (ERA) Water is set out below.

Dated 21 July 2015.

GEOFF BROCK, Minister for Local Government

RELEASED

**ERA WATER  
REGIONAL SUBSIDIARY  
CHARTER 2015**



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## 1. INTRODUCTION

### 1.1 Name

The name of the subsidiary is ERA Water (referred to as **the Subsidiary** in this Charter).

### 1.2 Definitions

1.2.1 In this Charter, unless the contrary intention appears:

- 1.2.1.1 **the Act** means the Local Government Act 1999 and includes all regulations made thereunder;
- 1.2.1.2 **the Subsidiary** means ERA Water;
- 1.2.1.3 **the Board** means the Board of Management of the Subsidiary set out at Clause 3;
- 1.2.1.4 **Annual Business Plan** means the annual business plan adopted by the Subsidiary pursuant to Clause 6.1;
- 1.2.1.5 **Board Member** means a member of the Board appointed pursuant to Clause 3.4, and unless the context requires otherwise or it is expressly stated otherwise, a reference to a Board Member includes a Deputy Board Member;
- 1.2.1.6 **Budget** means the annual budget adopted by the Subsidiary pursuant to Clause 5.1;
- 1.2.1.7 **Chairperson** means the member of the Board appointed pursuant to Clause 3.4.1.2;
- 1.2.1.8 **Constituent Councils** means those councils identified at Clause 1.5;
- 1.2.1.9 **Council** means a council constituted under the Act;
- 1.2.1.10 **Date of Withdrawal** means the date a Constituent Council's withdrawal from the Subsidiary becomes effective pursuant to Clause 7.2.2;
- 1.2.1.11 **Deputy Board Member** means a person appointed to act as a deputy to a Board Member in accordance with Clause 3.5;
- 1.2.1.12 **Financial Statements** has the same meaning as in the Act;
- 1.2.1.13 **Financial Year** means 1 July in each year to 30 June in the subsequent year;
- 1.2.1.14 **General Manager** means the person appointed pursuant to Clause 4 as the General Manager of the Subsidiary;
- 1.2.1.15 **Long Term Financial Plan** means the long term financial plan prepared by the Subsidiary and approved by the Constituent Councils pursuant to Clause 5.5;
- 1.2.1.16 **Net Assets** means total assets (current and non-current) less total liabilities (current and non-current) of the Subsidiary as reported in the annual audited Financial Statements of the Subsidiary;
- 1.2.1.17 **Project** means the collaborative long term joint undertaking of the Constituent Councils to implement a stormwater capture, treatment and distribution system in eastern Adelaide through, amongst other things, the linking and aggregation of small aquifers and storages via a regional aquifer storage and recovery system and the development of a cross-catchment, cross-council stormwater supply pipeline around eastern Adelaide;
- 1.2.1.18 **Region** means the collective geographical area of the Constituent Councils;
- 1.2.1.19 **Water** does not include mains water.

### 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

The Subsidiary is a regional subsidiary established under Section 43 of the Act by the Constituent Councils.

### 1.5 Constituent Councils

The Constituent Councils are:

- 1.5.1 City of Burnside;
- 1.5.2 City of Norwood, Payneham & St Peters; and
- 1.5.3 Corporation of the Town of Walkerville.

### 1.6 Local Government Act 1999

This Charter must be read in conjunction with Parts 2 and 3 of Schedule 2 to the Act. The Subsidiary 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.

### 1.7 National Competition Policy

If the Subsidiary 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.

#### 1.8 **Objects and Purposes of the Subsidiary**

The Subsidiary is established for the following objects and purposes:

- 1.8.1 to implement, oversee and manage the Project;
- 1.8.2 to develop, implement, oversee and manage practical solutions to provide water supply diversity within and outside the Region;
- 1.8.3 to supply water to the Constituent Councils and other persons for irrigation purposes within and outside the Region except that priority shall be given to the supply of water for irrigation within the Region;
- 1.8.4 to manage and oversee the distribution of water captured as part of the Project;
- 1.8.5 to provide strategic direction for the Project;
- 1.8.6 to fund, lease or own physical infrastructure required to undertake the Project;
- 1.8.7 to meet all legislative requirements for the Subsidiary;
- 1.8.8 to be responsible for the ongoing maintenance, replacement and other capital requirements of all physical infrastructure owned by the Subsidiary;
- 1.8.9 to utilise proven water management planning principles and technologies;
- 1.8.10 to manage, operate and control the necessary infrastructure for the Project;
- 1.8.11 to maximise economic, environmental and social benefits to the community by developing and implementing innovative water management principles and techniques;
- 1.8.12 to identify, develop and implement water recycling and supply opportunities for the Constituent Councils;
- 1.8.13 to provide technical and other expert services and advice to the Constituent Councils in the area of water management and recycling including identifying emerging issues and opportunities;
- 1.8.14 to represent the Constituent Councils and liaise with State government regarding the implementation or alteration of legislation in relation to water and licensing;
- 1.8.15 to be financially self-sufficient as far as possible.

#### 1.9 **Liability Guarantee**

- 1.9.1 Pursuant to Clause 31 of Schedule 2 to the Act the liabilities incurred or assumed by the Subsidiary are guaranteed by the Constituent Councils.

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

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

### 2.1 **Functions and Powers**

In addition to those specified in the Act, the Subsidiary has the following functions and powers:

