

South Melbourne Market Committee Charter

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1. Preamble

The South Melbourne Market is a very important public place for social and cultural interaction both for the City of Port Phillip and the wider community.

Established in 1867, the Market is built on land made available under a Crown Grant for a general market. The buildings and associated infrastructure are owned and maintained by Council.

It is Council's intention to retain and enhance the Market's unique position as a major civic space, one that is a generator of community and social interaction, as well as being one of the Council's prime infrastructure assets. Council is of the view that it can be developed further as a place for the whole community to visit and belong, as well as a premier shopping destination.

The Market is an integral part of Council's long term financial sustainability and as such must continue to operate profitably and competitively.

2. Interpretation

In this Charter:

Act means the *Local Government Act* of Victoria.

Budget means the annual budget adopted by the Committee and endorsed by Council.

Business Plan means the annual plan adopted by the Committee and endorsed by Council.

Chief Executive Officer means the Chief Executive Officer of the City of Port Phillip.

Charter means this Charter of the Committee adopted by Council.

Code of Conduct means the Code of Conduct for Councillors of the City of Port Phillip.

Committee means the South Melbourne Market Committee established by Council in accordance with the Act.

Committee Member means a member of the Committee.

Council means the elected representatives who sit as the governing body of the City of Port Phillip.

Financial Year means 1 July in each year to 30 June in the subsequent year.

Instrument of Delegation means the Instrument of Delegation made by Council delegating duties, functions and powers to the Committee.

Market Manager means the City of Port Phillip staff member whom the Chief Executive Officer has employed and assigned to support the Committee in managing the Market.

Market means the South Melbourne Market.

Senior Officer means a member of staff of the City of Port Phillip who reports directly to, and is given responsibilities under this Charter by, the Chief Executive Officer.

3. Confirmation of Status of Committee

This Charter sets out the role of the Committee, and describes its purpose, objectives, functions, powers and composition.

4. Relationship with Council

Because it is Council which:

- (a) is the grantee of the land on which the Market is constructed;
- (b) is responsible for the physical condition and operational performance of the Market;
- (c) employs the Market Manager and staff working at the Market; and
- (d) funds expenditure on or in connection with the Market

the Committee must pursue its purpose and objectives, perform its functions and exercise its powers compatibly with the direction and decisions of Council.

5. Purpose & Objectives

The purpose and objectives of the Committee are to:

- (a) position the Market as the premier Village Market in Victoria, one that is recognised as being vibrant, diverse and unique and that is sustainable for traders and the City of Port Phillip;
- (b) promote the Market and encourage its use by residents, visitors and the community; and
- (c) oversee the management and operation of the Market in accordance with the terms of this Charter and Council's Strategic Plan, policies and programs.

6. About this Charter

- (a) This Charter is the Charter of the Committee.
- (b) This Charter binds the Committee.
- (c) Despite any other provision in this Charter:
 - (i) if the Act prohibits a thing from being done, the thing may not be done;
 - (ii) if the Act requires a thing to be done, authority is given for that thing to be done; and
 - (iii) if a provision of this Charter is, or becomes, inconsistent with the Act, that provision must be read down or, failing that, severed from this Charter to the extent of the inconsistency.
- (d) This Charter may not be amended, except by a formal Council resolution.
- (e) Council may review this Charter at any time and must review this Charter when it is relevant to do so.

7. Duties, Functions and Powers

The duties, functions and powers of the Committee in connection with the Market are to:

- (a) set the long-term vision and strategic position of the Market at the local, metro and national level;
- (b) establish and oversee the execution of a commercially sustainable retail strategy, that covers market mix, connection to locality, approach to licences and fees, trader and customer experience management and asset requirements;
- (c) establish the brand for the market, as well as determining the overall approach to marketing, promotion and activation of the Market. Oversee the execution of these activities (including undertaking principal spokesperson responsibilities) and assess effectiveness of activities undertaken in this area;
- (d) understand the needs of traders and oversee an approach that makes the Market the 'market of choice' for traders at the local, metro and national level;
- (e) understand customer needs and provide a customer experience that attracts new and retains existing customers to the Market;
- (f) oversee the day to day management of the market including the management of risks and opportunities;
- (g) ensure the Market contributes to the sustainability objectives of Council;
- (h) align strategic plans for the market so that the market contributes to broader Council plans and strategies programs and policies for the city and South Melbourne;
- (i) be open to trialling and testing new ideas, initiatives and policies on behalf of Council, so long as these contribute and align with the long-term vision and strategic position of the Market;
- (j) establish and present to Council a prudent and commercially sustainable annual Budget and long-term financial plan, for approval by Council, to deliver on the vision, retail strategy and brand management direction for the Market;
- (k) submit to Council an Annual Report on the operations and performance of the Market;
- (l) present to Council at least twice annually (once at budget submission time and again as part of the Annual Report) on the requirements and performance of the Market;
- (m) provide input into any future redevelopment of the Market proposed by Council as well as provide Council with advice on the maintenance and renewal requirements of the Market;
- (n) approve licences to stallholders in accordance with section 17 or 17B of the *Crown Land (Reserves) Act 1978*;
- (o) compromise, compound, abandon or settle a debt or claim owed to the Market when it is appropriate to do so;
- (p) make submissions for and accept grants, subsidies and contributions to further the Market objects and purposes;
- (q) subject to clause 9, enter into any kind of contract or arrangement;
- (r) subject to clause 9, institute, initiate and carry on legal proceedings;

