



CITY OF HOBART

AGENDA

Community, Culture and Events Committee Meeting

Open Portion

Thursday, 31 March 2022

**at 5.30 pm
Council Chamber, Town Hall**

THE MISSION

Working together to make Hobart a better place for the community.

THE VALUES

The Council is:

People	We care about people – our community, our customers and colleagues.
Teamwork	We collaborate both within the organisation and with external stakeholders drawing on skills and expertise for the benefit of our community.
Focus and Direction	We have clear goals and plans to achieve sustainable social, environmental and economic outcomes for the Hobart community.
Creativity and Innovation	We embrace new approaches and continuously improve to achieve better outcomes for our community.
Accountability	We are transparent, work to high ethical and professional standards and are accountable for delivering outcomes for our community.

ORDER OF BUSINESS

Business listed on the agenda is to be conducted in the order in which it is set out, unless the committee by simple majority determines otherwise.

APOLOGIES AND LEAVE OF ABSENCE

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Community, Culture and Events Committee Meeting (Open Portion) held Thursday, 31 March 2022 at 5.30 pm in the Council Chamber, Town Hall.

This meeting of the Community Culture and Events Committee is held in accordance with a Notice issued by the Premier on 3 April 2020 under section 18 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

The title Chief Executive Officer is a term of reference for the General Manager as appointed by Council pursuant s.61 of the *Local Government Act 1993* (Tas).

COMMITTEE MEMBERS

Councillor Dr Z Sherlock (Chairman)
Alderman Dr P T Sexton
Councillor W F Harvey
Councillor M Dutta
Councillor J Fox

Apologies:

Leave of Absence: Nil.

NON-MEMBERS

Lord Mayor Councillor A M Reynolds
Deputy Lord Mayor Councillor H Burnet
Alderman M Zucco
Alderman J R Briscoe
Alderman D C Thomas
Alderman S Behrakis
Councillor W Coats

1. CO-OPTION OF A COMMITTEE MEMBER IN THE EVENT OF A VACANCY

2. CONFIRMATION OF MINUTES

The minutes of the Open Portion of the Community, Culture and Events Committee meeting held on [Thursday, 3 March 2022](#), are submitted for confirming as an accurate record.

3. CONSIDERATION OF SUPPLEMENTARY ITEMS

Ref: Part 2, Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015*.

Recommendation

That the Committee resolve to deal with any supplementary items not appearing on the agenda, as reported by the Chief Executive Officer.

4. INDICATIONS OF PECUNIARY AND CONFLICTS OF INTEREST

Ref: Part 2, Regulation 8(7) of the *Local Government (Meeting Procedures) Regulations 2015*.

Members of the Committee are requested to indicate where they may have any pecuniary or conflict of interest in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the Committee has resolved to deal with.

5. TRANSFER OF AGENDA ITEMS

Regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015*.

A Committee may close a part of a meeting to the public where a matter to be discussed falls within 15(2) of the above regulations.

In the event that the Committee transfer an item to the closed portion, the reasons for doing so should be stated.

Are there any items which should be transferred from this agenda to the closed portion of the agenda, or from the closed to the open portion of the agenda?

6. REPORTS

6.1 City of Hobart Grants Program - Update on Review of City Partnership Program File Ref: F22/20727; 21/48

Report of the Director City Futures and the Head of Intergovernmental Relations and Partnerships of 21 March 2022.

Delegation: Council

REPORT TITLE: CITY OF HOBART GRANTS PROGRAM - UPDATE ON REVIEW OF CITY PARTNERSHIP PROGRAM

REPORT PROVIDED BY: Director City Futures
Head of Intergovernmental Relations and Partnerships

1. Report Purpose and Community Benefit

- 1.1. This report seeks the Council's approval to extend the City Partnership Grant Agreements that will expire on 30 June 2022, by a further 12 months to support the events scheduled between 1 July 2022 and 30 June 2023.
- 1.2. The grant extension would only be for one year and will ensure that there is continuous support of these events during the development of the event strategy and review of the event grant stream.
- 1.3. The community will benefit through the guaranteed delivery of these civic and cultural events in the 2022-23 financial year, especially since several of these events have not been able to be delivered in their full capacity or at all since the start of the COVID-19 pandemic in early 2020.

2. Report Summary

- 2.1. The community organisations and events currently supported through the City Partnerships program have provided significant community and cultural activation to the life of Hobart.
- 2.2. The events that receive a City Partnership grant include:
 - Festa Italia
 - Estia Greek Festival
 - The Royal Hobart Regatta
 - The Sandy Bay Regatta
 - Hobart Anzac Day Commemorations
 - City of Hobart Eisteddfod
 - Tasmanian Theatre Awards
- 2.3. When the Tasmanian Theatre Awards were added to the original list of City Partnerships in 2018, the Council requested a review of the program including the criteria and events that are included.
- 2.4. In 2020, the Council endorsed a broader review of the City of Hobart event grants which include the City Partnerships, Event Partnerships and Event Medium grants, to be conducted in consultation with stakeholders in 2021.

- 2.5. In 2021, an events strategy was proposed to the Council and endorsed. Through desktop research of other Councils, it was identified that an events strategy would define the City's role in delivering and supporting events. This would contribute to establishing Hobart as the best small capital city by attracting event investment.
- 2.6. The development of the event strategy was paused due to the effects of COVID-19 on the events industry and the Organisational Transformation Project. With phase one of the Organisational Transformation Project now complete and there is greater confidence in the events industry, work on the event strategy and subsequent review of the event grant stream can now begin.
- 2.7. The City Partnership grant agreements will expire in June 2022. The review of the event grant stream will not be completed before the grant agreement expires.
- 2.8. To ensure that City Partnership events have continued support while this work is underway, it is recommended that the agreements be extended by a further 12 months.
- 2.9. The draft event strategy will be provided to the Council for endorsement in late 2022 before wider community engagement.