- 2.1.1 to establish and maintain a reserve fund or funds clearly identified for the upkeep and/or replacement of fixed assets of the Subsidiary or meeting any deferred liability of the Subsidiary;
- 2.1.2 subject to Clause 2.5 to enter into any kind of contract or arrangement;
- 2.1.3 subject to Clauses 2.5 and 2.6 to purchase, lease, hire, rent or otherwise acquire or dispose of (other than by sale) any real property or interests therein;
- 2.1.4 subject to Clauses 2.5 and 2.6 and to obtaining the prior approval of the Constituent Councils, to sell any real property or interests therein;
- 2.1.5 to borrow funds and incur expenditure in accordance with Clause 2.5;
- 2.1.6 subject to Clause 2.5 to employ, engage, determine conditions of employment/engagement, remunerate, remove, suspend or dismiss/terminate the General Manager and other staff of the Subsidiary;
- 2.1.7 subject to Clause 2.5 to employ, engage or retain professional advisers to the Subsidiary;
- 2.1.8 subject to Clause 2.5 to purchase, sell, lease, hire, rent or otherwise acquire or dispose of any personal property or interests therein;
- 2.1.9 to directly market and promote the skills and expertise of its employees and its products and services for the benefit of the Subsidiary and the Constituent Councils;
- 2.1.10 to charge whatever fees the Subsidiary considers appropriate for services rendered or goods provided to any person, body or council including a Constituent Council;
- 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 Subsidiary 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 doing so 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 subject to Clause 2.2 to undertake and exercise such powers and functions as specified in this Charter outside the areas of the Constituent Councils;
- 2.1.17 subject to obtaining the prior approval of the Constituent Councils, 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 Subsidiary;
- 2.1.18 to grant a rebate of fees and charges for services rendered or goods provided to the Constituent Councils in such amount as determined by the Subsidiary provided that any rebate granted to the Constituent Councils is in proportion to the fees and charges paid by the Constituent Councils;
- 2.1.19 to compromise, compound, abandon or settle a debt/claim owed to the Subsidiary;

- 2.1.20 to make any election for tax;
- 2.1.21 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.
- 2.2 **Duties**  
The Subsidiary has the following duties:
- 2.2.1 to exercise the functions and powers of the Subsidiary in the performance and furtherance of the Subsidiary's objects and purposes;
- 2.2.2 to, notwithstanding any other Clause or provision in this Charter, only act outside the area of the Constituent Councils with the prior approval of the Constituent Councils whose approval is granted on the basis that the Constituent Councils consider it necessary or expedient to the performance of the Constituent Councils' or the Subsidiary's functions.
- 2.3 **Other Powers, Functions and Duties**  
The Subsidiary may exercise such other functions, powers and duties as are delegated to the Subsidiary from the Constituent Councils from time to time.
- 2.4 **Common Seal**
- 2.4.1 The Subsidiary will have a common seal.
- 2.4.2 The common seal of the Subsidiary 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 Subsidiary must be attested by two Board Members or the General Manager and one (1) Board Member.
- 2.4.4 The General Manager 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 the persons who witnessed the fixing of the common seal and the date that the seal was affixed.
- 2.4.5 The Subsidiary may by instrument under common seal authorise a person to execute documents on behalf of the Subsidiary subject to any limitations specified in the instrument of authority.
- 2.5 **Borrowings and Expenditure**
- 2.5.1 The Subsidiary has the power to incur expenditure as follows:
- 2.5.1.1 in accordance with a Budget adopted by the Subsidiary and approved by the Constituent Councils as required by the Act or this Charter; or
- 2.5.1.2 with the prior approval of all of the Constituent Councils; or
- 2.5.1.3 in accordance with the Act, and in respect of expenditure not contained in a Budget adopted by the Subsidiary and approved by the Constituent Councils, for a purpose of genuine emergency or hardship.
- 2.5.2 Subject to Clause 2.5.3 the Subsidiary has the power to borrow money as follows:
- 2.5.2.1 in accordance with a Budget adopted by the Subsidiary and approved by the Constituent Councils as required by the Act or this Charter; or
- 2.5.2.2 with the prior approval of all of the Constituent Councils.
- 2.5.3 Unless otherwise approved by all of the Constituent Councils any and all borrowings taken out by the Subsidiary must be from the Local Government Financial Authority or a registered bank or financial institution within Australia.
- 2.6 **Property**
- 2.6.1 All property held by the Subsidiary is held by it on behalf of the Constituent Councils.
- 2.6.2 No person may sell, encumber or otherwise deal with any real property of the Subsidiary without the approval of the Subsidiary by way of, and evidenced by, a resolution of the Board.
- 2.7 **Delegation by the Subsidiary**
- 2.7.1 The Subsidiary may, in accordance with this Charter and the Act, by resolution, delegate to a committee, an employee of the Subsidiary or of a Constituent Council or to a person for the time being occupying a particular office or position any of its powers, functions and duties under this Charter but may not delegate:
- 2.7.1.1 the power to borrow money or obtain any other form of financial accommodation not being a draw down of an approved overdraft facility;
- 2.7.1.2 the power to approve the reimbursement of expenses or payment of allowances to Board Members;
- 2.7.1.3 the power to adopt Budgets;
- 2.7.1.4 the power to adopt or revise financial estimates and reports;
- 2.7.1.5 the power to make any application or recommendation to the Minister; and
- 2.7.1.6 the power to approve expenditure of money not contained in a Budget adopted by the Subsidiary in accordance with this Charter.
- 2.7.2 A delegation is revocable at will and does not prevent the Subsidiary from acting in a matter.
3. **BOARD OF MANAGEMENT**
- 3.1 **Structure**
- 3.1.1 The Subsidiary is a body corporate and is governed by the Act and this Charter.
- 3.1.2 The Board is the Subsidiary's governing body and has the responsibility for the administration of the affairs of the Subsidiary ensuring that the Subsidiary acts in accordance with this Charter and all relevant legislation including the Act.
- 3.1.3 All meetings of the Subsidiary shall be meetings of the Board.
- 3.2 **Role of the Board**  
The Board is responsible for the administration of the affairs of the Subsidiary and ensuring that the Subsidiary 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 providing professional input and policy direction to the Subsidiary;
- 3.3.2 ensuring strong accountability and stewardship of the Subsidiary;
- 3.3.3 monitoring, overseeing and measuring the performance of the General Manager of the Subsidiary;
- 3.3.4 ensuring that ethical behaviour and integrity is established and maintained by the Subsidiary, the Board and Board Members in all activities undertaken by the Subsidiary;
- 3.3.5 subject to Clause 3.11.5, ensuring, where appropriate, that the business of the Subsidiary is undertaken in an open and transparent manner;
- 3.3.6 developing and adopting such policies and procedures as give effect to good governance and administrative practices;
- 3.3.7 exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons;
- 3.3.8 avoiding investments that are speculative or hazardous by nature.