- (s) receive and commission reports from the Market Manager;
- (t) perform such other functions as Council confers on the Committee from time to time;
- (u) do all things necessary or convenient to be done which are incidental to the performance of any of the duties or functions or exercise of any of the powers set out above.

These duties, functions and powers are outlined in the Instrument of Delegation but may be altered from time to time in accordance with any subsequent instrument of delegation made by Council.

8. National Competition Policy

The Committee must undertake any commercial activities which constitute a significant business activity in accordance with the principles of competitive neutrality and must report annually on compliance with National Competition Policy to Council.

9. Funding of the Market

It is intended that the operations of the Market and the Committee be funded from the rents, licence fees and other moneys which will be payable by lessees, licensees and occupiers of the Market.

The Market has the power to incur expenditure as follows: -

- (a) in accordance with the Budget adopted by the Committee and approved by Council;
- (b) with the prior approval of Council; or
- (c) in accordance with the Act, and in respect of expenditure not contained in a budget adopted by the Committee and approved by Council, for a purpose of genuine emergency or hardship.

10. Property

All property is held on behalf of the City of Port Phillip.

11. Committee

11.1 Committee Structure

- (a) The Committee will consist of not more than five members:
 - (i) two of whom must be Councillors; and
 - (ii) three of whom must be persons independent of Council, who have been appointed by Council from the broader community after applications have been invited by means of a public notice or advertisement published on the City of Port Phillip's website or in or on another medium.

A selection panel will be formed (consisting of representatives from the Committee and the Senior Officer) to manage the recruitment of independent members, who will then make appointment recommendations to Council.

- (b) Each member of the Committee will have one vote.

- (c) Those members of the Committee who are:
 - (i) Councillors will be appointed for a term that expires at the next general election of Council; and
 - (ii) independent of Council will be appointed for a term of three years or such other term as Council determines. These members are eligible to apply for reappointment to the Committee as their term falls due.

- (d) Council may, at any time and without cause, remove any member of the Committee and appoint another person in their place.

- (e) Council must appoint one of the members of the Committee as Chairperson.

- (f) The Chairperson may be appointed for such term as Council determines.

- (g) The Chairperson is to be a member of the Committee who is independent of Council (unless Council determines otherwise or this is precluded by the Act).

- (h) The Committee will appoint a member, other than the Chairperson, to fulfil the role of Deputy Chairperson.

- (i) In the event that the Chairperson resigns, is removed from office by Council or is no longer eligible to act as a member of the Committee, then the Deputy Chairperson shall act in that office or in the event of the Deputy Chairperson refusing or being unable to act as Chairperson the Committee shall appoint from amongst the members a Chairperson who shall hold office as Chairperson until a Chairperson has been appointed by Council whereupon the person so appointed will hold office for the duration of the original appointment.

- (j) The Chairperson must preside at all meetings of the Committee and in the event of the Chairperson being absent from a meeting the Deputy Chairperson must preside and in the event of both the Chairperson and the Deputy Chairperson being absent from a meeting the Committee Members present must appoint from among them who shall preside for that meeting or until the Chairperson or the Deputy Chairperson is present.

- (k) The Market Manager will attend meetings of the Committee to provide advice as required, but is not a member of the Committee or entitled to vote at any meeting of the Committee.

- (l) The Senior Officer will attend meetings of the Committee, to observe and provide advice as required, but is not a member of the Committee or entitled to vote at any meeting of the Committee.

11.2 Committee Member Expertise

- (a) Members of the Committee are to be selected by Council based on their ability to demonstrate expertise in one or more of the areas described in paragraph (b).

- (b) Relevant areas of expertise for members of the Committee will include:
 - (i) market management;
 - (ii) retail particularly fresh produce and / or general merchandising;
 - (iii) small to medium enterprise ownership / general management;

- (iv) customer experience management;
- (v) brand management;
- (vi) strategic marketing and communications;
- (vii) community engagement; and
- (viii) placemaking.

In addition, all members of the Committee must have significant understanding and experience at a senior level in corporate governance, risk and financial management.