3. **Recommendation**

That the Council extend the City Partnerships grant agreements for 12 months to support the events scheduled between 1 July 2022 and 30 June 2023. This includes:

<i>Event</i>	<i>Organiser</i>
<i>Festa Italia</i>	<i>Australian Italian Club Inc</i>
<i>Estia Greek Festival</i>	<i>Greek Orthodox Church and Benevolent Society of St George</i>
<i>The Royal Hobart Regatta</i>	<i>Royal Hobart Regatta</i>
<i>The Sandy Bay Regatta</i>	<i>Sandy Bay Regatta Association Inc</i>
<i>Hobart Anzac Day Commemorations</i>	<i>RSL Tasmania</i>
<i>City of Hobart Eisteddfod</i>	<i>City of Hobart Eisteddfod Society Inc</i>
<i>Tasmanian Theatre Awards</i>	<i>The Theatre Council of Tasmania Inc</i>

4. **Background**

- 4.1. The City Partnerships program was developed in 2017-18 to support longstanding annual civic and cultural events with multiyear funding to ensure their long term viability and planning and to enable them to continue to add to the vibrancy of Hobart.

- 4.2. Through the adoption of this program, the City of Hobart formalised longstanding relationships it had with the following community organisations and events under a single funding program:
- Festa Italia (supported since 2008)
 - Estia Greek Festival (supported since 1997)
 - The Royal Hobart Regatta (active since 1834)
 - The Sandy Bay Regatta (active since 1839)
 - The City of Hobart Eisteddfod (supported since 1951)
 - RSL Tasmania, Hobart ANZAC Day Commemorative Committee (supported since 1925).
- 4.3. The community organisations and events currently supported through this program have provided significant community and cultural activation to the life of Hobart. Some events - the Royal Hobart and Sandy Bay Regattas – pre-date the formation of the Hobart local government authority by more than a decade.
- 4.4. The City Partnerships program offers advantages for officers and recipients, creating an ongoing and assured, but fixed financial relationship with community events that help define the calendar of events for Hobart. These advantages include (but are not limited to):
- Allowing organisations to undertake ongoing planning for key events without having to apply for grants every year;
 - Organisations to have surety over the amount of funds that are available;
 - The City to budget and plan for events that it has an ongoing commitment to, providing better use of resources and time management.
- 4.5. At its inception, the program consolidated existing cash grant funding and some in-kind support into the one 'City Partnership' in order to provide greater transparency and accountability.
- 4.6. The program is governed under the aegis of the City of Hobart Grants Policy and it differs from other grant streams as recipients do not complete an application form each year but are bound by a multiyear agreement that requires them to submit details of the cash and in-kind assistance components of the grant six (6) months before the event each year and provide an acquittal report three (3) months after the event each year.
- 4.7. The City Partnership program has specific guidelines and criteria for eligibility as outlined in the Policy. The current criteria are:
- Events that have been delivered within the City of Hobart for at least ten (10) years and have a significant usage of City of Hobart facilities and personnel;

- City Partnership grants are for events that are determined by the Council to warrant ongoing partnership status due to them acting as a significant event for the community;
 - Small to mid-sized community, cultural or commemorative events that are not eligible to apply for Event Partnerships Grant funding;
 - Events that are held on or in City of Hobart property or venues and that utilise City of Hobart infrastructure, services and/or equipment;
 - The program does not provide support for sporting or recreational focussed events and activities.
- 4.8. Organisations were invited by the City to become a City Partner, based on the above criteria, previous support and size of the event, however a process to assess events against the criteria is not clearly defined.
- 4.9. Support offered through the program varies in amount commensurate to the scale of the event:
- \$10,000 City of Hobart Eisteddfod
 - \$10,000 Festa Italia
 - \$10,000 Estia Greek Festival
 - \$30,000 Royal Hobart Regatta
 - \$30,000 RSL Tasmania ANZAC Day Commemoration
 - \$30,000 Sandy Bay Regatta.
- 4.10. The City Partnership program amounts are adjusted annually in line with the Consumer Price Index for Hobart, and in the case of in-kind support, consistent with changes to the City's annual Fees and Charges, ensuring that the City's support does not diminish over the life of each agreement.
- 4.10.1. This is the only grant program that the city operates that is indexed in this way.
- 4.11. In 2018, the Council resolved to add the Tasmanian Theatre Council to the program to support their annual theatre awards.
- 4.12. This partnership was offered in January 2019 for four years rather than the five years of the other events, to ensure its expiry and review would align with the existing partnerships (June 2022).
- 4.13. The partnership was offered at \$10,000 aligning it to the scale of City of Hobart Eisteddfod, Festa Italia and Estia Greek Festival.
- 4.14. It is noted that the support of the Tasmanian Theatre Council does not meet the following criteria of the City Partnership program:
- The Tasmanian Theatre Council annual awards event is only 4 years old when the grant was awarded;
 - There is no utilisation of City facilities and services in its delivery;
 - The support offered is wholly taken as 'cash'.