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

3.4.1 The Board shall consist of four (4) 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 and on such other conditions as the Constituent Council may determine one (1) person (who may be the Chief Executive Officer of that Constituent Council), to be a Board Member and may at any time terminate or revoke that appointment and appoint another person to be a Board Member;

#### 3.4.1.2 Independent Chairperson

(a) Following the receipt of a recommendation from the Chief Executive Officers of the Constituent Councils in accordance with Clause 3.4.3, the Constituent Councils must appoint a person to be a Board Member and Chairperson (not being an elected member or employee of a Constituent Council) for a maximum period of two (2) years and on such other conditions as the Constituent Councils may determine and the Constituent Councils may at any time terminate or revoke that appointment and appoint another person to be a Board Member and Chairperson.

3.4.2 Each Constituent Council must give notice in writing to the Subsidiary of the appointment of a Board Member, the term of appointment, any other conditions, and of any termination or revocation of that appointment.

3.4.3 The Chief Executive Officers of the Constituent Councils shall invite applications for the position of Chairperson and assess such applications through such process as they consider appropriate and make recommendations to the Constituent Councils on the appointment of the Chairperson including the fee to be paid to the Chairperson and other terms and conditions to attach to such appointment.

### 3.5 **Deputy Board Members**

3.5.1 Each Constituent Council must appoint a person to be a Deputy Board Member for such term as determined by that Constituent Council who may act in place of that Constituent Council's Board Member if the Board Member is unable for any reason to be present at a meeting of the Board and may at any time revoke or terminate that appointment and appoint another person to be a Deputy Board Member.

### 3.6 **Office of Board Member**

3.6.1 Subject to Clause 3.6.2, at the conclusion of a Board Member's term of office such Board Member will be eligible for re-appointment.

3.6.2 The office of a Board Member will become vacant:

- 3.6.2.1 if any of the grounds or circumstances set out in the Act as to when a Board Member's office becomes vacant arises; or
- 3.6.2.2 where applicable, the Board Member ceasing to be an elected member or employee of the Constituent Council that appointed him or her;
- 3.6.2.3 if the Constituent Council who appointed the Board Member terminates or revokes the Board Member's appointment in the event of any behaviour of that Board Member which in the opinion of the Constituent Council amounts to:
  - (a) impropriety;
  - (b) serious neglect of duty in attending to the responsibilities as a Board Member;
  - (c) breach of fiduciary duty to the Board;
  - (d) breach of any of the legislative obligations and duties of a Board Member including the conflict of interest provisions in the Act;
  - (e) breach of the duty of confidentiality to the Board and/or the Constituent Councils; or
  - (f) any other behaviour which may discredit the Board, the Subsidiary or the Constituent Councils;
- 3.6.2.4 if the Constituent Council who appointed the Board Member ceases to be a Constituent Council.

3.6.3 The office of a Deputy Board Member will become vacant in the same way as the office of a Board Member will become vacant as set out in Clause 3.6.2 of this Charter or if the Constituent Council who appointed the Deputy Board Member terminates or revokes the Deputy Board Member's appointment.

- 3.6.4 Where, for any reason, the office of a Board Member becomes vacant the Constituent Council which appointed the Board Member will be responsible for appointing a replacement Board Member, and in the case of the office of the Chairperson becoming vacant the Constituent Councils will be responsible for appointing a replacement Board Member and Chairperson.
- 3.6.5 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.
- 3.7 **Remuneration and Reimbursement of Expenses of Chairperson**
- 3.7.1 The Subsidiary will pay the Chairperson a fee as determined by the Constituent Councils following the receipt of a recommendation from the Chief Executive Officers of the Constituent Councils 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).
- 3.7.2 The Chairperson will receive from the Subsidiary reimbursement of expenses properly incurred in performing or discharging official functions and duties as determined by the Subsidiary and set out in a policy adopted by the Subsidiary for the purposes of this clause.
- 3.7.3 The Chief Executive Officers of the Constituent Councils will review the annual fee to be paid to the Chairperson and make recommendations to the Constituent Councils of the outcome of the review and any alteration to such annual fee.
- 3.8 **Insurance**
- 3.8.1 The Subsidiary must take out a suitable policy of insurance insuring Board Members including Deputy Board Members, against risks associated with the performance or discharge of their official functions and duties or on official business of the Subsidiary.
- 3.9 **Propriety of Members of the Board**
- 3.9.1 Board Members will not be required to submit returns under Chapter 5, Part 4, Division 2 of the Act.
- 3.9.2 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 Subsidiary were a council.
- 3.9.3 Board Members must at all times act in accordance with their duties of confidence and confidentiality and other legal and fiduciary duties to the Subsidiary 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.
- 3.9.4 The Subsidiary must adopt a Code of Conduct approved by the Constituent Councils to be observed by Board Members.
- 3.10 **Chairperson of the Board**
- 3.10.1 The Chairperson will cease to hold office as Chairperson in the event:
- 3.10.1.1 the Chairperson resigns as Chairperson; or
- 3.10.1.2 the Chairperson ceases to be a Board Member; or
- 3.10.1.3 the Constituent Councils terminate the Chairperson's appointment as Chairperson.
- 3.10.2 The Chairperson must preside at all meetings of the Board and, in the event the Chairperson is absent from a meeting, the Board must appoint one of the Board Members present to preside at that meeting only.
- 3.10.3 In the event that the Chairperson is to be absent for an extended period (being a period in excess of two months), then the Board must appoint a Board Member to act as Chairperson for the period of the absence of the Chairperson.
- 3.11 **Proceedings of the Board**
- 3.11.1 Subject to Clause 3.11.6 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 two months.
- 3.11.2 An ordinary meeting of the Board will constitute an ordinary meeting of the Subsidiary. The Board shall administer the business of the Subsidiary at the ordinary meeting.
- 3.11.3 For the purpose of this Clause 3.11, the contemporaneous linking together by telephone, audio-visual or other instantaneous means ('telecommunications meeting') of the Board Members is deemed to constitute a meeting of the Board provided that:
- 3.11.3.1 notice of the telecommunications meeting is given to all Board Members in the manner determined by the Board for that purpose; and
- 3.11.3.2 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 other Board Members present; and
- 3.11.3.3 at least a quorum is present during the telecommunications meeting; and
- 3.11.3.4 at the commencement of the meeting, each Board Member must announce his/her presence to all other Board Members taking part in the meeting; and
- 3.11.3.5 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 Chairperson of the meeting.
- 3.11.4 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 Subsidiary where a majority of Board Members vote in favour of the resolution by signing and returning the resolution to the General Manager or otherwise giving written notice of their consent and setting out the terms of the resolution to the General Manager. The resolution will be deemed a

