

**ORDINARY MEETING OF COUNCIL
14 SEPTEMBER 2009**

10	ST KILDA ESPLANADE ART AND CRAFT MARKET GOVERNANCE AND MANAGEMENT REVIEW
LOCATION/ADDRESS:	THE ESPLANADE, ST KILDA
GENERAL MANAGER:	VANDA IACONESE
PREPARED BY:	MIKE MCINTOSH
FILE NO.:	56/01/43
ATTACHMENTS:	ESPLANADE ART AND CRAFT MARKET GOVERNANCE REVIEW – FINAL REPORT PART A, B AND C

1. EXECUTIVE SUMMARY

- 1.1 The following report presents the findings and key recommendations subsequent to the independent review of the preferred governance and management of the St Kilda Esplanade Art & Craft Market.
- 1.2 The Esplanade Market review was conducted to provide an independent and objective assessment of the management and governance issues associated with the market. The review identified the need for improved governance and management structures, improved systems and for cultural change to occur to enable the market to achieve its full potential and to ensure all parties are operating in accordance with good governance standards.
- 1.3 The key recommendations of the independent review include;
 - 1.3.1 Council to establish a market policy to guide the future support of markets across the city (excluding the South Melbourne Market).
 - 1.3.2 Council to review and update the local laws relating to the Esplanade Market in accordance with market policy.
 - 1.3.3 Council to take responsibility for governing and managing the Esplanade Market in the short term (2 years) with a skill based Advisory Group for input into the development of necessary policy, guidelines and strategic planning.
- 1.4 The recommendations have been made on what is likely to be best outcomes for the on-going sustainability and successful operation of the market while considering Council's responsibilities and obligations to the community.
- 1.5 This report recommends Council receive the key recommendations of the independent report.

2 RECOMMENDATION

That Council:

- 2.1 Receives the Esplanade Art and Craft Market Governance and Management Review Part A, Part B and Part C.
- 2.2 Assumes responsibility for governing the market for a period of 2 years, to be reviewed at the end of that period.
- 2.3 Establishes an Advisory Group consisting of stallholders, representatives from the Market Association, Councillors and community representatives to assist the City of Port Phillip in the management of the market.
- 2.4 Develops a Market Policy to guide the future support for semi-permanent markets in the City of Port Phillip.
- 2.5 Develops a 3 - 5 year Strategic Plan for the Esplanade Market.
- 2.6 Develops a Business and Operational Plan for the Esplanade Market.
- 2.7 Reviews and updates the local laws relating to the management and operations of the market to provide clear, unambiguous rules, transparent processes and an understanding of rights, responsibilities and processes.

3. BACKGROUND AND CONTEXT

- 3.1 The St Kilda Art and Craft Market was established in 1978 as an incubator and opportunity for the sale of arts and crafts produced locally by the local artesian community. The market occurs every Sunday and has capacity for over 200 stallholders.
- 3.2 The St Kilda Art and Craft market today is iconic and a popular destination in Melbourne.
- 3.3 In recent times, a number of factors have led to this decision by Council for an independent review. These include;
 - 3.3.1 Failed negotiations to develop a Memorandum of Understanding (MOU) between the Esplanade Art and Craft Market Association Inc (the Association) and the City of Port Phillip;
 - 3.3.2 Failed negotiations to develop an agreement between the City of Port Phillip and the Association in respect to the City of Port Phillip collecting the 'advertising levy' which has resulted in the City of Port Phillip ceasing to collect the advertising levy from January 1, 2009;
 - 3.3.3 Petitions presented to Council from two different stallholder groups at separate Council meetings on 23 March and 27 April 2009

3.4 At its Ordinary Meeting on April 27 this year, following the presentation of the two petitions in relation to the governance and management of the market, council resolved to conduct an independent review of the governance and management of the St Kilda Arts and Craft Market.

3.5 The review included the appointment of the St Kilda Arts and Craft Market Reference Group. Its purpose was to assist council in determining the future governance arrangements for the St Kilda Arts and Craft Market.