Review of the City Partnership program

- 4.15. Coinciding with the approval of the Tasmanian Theatre Council as a City Partner, the Council resolved on 3 December 2018 that:
- (ii) *The Community Development Partnership Program be reviewed to determine if other partnerships should be included in future years.*
- 4.16. Several options were considered by Officers to identify other partnerships.
- 4.17. However a balanced solution was not determined based on the existing criteria for the program.
- 4.18. On 9 November 2020, the Council resolved inter alia that:
- 1. *The Council endorse a broader review of the City of Hobart event grants which include the City Partnerships, Event Partnerships and Event Medium grants be conducted in consultation with stakeholders to be undertaken during 2021.*
 - 2. *The review to consider the realignment of these grants to offer a fairer, more streamlined and strategic event funding program that meets the needs of event organisers and the community.*
- 4.19. In considering this review officers identified that the City would benefit from having a focussed strategic position for the support of events grants in the form of an events strategy.
- 4.19.1. The City funds events through grants and through sponsorship and an event strategy would consider whether both programs remain fit for purpose.
 - 4.19.2. In order to ensure that the City's priorities match community needs, the engagement undertaken with the events and festivals sector in preparing an event strategy would inform the Council of an appropriate strategic alignment.
 - 4.19.3. The City's vision outlines the aspirations of the community in this area and currently informs the prioritisation of resources. An events strategy would go further to define how we value events, our capability to support events and to put forward a position where Hobart wants to be as a capital city in attracting event investment.
 - 4.19.4. The Creative Hobart strategy is a good example of a guiding document that states the priority areas for the City in the creative realm and it has served the City well for eight years. An events strategy would similarly provide clarity of purpose and desired outcomes.

4.20. Further to this, on 11 October 2021, Council resolved inter alia that:

5. The Council endorse the development of a City of Hobart events strategy with a draft to be provided to Council for endorsement before wider community engagement.

4.21. Due to the effects of COVID-19 on the events sector and the organisational transformation, the work to establish an event strategy, and therefore the review of the City Partnership program and event grant stream, has been put on hold.

4.22. The City Partnership grant agreements are due to expire on 30 June 2022.

4.23. In consultation with the Director City Futures and Head of Intergovernmental Relations & Partnerships, it was determined that a 12 month extension to the current grant agreements would ensure continued support for these events.

4.24. Officers are working with the Policy Lab and Community Engagement to update the project plan so internal and event sector engagement can begin before the end of financial year.

4.25. The draft event strategy will be provided to Council for endorsement in late 2022 before wider community engagement.

5. Proposal and Implementation

5.1. It is proposed that the City Partnership grant agreements be extended by one year from 1 July 2022 until 30 June 2023.

5.2. Council officers will work with the City's legal officer to draft an extension of one year to the current agreements.

5.3. Council officers will liaise with the City Partnership organisations to explain the rationale for the extension of their agreement to ensure they have continued support from the City. Three organisations have enquired about the grant funding since January 2022. It is anticipated the City Partners will be supportive of this recommendation.

5.4. In endorsing the development of the events strategy for the City of Hobart, officers would engage with the sector as well as other internal and relevant external stakeholders and undertake desktop research to prepare a draft for Council for endorsement prior to wider community engagement.

6. Strategic Planning and Policy Considerations

6.1. This proposal is aligned with the following outcomes in the Capital City Strategic Plan 2019-29:

- 1.1 Hobart's cityscape reflects the heritage, culture and natural environment that make it special.
- 2.1 Hobart is a place that recognises and celebrates Tasmanian Aboriginal people, history and culture, working together towards shared goals.
- 2.2 Hobart is a place where diversity is celebrated and everyone can belong, and where people have opportunities to learn about one another and participate in city life.
- 3.1 Hobart is a creative and cultural capital where creativity is a way of life.
- 3.2 Creativity serves as a platform for raising awareness and promoting understanding of diverse cultures and issues.
- 3.3 Everyone in Hobart can participate in a diverse and thriving creative community, as professionals and hobbyists.
- 4.1 Hobart's economy reflects its unique environment, culture and identity.
- 6.2 Education, participation, leadership and partnerships all contribute to Hobart's strong environmental performance and healthy ecosystems.

7. Financial Implications

- 7.1. Funding Source and Impact on Current Year Operating Result
 - 7.1.1. Funds are available for the City Partnership grants within the 2021-22 grants and assistance budget.
- 7.2. Impact on Future Years' Financial Result
 - 7.2.1. Funds will be allocated for the City Partnership grant recipients within the 2022-23 grants and assistance budget as per their agreement as part of the budgeting process.
 - 7.2.2. In accordance with the grant agreement, the funding amounts will be adjusted to factor in the Consumer Price Index for Hobart.

Event	Organiser	Grant value
Hobart Anzac Day Commemorations	RSL Tasmania	\$32,454

The Royal Hobart Regatta	Royal Hobart Regatta	\$32,454
The Sandy Bay Regatta	Sandy Bay Regatta Association Inc	\$32,454
Hobart Anzac Day Commemorations	RSL Tasmania	\$32,454
Festa Italia	Australian Italian Club Inc	\$10,818
Estia Greek Festival	Greek Orthodox Church and Benevolent Society of St George	\$10,818
City of Hobart Eisteddfod	City of Hobart Eisteddfod Society Inc	\$10,818
Tasmanian Theatre Awards	The Theatre Council of Tasmania Inc	\$10,818
	TOTAL	\$140,632

7.3. Asset Related Implications

7.3.1. Not applicable

8. Legal, Risk and Legislative Considerations

- 8.1. The current grant agreements are due to expire on 30 June 2022, there is a risk that there might be a gap in funding if this proposal is not approved. Pending the decision of this report, a one year extension to the current agreements would be offered giving each organisation assurance of this income for their budget in the 2022-23.
- 8.2. All applications would be administered under the Applications for Grants – City of Hobart Grants Program Policy.