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

- 3.11.5 Subject to Chapter 6 Part 3 of the Act meetings of the Board will be open to the public unless the Board resolves otherwise and Chapter 6 Part 3 of the Act extends to the Subsidiary.
- 3.11.6 The first ordinary meeting of the Board following the establishment of the Subsidiary will be determined and called by the Chief Executive Officers of the Constituent Councils at which meeting the time, date and place of ordinary meetings of the Board shall be determined.
- 3.11.7 Subject to Clause 3.11.11, notice of an ordinary meeting of the Board will be given by the General Manager to each Board Member not less than three (3) clear days prior to the holding of the meeting.
- 3.11.8 The General Manager 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 Subsidiary, provide the notice to all Board Members at least four (4) months before the date of the meeting.
- 3.11.9 A notice of meeting of the Board must:
- 3.11.9.1 be in writing; and
  - 3.11.9.2 set out the date, time and place of the meeting; and
  - 3.11.9.3 be signed by the General Manager; and
  - 3.11.9.4 contain, or be accompanied by, the agenda for the meeting.
- 3.11.10 Any Constituent Council, the Chairperson or three (3) Board Members may, by delivering a written request to the General Manager require a special meeting of the Board to be held and any such special meeting shall constitute a special meeting of the Subsidiary. 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.
- 3.11.11 On receipt of a written request pursuant to Clause 3.11.10, the General Manager and Chairperson must determine the date and time of the special meeting and the General Manager must give notice to all Board Members at least four (4) hours prior to the commencement of the special meeting.
- 3.11.12 The General Manager must, insofar as is reasonably practicable:
- 3.11.12.1 ensure that items on an agenda given to Board Members are described with reasonable particularity and accuracy; and
  - 3.11.12.2 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).
- 3.11.13 Notice of a meeting of the Board may be given to a Board Member:
- 3.11.13.1 personally; or
  - 3.11.13.2 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
  - 3.11.13.3 by a means authorised in writing by the Board Member as being an available means of giving notice.
- 3.11.14 A notice that is not given in accordance with Clause 3.11.13 is taken to have been validly given if the General Manager considers it impracticable to give the notice in accordance with that Clause and takes action the General Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the Board Member.
- 3.11.15 The General Manager must maintain a record of all notices of Board meetings given under Clause 3.11.9 to Board Members.
- 3.11.16 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 three (3) Board Members in office.
- 3.11.17 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.
- 3.11.18 All Board Members must at all times keep confidential all documents and any information provided to them for their consideration prior to a meeting of the Board except that this clause does not prevent a Board Member from disclosing documents and information to the elected members or employees of a Constituent Council where necessary.
- 3.11.19 The General Manager must cause minutes to be kept of the proceedings of every meeting of the Board and ensure that the minutes are presented to the next ordinary meeting of the Board for confirmation. Where the General Manager is absent or excluded from attendance at a meeting of the Board, the person presiding at the meeting shall cause the minutes to be kept.
- 3.11.20 The General Manager must, within five (5) days after a meeting of the Board provide to each Board Member and the Constituent Councils a copy of the minutes of the meeting of the Board in a form agreed to by the Board.
- 3.11.21 Subject to the Act, this Charter and a direction of the Constituent Councils, the Board may determine its own procedures.
- 3.11.22 The Board may establish Committees as it considers necessary, and determine the membership of, terms of reference for and meeting procedures of such committees as it sees fit.

#### 4. GENERAL MANAGER AND APPOINTMENT OF OTHER STAFF

- 4.1 The Subsidiary may employ staff and may appoint a General Manager on a fixed term performance based employment contract, which does not exceed five years in duration and on such other conditions as determined

- by the Subsidiary. The Subsidiary 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 General Manager is responsible for appointing, managing, suspending and dismissing the other employees of the Subsidiary on behalf of the Subsidiary.
- 4.3 In the absence of the General Manager for any period exceeding one week, the General Manager must appoint a suitable person as Acting General Manager. If the General Manager does not make, or is incapable of making, such an appointment a suitable person must be appointed by the Subsidiary.
- 4.4 The Subsidiary delegates responsibility for day to day management of the Subsidiary to the General Manager, who will ensure that sound business and human resource management practices are applied in the efficient and effective management of the operations of the Subsidiary.
- 4.5 The functions of the General Manager include:
- 4.5.1 ensuring that the decisions of the Subsidiary are implemented in a timely and efficient manner;
- 4.5.2 providing information to assist the Subsidiary to assess the Subsidiary's performance against its Strategic and Business Plans;
- 4.5.3 providing advice and reports to the Subsidiary 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 Subsidiary including but not limited to continuing improvement of the operations of the Subsidiary;
- 4.5.5 ensuring that the assets and resources of the Subsidiary 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 advise the Subsidiary on all relevant legislative changes;
- 4.5.8 exercising, performing or discharging other powers, functions or duties conferred on the General Manager by or under the Act or any other Act, and performing other functions lawfully directed by the Subsidiary;
- 4.5.9 achieving financial outcomes in accordance with adopted plans and Budgets; and
- 4.5.10 establishing policies and procedures relating to work, health and safety.
- 4.6 The General Manager may delegate or sub-delegate with the consent of the Subsidiary to an employee of the Subsidiary or a committee comprising employees of the Subsidiary, any power or function vested in the General Manager. Such delegation or sub-delegation may be subject to conditions or limitations as determined by the General Manager.
- 4.7 Where a power or function is delegated to an employee of the Subsidiary, the employee is responsible to the General Manager for the efficient and effective exercise or performance of that power or function.
- 4.8 A written record of delegations and sub-delegations must be kept by the General Manager at all times.
- 4.9 In the event the Subsidiary does not appoint a General Manager, the Board shall undertake the responsibilities and functions of the General Manager set out in this Charter.
5. **FINANCIALS**
- 5.1 **Budget**
- 5.1.1 The Subsidiary must before 31 March 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 relation to the first Budget of the Subsidiary after it is established) in accordance with the Act for approval by the Constituent Councils.
- 5.1.2 The Subsidiary must adopt by 30 June in each year, a Budget in accordance with the Act for the ensuing Financial Year as approved unanimously by the Constituent Councils pursuant to Clause 5.1.1.
- 5.1.3 The Subsidiary 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 Subsidiary must provide a copy of its adopted annual Budget to the Constituent Councils within five (5) business days after the adoption of the annual Budget by the Subsidiary.
- 5.1.5 Monthly reports summarising the financial position and performance of the Subsidiary against the annual 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 Subsidiary must reconsider its annual Budget in accordance with the Act at least (3) times at intervals of not less than three (3) months between 30 September and 31 May (inclusive) in the relevant Financial Year and may with the unanimous approval of the Constituent Councils amend its annual Budget for a Financial Year at any time before the year ends.
- 5.1.7 The annual Budget must be in accordance with the Act.
- 5.2 **Financial Contributions**
- 5.2.1 Any financial contributions to the Subsidiary by the Constituent Councils will be in equal amounts unless the Constituent Councils agree otherwise.
- 5.2.2 Each of the Constituent Councils must contribute funds in equal amounts to the Subsidiary as set out in the Budget adopted by the Subsidiary and approved by the Constituent Councils.
- 5.2.3 The Constituent Councils may unanimously agree to provide the Subsidiary 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 Subsidiary must ensure that the Financial Statements of the Subsidiary for each Financial Year are audited by the Subsidiary'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 6.2.