12. Responsibilities of Committee Members

Each member of the Committee is responsible for: -

- (a) providing professional input and policy direction to the Committee;
- (b) overseeing and monitoring the performance of the Market Manager and providing this feedback to the Senior Officer;
- (c) exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons;
- (d) ensuring that Council is advised, as soon as practicable, of any material development that affects the financial or operating capacity of the Market; and
- (e) abiding by the Code of Conduct as if any reference in the Code of Conduct to a Councillor was a reference to a Committee Member.

13. Responsibilities of the Market Manager

13.1 Employment Arrangements

To support the Committee, the Chief Executive Officer will employ and allocate a person to fulfil the role of Market Manager. The Market Manager and all staff allocated to the Market will be employees of the City of Port Phillip.

The Committee will provide advice and input to the Senior Officer on the recruitment and performance management of the Market Manager. The Senior Officer will undertake recruitment and performance management.

In the absence of the Market Manager, for a period of one week or more, the Senior Officer will consult with the Committee prior to identifying a suitable person to act in the position.

The Market Manager will consult with the Committee about any significant changes proposed to the structure or number of City of Port Phillip staff allocated to the Market prior to any proposed changes occurring.

13.2 Responsibilities

The Market Manager will be responsible to the Committee for ensuring: -

- (a) effective day to day management of the Market, including that sound business management practices are applied;

- (b) the vision, retail strategy, brand management, customer and trader experience as set by the Committee is implemented effectively and efficiently;
- (c) effective and lawful meetings of the Committee are held and that all decisions of the Committee are implemented in a timely and efficient manner;
- (d) proposals with clear recommendations are prepared for consideration by the Committee to ensure it fulfils its role as set out by Council;
- (e) the Committee has all the information it needs to assess Market performance against strategic and business plans;
- (f) trader engagement is undertaken and occurs in line with the requirements established by the Committee;
- (g) an Annual Report is prepared and approved by the Committee each year;
- (h) advice is provided to Council on asset upgrade and renewal requirements of the Market;
- (i) store fit-out and general maintenance responsibilities of the Market occur and are managed appropriately;
- (j) the resources of the Market are properly managed and maintained;
- (k) the financial outcomes that have been set by the Committee and agreed to by Council are delivered;
- (l) the Committee are aware and give due consideration to the alignment of Market activities with the broader policies and priorities of Council; and
- (m) the Market and Committee complies with all relevant legislation, including Occupational Health and Safety (OHS) and other legislation.

The Market Manager will be responsible to the Senior Officer for ensuring: -

- (n) all aspects of human resource management associated with those City of Port Phillip staff allocated by the Chief Executive Officer to the Market is undertaken appropriately, including OHS aspects; and
- (o) market activities are undertaken in line with City of Port Phillip policies and guidelines, unless there are sufficient grounds to seek an exemption, whereby the Market Manager will be required to work with the City of Port Phillip to explore alternatives that may better meet the requirements of the Market.

14. Responsibilities of the City of Port Phillip

To support the Committee and the Market Manager, the City of Port Phillip will be responsible for:

- (a) working with Council to set the broad policy outcomes and objectives that Council wishes to set for the Market and the Committee and ensuring these are documented in the Charter of the Market;
- (b) documenting administrative roles and responsibilities to operationalise this Charter in an operating agreement;

- (c) working with Council to determine and allocate the resources and funds it deems appropriate to meet the agreed asset management requirements of the Market;
- (d) undertaking all employment obligations to the Market Manager and staff allocated to the Market, including payroll, contracts of employment, performance management and OHS systems and support;
- (e) providing accurate, responsive and timely corporate services including accounts payable and receivable, financial management and IT and the like;
- (f) ensuring the Committee reports back as required to Council on its activities and providing advice to Council on compliance or otherwise, as well as managing the appointment of Committee members by Council; and
- (g) providing adequate resourcing to allow for the successful delivery of the agreed strategy and annual plan for the Market.

15. Operations of the Committee

15.1 Frequency

The Committee must meet at least six times per year on such dates and at such times and venues as the Chairperson determines.

15.2 Notice

The dates, times and venues of each meeting of the Committee will be notified to all members of the Committee and the Senior Officer as far in advance as is practicable.

15.3 Agenda and Supporting Papers

The Market Manager will ensure that an agenda and supporting papers for each meeting of the Committee is distributed to members of the Committee and the Senior Officer as far in advance as is practicable.

The Market Manager must ensure that the agenda and supporting papers are prepared in a way that does not contravene legislative requirements outlined in the Act.

15.4 Attendance

Members of the Committee must make every attempt to attend meetings of the Committee in person.

A member of the Committee may participate in the meeting remotely through video or telephone link, only if this has been approved by the Chairperson three (3) days prior to the meeting, and only if they are able to hear and be heard by each of the members of the Committee who are present.