9. Environmental Considerations

- 9.1. The funded events are required to, wherever possible, support the objectives of the City of Hobart Waste Management Strategy 2015-30.

In particular, applicants must outline their commitment to sustainable events, certified compostable food packaging and reducing waste to landfill.

10. Social and Customer Considerations

- 10.1. The proposal to extend the grant agreements is reflective of the Council's position to support these events. Until the other work is complete, there is no reason to change the nature or value of the relationship.
- 10.2. The City Partners will be informed of this proposal and will be supported through the next steps by Council officers.

11. Marketing and Media

- 11.1. There are no potential marketing and media issues as part of this report.
- 11.2. The grants and activations and events officers will work with the communications team to draft a communication out to all external event stakeholders.

12. Community and Stakeholder Engagement

- 12.1. Consultation was undertaken with the Director City Futures, Head of Intergovernmental Relations & Partnerships, and Senior Advisor Activations and Events to understand how to best to proceed as a result of the delay.

13. Delegation

- 13.1. This matter is delegated to Council.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



Katy Cooper
DIRECTOR CITY FUTURES



Kat Panjari
**HEAD OF INTERGOVERNMENTAL
RELATIONS AND PARTNERSHIPS**

Date: 21 March 2022
File Reference: F22/20727; 21/48

6.2 Salamanca Market By-Law No. 1 of 2022
File Ref: F22/13428; S33-060-02/38

Memorandum of the Director City Futures and the Manager Activation Programs and Tourism of 22 March 2022 and attachments.

Delegation: Council



City of **HOBART**

MEMORANDUM: COMMUNITY, CULTURE AND EVENTS COMMITTEE

Salamanca Market By-Law No. 1 of 2022

This memorandum is to provide the Council with a briefing on the most recent stage of the development of the Salamanca Market By-Law No. 1 of 2022.

On 22 June 2020, the Council resolved by absolute majority its intention to create the Salamanca Market By-Law. The Council delegated authority to the General Manager to prepare a Regulatory Impact Statement for the by-law and present it to the Director of Local Government for a certificate of approval pursuant to Section 156A of the *Local Government Act 1993*.

The Salamanca Market By-Law manages and controls conduct onsite on market days including buskers, stallholders, tour groups, waste disposal, noise and parking onsite. It also allows for the issuance of infringements and permits.

The current Salamanca Market By-Law No. 1 of 2010 expired on 26 May 2020 and city officers have been working closely with the Director of Local Government and Simmons Wolfhagen to renew the by-law.

The draft by-law and accompanying Regulatory Impact Statement were ready for lodgement in 2021, however regulations changed for all by-laws that required a re-drafting of the Salamanca Market By-Law to accommodate further transparency around permits and their associated fees.

The Director of Local Government has now issued a Certificate of Compliance and instructed the City to undertake a statutory consultation period of at least 30 days. The draft by-law and Regulatory Impact Statement, refer to **Attachments A and B**, will be made available for public comment through the City's engagement platform 'Your Say'. To make the public aware of the consultation period, an advertisement will be placed in the Mercury newspaper and city officers will contact relevant stakeholder organisations that may be affected by, or may wish to comment on the by-law. Copies of the by-law will be available for inspection at the Council's Customer Service Centre during business hours and available for viewing on the City's website.

At the conclusion of the consultation period, should the City receive any submissions, the matter would be scheduled to be considered by the Community Culture and Event Committee and then to Council for review. Should no submissions be received, the Council is requested to delegate authority to the Chief Executive Officer to take the remaining necessary steps to make the by-law.

RECOMMENDATION

- 1. The Council delegate authority to the Chief Executive Officer to give notice of the proposed Salamanca Market By-Law No. 1 of 2022 in order to advertise a further public consultation process, whereby the by-law and associated regulatory impact statement are made available for inspection and comment; and**
- 2. If no submissions are received in response to the public consultation process, the Council authorise the Chief Executive Officer to take the remaining necessary steps to make the by-law.**

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



Katy Cooper
DIRECTOR CITY FUTURES



Iris Goetzki
**MANAGER ACTIVATION PROGRAMS
AND TOURISM**



Taryn Townsend
**SENIOR COMMERCIAL ADVISOR
SALAMANCA MARKET**

Date: 22 March 2022
File Reference: F22/13428; S33-060-02/38

Attachment A: Salamanca Market By-Law No.1 of 2022 Draft for Public Consultation ↓ 

Attachment B: Salamanca Market RIS for public consultation ↓ 

HOBART CITY COUNCIL**SALAMANCA MARKET BY-LAW****BY-LAW No. 1 of 2022****TABLE OF CONTENTS**

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HOBART CITY COUNCIL
SALAMANCA MARKET BY-LAW
BY-LAW No. 1 of 2022