- 5.4 **Financial Transactions**
- 5.4.1 The Subsidiary must establish and maintain a bank account with such banking facilities and at a bank to be determined by the Subsidiary.
- 5.4.2 The Subsidiary must develop and maintain appropriate policies for all financial transactions.
- 5.4.3 The General Manager must act prudently in the handling of all financial transactions for the Subsidiary.
- 5.5 **Long Term Financial Plan**
- 5.5.1 The Subsidiary must prepare and submit to the Constituent Councils for their unanimous approval a Long Term Financial Plan covering a period of at least three (3) years.
6. **MANAGEMENT FRAMEWORK**
- 6.1 **Annual Business Plan**
- The Subsidiary:
- 6.1.1 must prepare an Annual Business Plan for unanimous approval by the Constituent Councils;
- 6.1.2 must adopt an Annual Business Plan as approved unanimously by the Constituent Councils in accordance with Clause 6.2.1;
- 6.1.3 may, with the unanimous approval of the Constituent Councils amend its Annual Business Plan at any time; and
- 6.1.4 must ensure the content of the Annual Business Plan is in accordance with the Act.
- 6.2 **Annual Report**
- 6.2.1 The Subsidiary must each year, produce an Annual Report summarising the activities, achievements and financial performance of the Subsidiary for the preceding Financial Year.
- 6.2.2 The Annual Report must incorporate the audited Financial Statements of the Subsidiary for the relevant Financial Year.
- 6.2.3 The Annual Report must be provided to the Constituent Councils by 30 September each year.
- 6.3 **Audit**
- 6.3.1 The Subsidiary must cause adequate and proper books of account to be kept in relation to all the affairs of the Subsidiary and must establish and maintain effective auditing of its operations.
- 6.3.2 The Subsidiary must appoint an Auditor in accordance with the Act on such terms and conditions as determined by the Subsidiary.
- 6.3.3 The audited Financial Statements of the Subsidiary, 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.
- 6.4 **Audit Committee**
- 6.4.1 Subject to Clause 6.4.2 the Subsidiary must establish an Audit Committee to be comprised of between three (3) and five (5) persons determined or approved unanimously by the Constituent Councils.
- 6.4.2 The Audit Committee must include at least two (2) members who are not employees or Board Members of the Subsidiary, or employees or elected members of a Constituent Council.
- 6.4.3 The Members of the Audit Committee must be appointed for a two (2) year term and at the expiry of their term of office are eligible for reappointment.
- 6.4.4 The Chairperson of the Audit Committee must not be an employee or Board Member of the Subsidiary or employee or elected member of a Constituent Council.
- 6.4.5 The Subsidiary may only pay a sitting fee to the members of the Audit Committee who are not employees or Board Members of the Subsidiary or employees or elected members of a Constituent Council as determined by the Subsidiary.
- 6.5 **Insurance and Superannuation Requirements**
- 6.5.1 The Subsidiary shall register with the Local Government Mutual Liability Scheme and the Local Government Workers Compensation Scheme and comply with the rules of the schemes.
- 6.5.2 The Subsidiary 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 Subsidiary.
- 6.5.3 The Subsidiary shall register with the Local Government Superannuation Scheme and comply with the rules of the Scheme.
7. **MISCELLANEOUS PROVISIONS**
- 7.1 **Equitable Interests**
- 7.1.1 The Constituent Councils have an equal equitable interest in the Subsidiary which may be varied by unanimous agreement of all the Constituent Councils.
- 7.2 **Withdrawal of a Constituent Council**
- 7.2.1 A Constituent Council may with the Minister's consent withdraw from the Subsidiary by giving not less than two years (24 months) written notice of its intention to do so, subject to Clause 7.2.2, to the Board and to the other Constituent Councils.
- 7.2.2 In any event, a withdrawal will not become effective until 30 June following the expiry of the two years (24 months) written notice period referred to in Clause 7.2.1. Until a withdrawal becomes effective the Constituent Council proposing withdrawal from the Subsidiary will remain liable for all financial contributions up to the Date of Withdrawal, and through its Board Members retains responsibility for ensuring the continued proper conduct of the affairs of the Subsidiary during that time.
- 7.2.3 Upon a withdrawal taking effect a Constituent Council will be entitled to payment of such amounts and on such conditions as determined by unanimous agreement of the Constituent Councils and failing unanimous agreement the matter will be resolved in accordance with Clause 7.7.