3.6 The objectives of the review were to;

- *Meet best practice in good governance relative to other and like markets;*
- *Be underpinned by a commitment to community development and engagement in the operation of the market;*
- *Protect the integrity of the St Kilda Esplanade Art and Craft Market as a 'makers' market;*
- *Retain the independence of the market operations from perceived and actual conflicts of interest;*
- *Ensure the successful operations of the market into the future.*

3.7 The review was concluded on 12 August and the key findings and recommendations are attached in the final report Part A, B and C.

4 CONSULTATION AND STAKEHOLDERS

4.1 **VicRoads:** Consultation took place with VicRoads representatives who indicated they had no issues associated with the market's location, indicating that the Upper Esplanade is City of Port Phillip's responsibility. VicRoads did indicate a preference for any visual distractions such as signage and flags be minimized at the location.

4.2 **The Department of Sustainability and Environment:** The Department of Sustainability and Environment did not consider themselves to be a stakeholder given the site is not Crown Land.

4.3 **Parks Victoria:** Parks Victoria indicated they are supportive of putting infrastructure and activities in place which enlivens and activate St Kilda. The market is considered an important part of the colour and movement of St Kilda and Parks Victoria has no concerns with the market providing it does not affect or provide a barrier to users of the St Kilda Harbour and Pier.

4.4 **Tourism Victoria:** Tourism Victoria was invited to comment, however at the time of writing this report, no input has been provided.

4.5 **Victoria Police:** Victoria Police were consulted and indicated that they had no specific concerns or issues associated with the market. Where resources were permitted, Victoria Police indicated that they would be willing to provide a pro-active policing role working with Council on specific issues such as the local laws, parking and compliance where needed.

4.6 **Local Traders Associations:** Both associations indicated that they had very little to do with the Esplanade Market Association however they were supportive of the market and believed there is synergy with their goals of bringing more people to St Kilda on weekends.

4.7 **Stallholders:**

- All market stallholders were provided with the opportunity to provide input via a written questionnaire developed in partnership with the reference group. 130 questionnaires were issued and 91 (70%) were returned. The key findings are outlined in Part B, section 15 of the Final Report attached.
- According to the findings of the questionnaire it would appear that stallholders were equally divided in their understanding of both the purpose and role of the association and the purpose and role of the City of Port Phillip.
- Stallholders were also equally divided in their view of how effective the market has been run and what was the best way to run the market.

4.8 **Committee Workshop**

- A workshop was conducted with the newly elected Committee on 17 July. The key findings are outlined in Part B, Appendix C of the Final Report.
- Whilst a number of issues were discussed in this workshop, there were key messages was for a strong sense of a secure future (particularly as it relates to the Triangle development), to maximize the capacity of the market and to ensure the market is maintained as a “hand-made” market.
- To achieve this, a better managed relationship between the Association and the City of Port Phillip was nominated by the committee. To have better and clear outlines of responsibilities and to ensure any agreement is clear in language and defines the relationship in simple terms.

4.9 **City of Port Phillip:** A number of Council staff were invited to contribute to the review. This included;

- Manager Economic Development & Tourism
- Manager Culture and Recreation
- Coordinator Statutory Planning
- Coordinator Local Laws
- Coordinator Arts and Festivals
- Coordinator Tourism and Visitor Services
- Team Leader Risk and Compliance
- Governance Advisor
- Coordinator Property

5. DISCUSSION

OPTIONS

5.1 Adopt in full all of the recommendations of the Final Report

- 5.1.1 This option is not recommended. The independent report nominates a number of recommendations, directions and options that relate to the future governance and management of the market. Many of the recommendations and options relate to the ongoing administration and operational nature of the market.
- 5.1.2 There are also some recommendations which relate directly to the operations and management of the Market Association.
- 5.1.3 For these reasons, it is recommended that the 'key' governance recommendations be adopted at this point with more detailed operational recommendations to be considered in the next two years

5.2 Adopt in part the key recommendations of the Final Report

- 5.2.1 For reasons identified above, it is recommended that the key recommendations be adopted in part.
- 5.2.2 The 'key' recommendations are identified as follows:

5.3 Recommended Governance Option

- 5.3.1 That Council take responsibility for governing the market in the short term, with an Advisory Group consisting of representatives from the Market Association, stallholders, Council and community representatives.