PART 1 – PRELIMINARY

1. This by-law is made pursuant to section 145 of the Act for the purpose of managing and controlling conduct in relation to the Salamanca Market.
2. This by-law may be cited as the Salamanca Market By-law.
3. This by-law applies to Salamanca Place in Hobart and the surrounding road reserve, including the footpaths.
4. In this by-law:
 - Act** means the *Local Government Act* 1993;
 - authorised officer** means an employee or contractor of the Council authorised by the Chief Executive Officer for the purposes of this by-law, and any reference to an authorised officer in this by-law includes the Market Supervisor;
 - bicycle** has the same meaning as in the Road Rules;
 - Chief Executive Officer** has the same meaning as 'General Manager' under the Act;
 - Council** means Hobart City Council;
 - Fee Unit** means the sum as prescribed under the provisions of *the Fee Unit Act* 1997;
 - market area** means that part of Salamanca Place, Hobart which is closed to facilitate the Salamanca Market being held, including the surrounding footpaths and other land under the control of the Council, or

any part of it, as specified in a market notice;

market day means the period of time on any day on which Salamanca Place, or any part of it, is closed to facilitate the Salamanca Market being held, as specified in a market notice;

market notice means a notice published pursuant to section 189(2) of the Act;

Market Supervisor means any person who is authorised by the Chief Executive Officer to act in that capacity;

meeting means any assembly of people and includes a parade, performance, spectacle, entertainment, exhibition, rally, march, demonstration or other event which causes or is likely to cause people to assemble;

motor vehicle has the same meaning as in the Road Rules;

motorised scooter has the same meaning as in the Road Rules;

municipal area has the same meaning as it does in the Act;

occupy and occupying includes:

- (a) to place tables and chairs, umbrellas, signs or barriers to enable the service of food or beverages;
- (b) to fence or divide any part of a market area to exclude members of the public; and
- (c) to erect any temporary structure;

owner means, in relation to a vehicle:

- (a) the person or people who are registered as the owner of a vehicle under the *Vehicle and Traffic Act 1999*, or any corresponding enactment or ordinance of a State or Territory of the Commonwealth; or
- (b) a person who has use of the vehicle under a hiring or a hire-purchase agreement;

at the time at which there was a contravention of this by-law with that vehicle;

permit means:

- (a) a current permit or other written approval (including a booking confirmation provided by electronic means) granted pursuant to this by-law;

providing that:

- (b) if the permit or written approval was issued for a certain time period, that time period has not expired; or
- (c) if the permit or written approval was issued for a certain event, that event has not yet taken place;

permit holder means a person who holds a permit;

person means an individual, partnership, corporation or other legal entity (other than the Crown) and their authorised contractors and employees;

Road Rules means the *Road Rules 2019*;

Salamanca Market means any market operated by the Council pursuant to section 189(1)(a) of the Act and held on Salamanca Place, Hobart;

scooter has the same meaning as in the Road Rules;

signboard means any board, sign, plaque, or banner which in any way makes an announcement or is an advertisement for any restaurant, shop, place of business, product, wares or any other thing which is not permanently attached to any building or other structure;

stallholder means a person who has entered into a stallholder agreement;

stallholder agreement means a current agreement entered into between a person and the Council, pursuant to section 189(1)(a) of the Act to operate in the market area;

stall site means part of the market area which has been designated by the Council or the Market Supervisor as an area to be used for a stall at the Salamanca Market;

vehicle has the same meaning as in the Road Rules;

wares includes any subscription, good, thing, article, or matter, and any food, or article of food, within the meaning of the *Food Act 2003*;

wheeled recreational device has the same meaning as in the Road Rules.

PART 2 – STALLHOLDERS

Obligations of stallholders

5. A stallholder must comply with the terms of the stallholder agreement.

Penalty: 2 penalty units

Waste and refuse

6. A stallholder must not dispose of or leave any dirt, filth, offal or trade waste or any other refuse in any stall site or within the market area.

Penalty: 2 penalty units

Cleanliness of stalls

7. A stallholder, during its occupation of a stall site, must maintain that stall site in a clean and sanitary condition.

Penalty: 2 penalty units

Production of a stallholder agreement

8. A stallholder must produce evidence of the stallholder agreement immediately when requested to do so by a police officer or an authorised officer, and the stallholder must answer all questions which are reasonably necessary to establish that the person holds a

6

stallholder agreement in good faith.

Penalty: 2 penalty units

PART 3 – PROHIBITIONS

Division 1 – Control of stall sites & other market areas

Occupation of stall site

9. A person must not occupy a stall site unless they have entered into a stallholder agreement and have been allocated that stall site for that market day by the Market Supervisor.

Penalty: 2 penalty units

Occupation of market area

10. A person must not occupy any market area, other than a stall site, unless they have entered into a stallholder agreement or have been granted a permit to do so.

Penalty: 2 penalty units

Surrender of stall site or market area

11. Any person who is using or occupying a stall site or any market area in breach of this by-law must immediately cease using or occupying the stall site or market area as directed to do so by the Market Supervisor.

Penalty: 5 penalty units

Division 2 – Commercial conduct

7

Offer wares or services

12. A person must not offer or expose for sale any wares or offer any services in a market area, whether in exchange for money or otherwise, unless the person has entered into a stallholder agreement.

Penalty: 2 penalty units

Setting up stalls

13. A person must not set up, place, keep, maintain or park any stall in a market area to sell wares or to pursue any business, trade or employment unless the person has entered into a stallholder agreement.

Penalty: 2 penalty units

Display of items

14. A person must not adhere, display, exhibit, promote a petition or distribute any advertisement, book, card, handbill, notice, pamphlet, paper, picture, placard, sticker or other thing whatsoever in a market area, except:
- (a) on any area specifically designated by the Council or the Chief Executive Officer for that purpose; or
 - (b) if the person has obtained a permit to do so.

Penalty: 2 penalty units

Prohibited item, ware or service in the market area

15. A person must not in the market area display, sell or offer for sale any item, ware or service that may reasonably be considered by an authorised officer to be indecent, obscene or offensive.