- 7.2.4 The withdrawal of any Constituent Council does not extinguish the liability of that Constituent Council for the payment of its contribution towards any actual or contingent deficiency in the Net Assets of the Subsidiary at the end of the Financial Year in which such withdrawal occurs.
- 7.2.5 The withdrawal of any Constituent Council does not extinguish the liability of that Constituent Council to contribute to any loss or liability incurred by the Subsidiary at any time before or after the Date of Withdrawal in respect of any act or omission by the Subsidiary prior to such date.
- 7.3 **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 unanimous agreement of all the Constituent Councils and this Charter may be amended to provide for the admission of a new constituent council or councils, with or without conditions.
- 7.4 **Winding-Up**
- 7.4.1 The Subsidiary may be wound up in accordance with the Act.
- 7.4.2 Should the Board request the Constituent Councils to consider winding up the Subsidiary or should one of the Constituent Councils request the other Constituent Council(s) to consider winding up the Subsidiary then the Council, or Councils as the case may be, must call a special meeting in accordance with Clause 3.11.10.
- 7.4.3 On a winding-up of the Subsidiary, the surplus assets or liabilities of the Subsidiary, as the case may be, must be distributed between or become the responsibility of the Constituent Councils as agreed unanimously by the Constituent Councils and failing unanimous agreement the matter will be resolved in accordance with Clause 7.7.
- 7.5 **Non-derogation and Direction by Constituent Councils**
- 7.5.1 The establishment of the Subsidiary 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 Subsidiary.
- 7.5.2 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 Subsidiary.
- 7.5.3 Where the Subsidiary 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 of the Constituent Council granting such approval.
- 7.5.4 Unless otherwise stated in this Charter where the Subsidiary is required to obtain the consent or approval of the Constituent Councils this means the unanimous consent or approval of all of the Constituent Councils.
- 7.5.5 For the purpose of this Clause 7.5, any direction, approval or consent given by the Constituent Councils must be communicated by notice in writing provided to the General Manager of the Subsidiary together with a copy of the relevant resolutions of the Constituent Councils.
- 7.6 **Review of Charter**
- 7.6.1 The Subsidiary must review this Charter at least once in every four (4) years.
- 7.6.2 This Charter may be amended with the unanimous approval of all of the Constituent Councils.
- 7.6.3 The General Manager 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.
- 7.6.4 Before the Constituent Councils vote on a proposal to alter this Charter they must take into account any recommendation of the Board.
- 7.7 **Disputes Between Constituent Councils**
- 7.7.1 General
- 7.7.1.1 Where a dispute arises between the Constituent Councils which relates to this Charter or the Subsidiary, (**the Dispute**) the Constituent Councils 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 Constituent Council 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 Constituent Councils are unable to resolve the Dispute within thirty (30) days, the Constituent Councils 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 Constituent Council to the other Constituent Councils that the Dispute be referred for mediation, to:
- (a) a mediator agreed unanimously by the Constituent Councils; or
- (b) if the Constituent Councils are unable to agree unanimously 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 Constituent Councils fail to refer the matter for mediation in accordance with Clause 7.7.2.2, one or more Constituent Councils 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 Constituent Council unless that Constituent Council 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 Constituent Councils as evidenced by resolutions of each of the Constituent Councils, any Constituent Council 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 unanimous agreement between the Constituent Councils.
- 7.7.3.2 Failing agreement as to an arbitrator the then Chairperson of the South Australian Chapter of the Institute of Arbitrators or their 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.
- 7.7.3.4 Upon serving a notice of arbitration the Constituent Council 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 Constituent Councils pursuant to this Charter shall continue during the mediation or arbitration proceedings and no payment by a Constituent Council to the Subsidiary or to a Constituent Council by the Subsidiary shall be withheld on account of the mediation and arbitration proceedings.

Dated 20 July 2015

Mr Paul Deb, Chief Executive Officer, City of Burnside  
Mr Mario Barone, Chief Executive Officer, City of Norwood, Payneham & St Peters  
Ms Kiki Magro, Chief Executive Officer, Corporation of the Town of Walkerville

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**Michael Parkinson CIA CISA CRMA CRISC**

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**Michael Parkinson****Qualifications**

Bachelor of Science (Honours) in the School of Mathematical Sciences.<sup>1</sup>  
University of Adelaide

Graduate Diploma in Computing Studies.  
University of Canberra

Company Directors Diploma.  
University of New England

**Professional Societies**

**Association for Computing Machinery**  
Member since 1973

**Information Systems Audit & Control Association**  
Certified Information Systems Auditor 1985  
Certification in Risk and Information Systems Control  
2010  
International Vice President, ISACA 1994-1997, 2000-  
2001

**Institute of Internal Auditors**  
Certified Internal Auditor 1995  
Certification in Risk Management Assurance 2012  
Secretary to International Board, 2009-10  
Vice Chair of International Board 2010-11

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<sup>1</sup> This included a major streams and Honours-level study in Mathematical Statistics and Computing Science.

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**Michael Parkinson CIA CISA CRMA CRISC**

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**Summary**

Michael Parkinson worked in the Australian public sector for several decades – the last 30 years in senior governance, consulting and internal audit positions. He was the chief audit executive of three Australian Government agencies as a permanent officer and, as a consultant, has been the most senior internal auditor of a number of agencies.

Michael has substantial experience in Information Systems, Internal Auditing and Risk Management. He also has extensive experience in public sector organisations (including local government).

He is a Certified Internal Auditor (CIA), Certified Information Systems Auditor (CISA) and holds a Certificate in Risk Management Assurance (CRMA) and Certificate in Risk and Information Systems Control (CRISC).

He has served on the international board and executive of each of ISACA and The IIA.

Until 2016, he was

- chair of Standards Australia / Standards New Zealand joint technical committee OB-007 – the mirror committee for ISO TC 262 and local developer of risk management guidance
- Australian representative to ISO TC 262
- a member of the International Internal Auditing Standards Board.

Michael is formerly a Director of a major accounting/service firm providing internal audit, risk management and governance services.

Since retiring from the full-time workforce in 2014, he works as a private contractor delivering training and undertaking professional reviews of internal audit. Michael continues to serve on a number of public sector audit committees.

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**Michael Parkinson CIA CISA CRMA CRISC**

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## Experience

Michael joined KPMG in 1995 after twenty-two years' experience in the Australian Public Service. He continued to serve Government entities for his 19 years with KPMG. Positions of relevance included:

- 1984 Director Internal Audit, Department of Territories and Local Government – the municipal authority for the ACT
- 1985 Assistant Director IT Audit, Department of Housing and Construction
- 1986 Director Internal Audit, Department of Housing and Construction
- 1987 Director IT Audit, Department of Administrative Services
- 1987-1995 Manager Corporate Audit, CSIRO
- 1995-2014 Senior Manager / Director KPMG

Within KPMG Michael's work involved IT Consulting and Internal (& Information Systems) Audit for a range of public sector clients. From 2005 to 2012 he managed the outsourced internal audit operation at the Department of Veterans Affairs. In 2001, he was employed as the primary consultant to re-engineer internal auditing in the Government of Thailand as a part of the Budget Reform Process.