15.5 Quorum

A quorum for a meeting of the Committee is not less than half the number of the members of the Committee i.e. three (3).

15.6 Meeting Procedure

Unless Council determines otherwise, the procedure for each meeting of the Committee will be at the discretion of the Committee, however the Committee must ensure that any meeting procedure it adopts does not contravene legislative requirements provided for in the Act.

Meetings of the Committee must be open to members of the public. The Committee may resolve that the meeting be closed to members of the public under the provisions set out in

the Act. If the Committee resolves to close the meeting to members of the public the reason will be recorded in the minutes of the meeting.

15.7 Register of Interests and Conflicts of Interest

Each member of the Committee:

- (a) must submit to the Chief Executive Officer a Primary Return and Ordinary Returns in accordance with the Act; and
- (b) who has a conflict of interest in any matter being considered by the Committee must comply with his or her obligations under the Act.

15.8 Minutes

The Market Manager must ensure that minutes of each meeting of the Committee are distributed to members for confirmation within five (5) days of each meeting and will also ensure these are provided to the Senior Officer (as unconfirmed minutes) within five (5) days of each meeting.

15.9 Special Meetings

Council, or two or more members of the Committee, may request that the Market Manager call a special meeting of the Committee. This request must be in writing and must clearly outline the items of business that would be discussed at this meeting (if the proposed agenda is not provided the request is then of no effect).

On receipt of the request the Market Manager shall issue a notice of the special meeting to all members of the Committee at least twenty-four (24) hours prior to the commencement of the special meeting.

16. Management

16.1 Financial Management

The City of Port Phillip will keep proper books of account on behalf of the Committee in accordance with the requirements of the Act.

The Committee must review its budget at least three (3) times in each Financial Year at intervals of not less than three (3) months between 30 September and 31 May (inclusive) in line with the City of Port Phillip quarterly budget review process.

The Committee's books of account must be available for inspection by any Committee Member or authorised representative of the City of Port Phillip at any reasonable time on request.

All payments must be authorised by the Market Manager in accordance with delegated authority or by resolution of the Committee.

The Market Manager must act prudently in the handling of all financial transactions for the Committee.

16.2 Audit

The City of Port Phillip's auditor shall be the auditor of the Market.

The auditor will have the same powers and responsibilities as set out in the Act in relation to the City of Port Phillip's accounts.

The audit of financial statements of the Market, together with the accompanying report from the Auditor, must be submitted to the Committee and Council.

The books of account and financial statements must be audited at least once per year.

The activities of the Market and Committee will be subject to oversight by the Audit Committee. The Chair of the Committee may be requested to attend the Audit Committee from time to time.

16.3 Strategic Plan

The Committee must prepare a Strategic Plan, with an operational period of no less than four years, linking the core business activities of the Committee to strategic, operational and organisational requirements with supporting financial projections setting out the estimates of revenue and expenditure as necessary for the period.

The Committee must review the Strategic Plan as required, in consultation with Council.

16.4 Annual Business Plan and Budget

The Committee must produce an Annual Business Plan consistent with this Charter and submit it to Council for approval.

The Committee must consult with Council prior to or amending the Annual Business Plan at any other point in the year.

The Annual Business Plan must set out or include:

- (a) the performance targets that the Market is to pursue; and
- (b) a statement of the financial and other resources, and internal processes, that will be required to achieve the Market's performance targets; and
- (c) the performance measures that are to be used to monitor and assess performance against targets.

The Committee must prepare a Budget for each Financial Year, which must:

- (i) detail the estimated revenues and costs for the forthcoming financial year; and
- (ii) otherwise comply with the requirements of the Act.

The Annual Business Plan and Budget must be submitted to Council for approval by a date nominated by Council from time to time in accordance with Council's budgetary approval process.

16.5 Reporting

The Committee must submit to Council by 30 September in each year, in respect of the immediately preceding Financial Year, an Annual Report on the work and operations of the Committee detailing achievement of the aims and objectives of its Business Plan and incorporating the audited Financial Statements of the Committee and any other information or reports as required by Council.

The Committee must submit to Council any other information or reports required by Council in a timeframe determined by Council.

16.6 Asset Management

The Committee, will provide proactive advice to Council on the asset management requirements of the Market.

Council will determine and allocate the resources and funds it deems appropriate to meet the agreed asset management requirements of the Market.

Administrative roles and responsibilities for asset management will be agreed by the Committee and Council and documented in an operating agreement.

17. Operating Agreement

The Senior Officer will work with the Market Manager and the Committee to establish an operating agreement.

The operating agreement will detail roles and responsibilities of, and service standards between, the City of Port Phillip and the Market for those more operational matters not covered by this Charter.

The operating agreement will be reviewed periodically but at least once every three years, following the review of this Charter.

18. Review

Council and the Committee will jointly review this Charter periodically but at least once every three years.