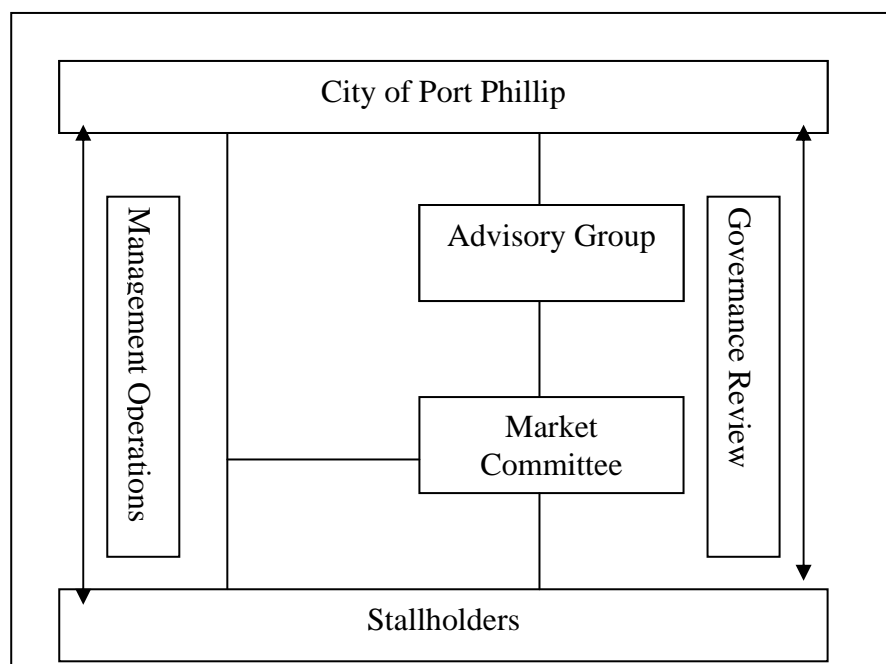
The market operates with this model for approximately 2 years with the view to identifying an alternative when a Council Market Policy and a Market Strategic Plan has been developed. The timeframe would allow sufficient consultation, for the changes to be made to the local laws, Guidelines and rules.

It is recommended that governance model be amended slightly to that indicated on Page 24 of the Final Report. The recommended structure is outlined below.

This amended governance structure ensures the Market Association can report directly to the City of Port Phillip for all ongoing management and operational matters. For matters relating to the

ongoing governance review and implementation the Market Association would report directly to the Advisory Group.

Revised Governance Model



5.4 Recommended Policy Option

- 5.4.1 Council to develop a Market Policy to guide the future support for markets in the City of Port Phillip.

In the absence of any current Council policy relating to the operation and management of markets on public land reserves the development of a Market Policy for market without fixed infrastructure is recommended.

The policy should consider the issues associated with trading on public land, community, tourism, economic development and amenity issues and the fit of the market within the municipality of Port Phillip.

5.5 Recommended Strategy Option

- 5.5.1 Council and Advisory Group to develop a 3 - 5 year Strategic Plan for the Esplanade Market.

The strategic plan is necessary for the Esplanade Market to clarify its goals, key objectives, specific strategies and to guide the future direction of the market.

5.6 Recommended Market Management & Operations Option

- 5.6.1 The CEO to appoint a staff member to coordinate the market to manage all ongoing operational, marketing, coordination and administrative matters, to regularly report to and take advice from the Advisory Group.
- 5.6.2 This recommendation is considered the most appropriate means to minimize risk to Council, the Association, stallholders and other stakeholders.
- 5.6.3 The recommendation is based on an interim arrangement which will allow sufficient time for the necessary management and operational changes, whilst enabling the market to continue to operate effectively. The recommendation is also aimed at enabling stallholders to get on with the business of running their stalls/business and providing an environment in which future opportunities for the market can be identified.
- 5.6.4 Council and Advisory Group to develop a Business and Operational Plan for the Esplanade Market.