Penalty: 2 penalty units

Division 3 – Control of animals

16. This Division does not apply to guide dogs as defined in the *Guide Dogs Guide Dogs and Hearing Dogs Act 1967 (Tas)* or an assistance animal as defined in the *Disability Discrimination Act 1992 (Cth)*.

Control of animals in market areas

17. A person who is the owner or keeper of an animal must not allow the animal to be in a market area, including on or inside a vehicle, unless the animal is suitably secured in an area which has been designated by the Chief Executive Officer or Market Supervisor for that type of animal.

Penalty: 2 penalty units

Division 4 – Control of vehicles

Driving in a market area

18. A person must not drive a motor vehicle in the market area between 5.30 am and 6.00 pm on a market day unless, the person is a stallholder or permit holder or a person who is working with or assisting the stallholder or permit holder and that person is complying with any direction of an authorised officer.

Penalty: 2 penalty units

Parking in a market area

19. A person must not park a motor vehicle in the market area between

5.30 am and 6.00 pm on a market day unless, the person is a stallholder or permit holder, or a person who is working with or assisting the stallholder or permit holder, and that person is complying with any direction of an authorised officer.

Penalty: 2 penalty units

Other vehicles

20. A person must not use a wheeled recreational device, bicycle, scooter or motorised scooter in the market area, other than to park them in an area which has been designated by the Chief Executive Officer or Market Supervisor for that purpose.

Penalty: 2 penalty units

Powers of authorised officers

21. An authorised officer may:
- (a) give reasonable directions to the driver, user or the occupants of a vehicle in a market area;
 - (b) prohibit any vehicle from being taken or being allowed to remain on any part of a market area; or
 - (c) require any vehicle to be removed from any road or place in a market area.

Division 5 – Interacting with others

Noisy activities

22. A person must not in the market area:
- (a) deliver any address or speak to an assembly of people;
 - (b) play any musical instrument or sing;

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- (c) use or operate any television, radio, loudspeaker, record player, tape recorder, compact disc player or any other method of amplifying or playing speech and/or music recorded or otherwise; or
- (d) conduct any amusement or entertainment for financial reward; unless the person has first obtained a permit.

Penalty: 2 penalty units

Meetings

23. A person must not conduct, take part or attend a meeting in or on a market area unless that meeting has been authorised by a permit.

Penalty: 2 penalty units

Tours

24. A person must not, in a market area, act as a guide to organised tours or to individuals to provide assistance or information about matters including architecture, history and cultural matters unless authorised to do so by a permit.

Penalty: 2 penalty units

Sporting activities

25. A person must not engage in sporting activities in a market area, whether or not the participants have paid any fee for participating, unless that sporting activity has been authorised by a permit.

Penalty: 2 penalty units

Division 6 – Miscellaneous**Power to close Salamanca Market**

26. The Chief Executive Officer may close the Salamanca Market at any time and for any reason deemed appropriate by the Chief Executive Officer.

PART 4 – PERMITS**Granting permits**

27. A permit may be granted under this by-law by:
- (a) the Chief Executive Officer; or
 - (b) any electronic method authorised by the Chief Executive Officer, including via Council's website or an application operated by or on behalf of Council.
28. No provision of this by-law is to be construed as preventing the Chief Executive Officer from referring any application for a permit to the Council.

Applications

29. Any application for a permit pursuant to this by-law is to be:
- (a) in accordance with any form approved by the Chief Executive Officer;
 - (b) accompanied by the relevant prescribed fee per application, if any, specified in Schedule 2 to this by-law; and
 - (c) where applicable, must be accompanied by the following:
 - (i) a statement in writing of the type of activity proposed to be undertaken by the applicant and the period in which it is proposed to be carried out;

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- (ii) a scaled drawing showing the location and extent of the proposed activity;
 - (iii) approvals from relevant authorities;
 - (iv) evidence of current public liability insurance or other relevant insurance; and
 - (v) such other information that the Chief Executive Officer may reasonably require.
30. In deciding whether or not to grant a permit pursuant to this by-law, the Chief Executive Officer may have regard to the following and any other relevant matters:
- (a) the type of activity proposed;
 - (b) the location of that activity;
 - (c) the impact or risk of the proposed activity to public safety, the environment or amenity; and
 - (d) any comments made by any employee of the Council, by a police officer or an employee of the Tasmania Fire Service in relation to the application.

Permits

31. A permit granted under this by-law must be in writing and may be granted under such terms and conditions as the Chief Executive Officer considers appropriate. Those conditions may include:
- (a) a restriction on the type of activity;
 - (b) a restriction on the period in which the activity may be carried out;
 - (c) the precautions to be observed while the activity is being carried out;
 - (d) the requirement for supervision or control of the activity;
 - (e) the record to be kept or notification to be given in relation to any activity carried out pursuant to the permit;

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- (f) the payment of a bond to cover any damage to Council property or any cleaning required, or the provision of an indemnity to Council for any other loss or damage; or
- (g) the acceptance of responsibility for any damage to or loss of Council property as a result of the activity.

32. A permit holder must comply with the terms and conditions of the permit.

Penalty (unless otherwise specified): 2 penalty unit

Production of a permit

33. A permit holder must produce the permit immediately when requested to do so by a police officer or an authorised officer, and the permit holder must answer all questions which are reasonably necessary to establish that the person holds a permit in good faith.