Michael is a strong contributor to the theory and practice of governance, risk management and assurance having over his career written and lectured extensively in this area. His more recent publications include AS HB 158-2010 *Delivering assurance based on ISO 31000:2009 Risk Management*, and the IIA-Australia *Professional Practices Guide*. He also formally contributed to the development of the *ASX Corporate Governance Guidelines* and has participated in relevant parliamentary enquiries.

He has also made a number of submissions on behalf of professional technical bodies and as a private citizen to governance reform bodies, appearing before Commonwealth parliamentary committees on three occasions.

### Board & Audit Committee Experience

Michael has served on international boards for the Institute of Internal Auditors – serving on the Executive Committee as Secretary and then Vice-Chair of the Board – and ISACA – as Vice-President. He has served as chair of local affiliates of both these bodies.

In his role as internal auditor (head of internal audit), Michael has served a wide range of audit committees and has served on several audit committees as a member. These include Rockhampton Regional Council (2012-19) and the Australian Communications and Media Authority (2016-19). He served on the IIA-Australia Audit Committee as a consequence of being a Director of the company.

Michael currently serves as an independent member on the audit committee of the Port Macquarie–Hastings Council (since 2014). He is chair of the audit committee of the Fraser Coast Regional Council (since 2017).

### Internal Auditing

Michael Parkinson is an internal auditor of more than 35 years experience. After 10 years in Information Technology and Government Finance he became an IT internal auditor in the early 1980s. He worked as a government internal auditor for more than 30

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years; the last 19 years as a service provider. Whilst working as a government employee he was the Chief Audit Executive of three different government agencies.

Prior to joining KPMG in 1995 Michael was Chief Internal Auditor at CSIRO for seven years. This involved the planning and conduct of the full internal audit program for the Organisation and encompassed administrative review, advice on procedures, efficiency and effectiveness reviews, and IT systems reviews.

Michael has IT and Audit experience covering internal audit and systems development work. He is additionally experienced in the management of large administrative units and has been closely involved in the development of IT-based audit tools and techniques. In 2001, he worked with the Bureau of the Budget, Royal Thai Government, to design government-wide internal auditing processes. In the same year he worked with the Bank of Thailand to introduce risk-based internal auditing.

Michael's internal audit clients have included; Department of Defence; Australian Taxation Office; Australian Maritime Safety Authority; Australian Communications Authority; Department of Communications and the Arts; Department of the Senate; Department of the House of Representatives; Department of Veterans Affairs; and the Northern Territory Government's Internal Audit Bureau.

Michael was accredited by the IIA to conduct quality assurance reviews of internal audit functions in 2007 and conducts such reviews on a regular basis. His reviews of internal audit activities have encompassed local government, financial services, industrial companies, state & federal government agencies, tertiary institutions and not-for-profit community bodies.

He served on the International Internal Auditing Standards Board for six years and on the Information Systems Auditing Standards Board for four years.

**Risk Management**

Michael was a senior participant in the team that developed KPMG Canberra's Business Risk Assessment approach. This methodology involves extensive use of workshops with staff throughout an organisation – from chief executive to most junior. In conducting such reviews Michael has facilitated workshops in most parts of Australia and internationally.

In 2001-2002 Michael led a joint IIA-Australia/Standards Australia project to develop a guide on the use of the AS/NZS 4360 *Risk Management* standard in the internal audit process. The resulting document (HB158-2002), of which Michael was the principal author, is a detailed worked example of the use of the standard. HB 158-2010 (mentioned above) is an updated version of this document.

He served on the Standards Australia/Standards New Zealand joint technical committee OB-007 (Risk Management) from 2008 to 2016, and was its chair from 2012 to 2016. This committee was responsible for the development of the AS/NZS 4360 *Risk Management* standards and was a major contributor to ISO 31000-2009 *Risk management – Principles and guidelines*. The committee is currently developing a range of guidance handbooks for risk management. Michael was an Australian delegate (head of delegation) to ISO technical committee TC 262 which has recently revised ISO 31000.

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Organisations in which Michael has undertaken risk assessments include: ACT Community Care; the Canberra Hospital; NT Department of Primary Industry & Fisheries; NT Work Health Authority; Bank of Thailand; Department of Communications, IT and the Arts; the Australian Communications Authority; and the Australian Maritime Safety Authority. Some of these risk assessments have been assessments of fraud-related risk.

**Project Management**

Michael has a background of IT and IT management. Before moving to internal audit, he spent some years as a Project Manager/Director, Applications in a Government IT function. He was part of the KPMG project office team on the Defence Year 2000 Remediation project spending most of 1999 on this critical project. He subsequently worked in the Defence GST implementation project office.

At ComSuper he was the project auditor on the core systems replacement project and has assisted that organisation in the successful delivery of a critical application system. He performed similar functions in relation to DHA business systems and the Centrelink systems associated with the Welfare to Work initiative.

**IT Strategic Planning**

Michael's work in this area includes assisting AusAID in the revision of its IT strategic Plan and participating as a member of the AusAID Information Management Steering Committee over a number of years. Whilst at CSIRO, Michael prepared the Organisation's Communications Network Strategic Plan and he has performed a number of network capacity management reviews including a review for the Bureau of Meteorology.

**IT Security Reviews**

Michael has substantial experience in the review of IT security and access management. He was part of the team that developed the 1995 CSIRO integrated security policy and carried this experience into an assignment at Austrade where he assisted the Commission in developing its security policy. He has conducted IT security and privacy reviews on a wide range of equipment and operating systems (from PCs to Mainframes) and encompassing a wide range of network configurations..

Reviews include: IT Security at the Bureau of Meteorology; security of the Spectrum Auction System at the Australian Communications Authority; access control at the Australian Maritime Safety Authority; business continuity at AMSA; and firewall management at the Department of Transport and Regional Services.