The Business and Operational Plan would including administration, financial, marketing, operating procedures and policies, policies and procedures, infrastructure and risk and compliance. This Business and Operational Plan must consider Council's requirements in relation to the land usage, risk management, public safety, local laws, trading and other requirements.

- 5.6.5 Council to review and update the local laws relating to the management and operations of the market to provide clear, unambiguous rules, transparent processes and an understanding of rights, responsibilities and processes.

Council has a responsibility to ensure its local laws are relevant, applicable and enforced. The project identified that parts of the market have not been operating within the local law, enforcement has not been occurring and that components of the local law and the associated Policies & Procedures Manual have led to perceived conflicts of interest (in particular, the involvement of existing stallholders in selecting new stallholders and enforcement). Council also has a responsibility to ensure that any activity conducted on public land is done safely. The local laws or P&PM do not refer to risk or safety management.

5.7 ALIGNMENT TO COUNCIL PLAN

- 5.7.1 The St Kilda Art and Craft Market is identified as an 'iconic activity', as part of the City of Port Phillip Creative Futures Strategy 2008, developed as part of the City of Port Phillip Active and Creative Framework.

- 5.7.2 These recommendations are consistent with support the important of the market and further strengthen councils commitment to trustful and transparent governance.

5.8 POLICY IMPLICATIONS PLAN

- 5.8.1 In the absence of any current Council policy relating to the operations of markets on public land, the proposed recommendations will set an important precedent which will enable council to guide the future support for semi-permanent markets in the City of Port Phillip.

5.9 FINANCE / RESOURCE IMPLICATIONS

- 5.9.1 Currently, council collects revenue from stallholder permit fees. This revenue covers all current administrative costs incurred by council.
- 5.9.2 In addition to the stallholder permit fees, stallholders also (under a separate arrangement between themselves and the Market Association) pay an advertising levy to the association for market coordination and advertising purposes. This advertising levy was supposed to be collected by the council and returned to the Market Association for said purposes. For reasons outlined in the Final Report, council has not collected this levy since January 2009.
- 5.9.3 The combined permit fee revenue and advertising levy stallholders have paid in the past would cover resources required to appoint a market coordinator as well as associated marketing and promotional expenses.
- 5.9.4 The recommendation in this report assumes the advertising collection will resume by CoPP and the money's collected will cover the costs for engagement of the market coordinator by CoPP and provide the resources necessary to continue marketing of the market, providing public liability insurance coverage for stallholders and Council. It should be noted this is the current use and purpose of the advertising levy.
- 5.9.5 It is proposed that CoPP enter into permit agreements with individual stallholders as is currently the practice, with the revised permits to include provision for an advertising levy to be paid directly to Council for use in the coordination, marketing, insuring and administration of the market.
- 5.9.6 It is proposed that the current advertising levy will be capped at the current level for a period of at least two years and reviewed at the end of that period. This will ensure there is no additional cost to the stallholder;

5.10 LEGAL & RISK IMPLICATIONS

5.10.1 Legal Implications

5.10.2 There are no legal implications in implementing the key recommendations of this report.

5.10.3 Risk Implications

5.10.4 Risk management has been critical driver of the key recommendations of this report. Consequently the key recommendations and options have been established primarily to reduce risk to Council, the Market Association and stallholders and to ensure ethical conduct and good governance standards.

6. IMPLEMENTATION and COMMUNICATION STRATEGY

6.1 TIMELINE

6.1.1 The key stages are identified below.

October	2009	Scoping
November	2009	Establish Advisory Group
January	2010	Revise policies and procedures
January	2010	Advisory Group to review key issues
July	2010	Local Law and guideline development
November	2010	Establish Business/Operational Plans
November	2010	Develop new Local Law and procedures
November	2010	Introduction of new Local Laws
January	2011	Determine long term model
October	2011	New model introduced

6.2 COMMUNICATION

6.2.1 As noted in the timeline above, a key element of the implementation plan is the immediate development of a two year communications strategy to ensure all effected and interested parties are clearly and openly communicated to throughout the process.

7. OFFICER DIRECT OR INDIRECT INTEREST

- 7.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.