Penalty: 2 penalty units

Variation of permit conditions

34. The Chief Executive Officer in its sole discretion may vary the conditions of any permit if it is considered appropriate to do so.
35. If the conditions of any permit are varied pursuant to clause 34, the Chief Executive Officer must serve a notice in writing on the permit holder stating:
- (a) the conditions of the permit are varied; and
 - (b) the reason or reasons for the variation of the permit conditions.
36. The conditions of a permit will be varied from the date of service of the

notice of the variation.

Cancellation of permits

37. The Council or the Chief Executive Officer may cancel any permit if satisfied in its sole discretion that:
- (a) a permit holder has breached any of Council's by-laws; or
 - (b) a permit holder has breached a term or condition of the permit.
38. If a permit is cancelled pursuant to clause 37, the Chief Executive Officer must serve a notice in writing on the permit holder stating:
- (a) the permit is cancelled; and
 - (b) the reason or reasons for the cancellation.
39. Cancellation of any permit is effective from the date of service of the notice of the cancellation.
40. Nothing in this by-law is to be construed as preventing or prohibiting the Council from cancelling any permit if this is required due to the exercise or intended exercise of any local government functions, powers, rights or duties by the Council.

Notices

41. For the purposes of clauses 35 and 38, a notice may be served in any of the following ways:
- (a) on the permit holder personally;
 - (b) by email to the last known email address of the permit holder;
 - (c) by ordinary post to the last known address of the permit holder; or
 - (d) by notice being given in the public notice section of a newspaper circulating in the Council's municipal area.

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42. The date of service of a notice will be:
- (a) if sent by email, the notice is taken to be received at the time the email message is sent unless:
 - (i) the sender receives automated email notification that the email transmission has failed or has been delayed within 2 hours of sending the notice; or
 - (ii) the sender receives automated email notification to the effect that the recipient is not likely to receive the notice until a later date, which will then become the deemed date of receipt.
 - (b) if the permit holder was served by ordinary post, 3 business days from the date the notice was posted; or
 - (c) if the notice was given in a newspaper, the date of the publication of that newspaper.

PART 5 – RECOVERY OF COSTS

Expenses incurred

43. The Council, the Chief Executive Officer, the Market Supervisor and any authorised officer may rectify a breach of this by-law, including any damage to Council property, without ordering the offending person to undertake the rectification works.
44. Any expense incurred by the Council as a result of a failure to comply with or contravention of any of the provisions of this by-law is recoverable by the Council as a debt due to it by the person so failing to comply or contravening this by-law.

PART 6 – INFRINGEMENT NOTICES

45. In this Part:
specified offence means an offence against the clause specified in Column 1 of Schedule 1 to this by-law.
46. An authorised officer may issue an infringement notice to a person in respect of a specified offence and the monetary penalty payable under the infringement notice for that offence is the applicable sum specified in Column 3 adjacent to the offence in of Schedule 1 to this by-law.
47. Different sums may be specified in an infringement notice according to the nature of the offence and whether payment is made within a specified time.
48. An authorised officer may:
- (a) issue an infringement notice to a person who the authorised officer has reason to believe is guilty of a specified offence; and
 - (b) issue one infringement notice in respect of more than one specified offence.
49. The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this by-law.
50. In addition to any other method of service, an infringement notice alleging that a vehicle has been used in relation to a specified offence may be served by affixing it to that vehicle.
51. A person who is served with an infringement notice must, within 28 days of the date of service, do one or more of the following:
- (a) pay the monetary penalty in full to the Chief Executive Officer;
 - (b) apply to the Chief Executive Officer for withdrawal of the

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infringement notice;

- (c) apply to the Chief Executive Officer for a variation of payment conditions; or
- (d) lodge with the Chief Executive Officer a notice of election to have the offence or offences set out in the infringement notice heard and determined by a court.

- 52. If a person who has been served with an infringement notice fails to take one or more of the actions required by clause 51 within the prescribed time, the infringement may be referred to the Director, Monetary Penalties Enforcement Service.
- 53. If the owner of the vehicle is issued with an infringement notice pursuant to this by-law, and the owner was not in control of the vehicle at the time the offence was committed, a statutory declaration may be provided to the Chief Executive Officer within 14 days after being served with the infringement notice, pursuant to sections 170(2)(a) and 170(3) of the Act.

PART 7 – ENFORCEMENT

Hindering or resisting authorised officers

- 54. A person must not obstruct, hinder, abuse, or resist any authorised officer in the market area in the discharge of that authorised officers' duty.

Penalty: 3 penalty units

Directions

- 55. An authorised officer may give reasonable directions to any person in

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relation to their use or treatment of, or presence in a market area.

56. A person must not fail to comply with a reasonable direction from an authorised officer given under this by-law.

Penalty: 3 penalty units

Removal from market areas

57. The Market Supervisor or any authorised officer may:
- (a) remove any person from a market area whom the authorised officer reasonably believes has committed or who is committing an offence under this by-law; and
 - (b) remove any thing which the authorised officer reasonably believes is: in a market area without a permit, in breach of a permit or in breach of this by-law.

Assistance of police officers

58. A police officer is authorised to:
- (a) assist the Market Supervisor or an authorised officer to carry out any action under clause 57;
 - (b) remove any person from the market area whom the police officer reasonably believes has committed or who is committing an offence under this by-law;
 - (c) remove any thing which is in the market area without a permit, in breach of a permit or in breach of this by-law; and
 - (d) arrest any person who is in a market area whom the police officer reasonably believes has committed or who is committing an offence under this by-law.

Signage

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59. The Chief Executive Officer or Market Supervisor, or any person acting under their direction, may remove or direct the removal of any advertisement or signboard in the market area.
60. A person must comply with a direction given under clause 59.