**Review of Outsourced Services**

Michael has reviewed the outsourced provision of services in a number of organisations including: IT at the Australian Communications Authority; HR and IT at the Department of Communications, IT and the Arts; and IT in the ACT Government. He has also examined a number of system failures arising from miscommunication between outsourced service providers and organisational principals.

In some cases these have been contracts for provision of computing facilities and in others contracts for the provision of full services.

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**Applications Development**

Michael's early career was as a systems analyst/programmer, and before becoming an IT auditor he was the manager of an IT Applications development unit, responsible for the delivery of business application systems to the ACT Government. As an internal auditor he has examined the applications development environment (standards, project management, change management, requirements management, quality control etc) of many organisations ranging from private sector financial institutions to government research organisations.

**Statistical and Related Work**

Michael's degree includes a major stream in mathematical statistics, with studies in statistics being undertaken at Honours level. Michael's first professional appointment was as a computer programmer supporting statistical analysis software used by the Australian Bureau of Statistics. Since becoming an internal auditor he has had significant experience in the design and execution of testing regimes (both statistical and non-statistical) in support of internal audit activity.

As a presenter/trainer, Michael has developed courses to teach auditors the rudiments of statistics and practical approaches to statistically valid testing. He has presented seminars to candidates for professional certification examinations over a number of years.

Michael's direct application of statistics has been in projects for the Defence CFO, Joint Logistics Command – Logistics Assurance Branch, forensic review of the Home Insulation Program, and IP Australia quality assurance processes.

**Professional Society Activity**

Michael joined the Board of the Institute of Internal Auditors - Australia (IIA-Australia) in 1996, was elected Vice-President in 1998 and became National President of IIA-Australia in 1999, serving until 2001. He continued to serve on the Board of IIA-Australia until 2005.

From 2001 until 2004, Michael worked as the Host Committee chair for the IIA International Conference held in Sydney in 2004 and served on the International Conference Committee during that period. Michael was the Australian nominee Director on the Board of IIA Global for the period 2008-09; he was elected International Secretary in 2009-10 and Vice-Chair of the Board (Professional Services) for 2010-11.

In 2005, Michael joined the IIA Global International Relations Committee and served as its chair for 2007-09. He served on the International Internal Auditing Standards Board from 2011 to 2016.

During 1994-97 and 2000-01 Michael represented Australia and New Zealand as the International Vice-President of the Information Systems Audit and Control Association (ISACA). During 2003-2006 he also served as the Chair of the ISACA International Education Board.

Michael has been the prime motivator and coordinator of a number of technical publications issued by IIA Australia. In 2006-07, he worked with the Global Vision Taskforce to revise the Professional Practices Framework and with the refresh task force in 2014-15 when the framework was updated.

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He served as the Honorary Secretary of the Asian Confederation of Institutes of Internal Auditors (ACIIA) for 2006-07 and as President of ACIIA from September 2007 to November 2008.

In 2007 Michael was presented with the IIA-Australia Bob McDonald Award for contribution to the internal auditing profession. In 2015 he was awarded the Victor Z Brink Award by IIA Inc. The Victor Z. Brink Award for Distinguished Service was established to recognize individuals who, over time, have given unusual and outstanding service to the world-wide profession of internal auditing through participation in the activities of The Institute of Internal Auditors.

Michael was made a life member of IIA Australia in 2017.

**Publications (partial list)**

- Bowles, F. E., & Parkinson, M. J. (1989). *LAN Taming: the audit and control of local area networks*. Sydney: Peat Marwick Hungerfords.
- Finger, P., McLeod, A. J., Purdie, G., & Parkinson, M. J. (2010). *SA/SNZ HB 158-2010 Delivering Assurance Based on AS/NZS ISO 31000*. Sydney: Standards Australia / Standards New Zealand / IIA Research Foundation.
- Parkinson, M. J. (2004, December). A strategy for providing assurance. *Internal Auditor*, LXI(VI), 63-68.
- Parkinson, M. J. (2008). *Internal Audit Planning: How Can We Do It Better?* Retrieved Nov 7, 2015, from QFinance: <http://www.financepractitioner.com/auditing-best-practice/internal-audit-planning-how-can-we-do-it-better?page=2>
- Parkinson, M. J. (2008). *The assurance versus consulting debate: how far should internal audit go?* Retrieved from QFinance: <http://www.financepractitioner.com/auditing-best-practice/the-assurance-versus-consulting-debate-how-far-should-internal-audit-go?page=1>
- Parkinson, M. J. (2016). Identification, analysis and evaluation of compliance-related risks. In M. Tolar, D. Hortensius, D. Bühr, M. Parkinson, R. Volkman, K. Powell, . . . P. Jonas, *Commentary on ISO 19600 - Compliance Management Systems*. Vienna: Austrian Standards Institute / LexisNexis.
- Parkinson, M. J., & Paul, R. G. (1987). *PC Taming: The audit and control of microcomputers*. Canberra: Institute of Internal Auditors (Australia) and EDPAA (Canberra).



## Professional Competencies and Skills

### Governance and Auditing

- Governance, risk management and control frameworks
- Internal auditing policy and procedures
- Risk-based Audit Planning
- Internal auditing methodologies
- Compliance management systems
- Computer Assisted Audit Techniques
- Internal audit/IS audit training

### Business and IT Risk Management Services

- Comprehensive Business Risk Assessment
- Protective Security Risk Assessment
- Fraud Risk Management Services
- ICT Risk Assessment
- IT Risk Management Benchmarking
- Evaluation of risk management processes

### Operational Performance Evaluation

- Compliance Reviews
- Operational Efficiency and Effectiveness Reviews
- Program Performance Evaluation
- Internal Audit Performance Evaluation
- Statistical Sampling
- Reviews of management of major projects

### Information Risk Management

- IS Governance
- IT Strategy
- Project Assurance
- Contract Quality Assurance
- e-Business Readiness Assessment

- Application Systems Reviews
- Data Quality Assurance
- Information and Communications Technology [ICT] Security Reviews
- Infrastructure Assurance
- Business Continuity

### IT/IS Management

- Information systems strategic planning
- Systems analysis, design, implementation
- Data analysis and data modelling
- Database design
- Software evaluation
- Capacity planning
- Project management
- Feasibility studies