Penalty: 3 penalty unit

Removal and sale of vehicles

61. If an authorised officer reasonably believes that there has been a breach of clause 19 of this by-law, the authorised officer may:
- (a) remove the vehicle; and
 - (b) if following its removal pursuant to clause 61(a) the vehicle has not been collected for a period of 28 days, the vehicle may be sold or destroyed by Council at its discretion.
62. If a vehicle is sold pursuant to clause 61(b), Council may retain from the sale proceeds any expenses associated with the sale of the vehicle, including any auctioneer's fees.
63. If a vehicle is destroyed pursuant to clause 61(b) or if the sale proceeds are less than the total of the amounts specified in clause 62, the balance must be paid by the owner of the vehicle and are recoverable by the Council as a debt due to it.

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SCHEDULE 1 - INFRINGEMENT NOTICE OFFENCES

1: CLAUSE	2: DESCRIPTION	3: PENALTY (penalty units)
PART 2 – STALLHOLDERS		
5	Obligations of stallholders	0.5
6	Waste and refuse	0.5
7	Cleanliness of stalls	0.5
8	Failure to produce stallholder agreement	0.5
PART 3 – PROHIBITIONS		
9	Occupation of stall site	0.5
10	Occupation of market area	0.5
11	Surrender of stall site or market area	0.5
12	Offer wares or services	0.5
13	Setting up stalls	0.5
14	Display of items	0.5
15	Prohibited item, ware or service in a market area	0.5
17	Control of animals in market areas	0.5
18	Driving in a market area	0.5
19	Parking in a market area	1
20	Other vehicles	0.5
22	Noisy activities	0.5
23	Meetings	0.5
24	Tours	0.5

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1: CLAUSE	2: DESCRIPTION	3: PENALTY (penalty units)
25	Sporting activities	0.5
PART 4 – PERMITS		
32	Failure to comply with permit	0.5
33	Failure to produce a permit	2
PART 7 – ENFORCEMENT		
54	Hindering or resisting authorised officers	0.75
56	Directions by authorised officers	0.75
60	Signage	0.5

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SCHEDULE 2 – PRESCRIBED FEES

1: CLAUSE	2: DESCRIPTION	3: FEE (fee units)
10	Occupy market area	0
14	Display of items	0
22	Noisy activities	0
23	Meetings	0
24	Tours	0
25	Sporting activities	0

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Certified that the provisions of this by-law are in accordance with the law by:

.....
N. J. STREET
Solicitor
Dated
At Hobart

Certified that this by-law is made in accordance with the *Local Government Act 1993* by:

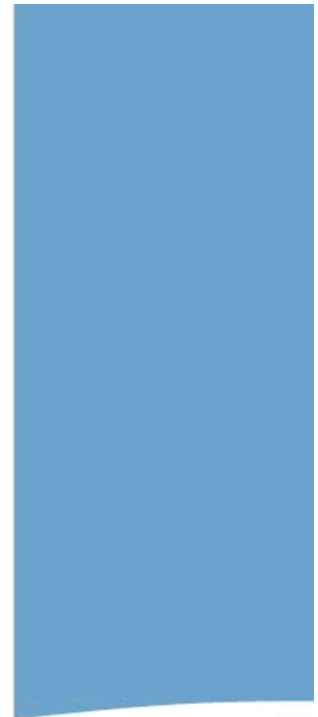
.....
Kelly Grigsby
Chief Executive Officer

Dated
At Hobart

The common seal of the Hobart City Council was affixed on in the presence of:

.....
T.K. Short
Director Community Life
Dated:

.....
P.A. JACKSON
Manager Legal & Governance



SALAMANCA MARKET BY-LAW

Regulatory Impact Statement



By-Law No. 1 of 2022
A by-law to manage and control conduct at
Salamanca Market

Hobart City Council
Salamanca Market By-Law
No. 1 of 2022
A by-law to manage and control conduct at Salamanca
Market

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Hobart City Council
Salamanca Market By-Law
Regulatory Impact Statement

1 Purpose and process of a regulatory impact statement

When a council seeks to make a new by-law or a significant amendment to an existing by-law, the *Local Government Act 1993* requires that a Regulatory Impact Statement (RIS) is prepared.

The preparation of a RIS is a rigorous process aimed at analysing the most efficient and effective options available to address a particular issue and avoiding unnecessary regulation.

A RIS is required to identify whether the benefits of regulation outweigh the costs of a restriction on competition or an impact on business imposed by the by-law. It requires an assessment of direct and indirect social, economic and environmental impacts of the proposed by-law and alternatives considered.

A RIS should also briefly detail its purpose and the statutory context in which it operates to help the general public understand the function and role.

Once the RIS has been prepared, the council must submit it to the Director of Local Government for assessment. If the director is satisfied the RIS meets the statutory requirements, a certificate will be issued and the council may then commence the public consultation process.

Telephone: 03 6238 2711

Email: CoHMail@hobartcity.com.au

Mail: Town Hall, Macquarie Street
GPO Box 503
Hobart Tasmania 7001

Internet: www.hobartcity.com.au

In person: Council Centre
16 Elizabeth Street, Hobart
Office Hours: Monday - Friday 8.30 am - 5.15 pm

Copies are available on request or on the City of Hobart website.

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2 By-law objectives and how to achieve them

The Competition Principles Agreement requires that a review of any proposed legislation (including council by-laws) should at least clarify the objectives of the legislation.

Under section 156A(2)(a) of the *Local Government Act 1993*, councils are required to outline the objectives of a by-law and the means by which the by-law will achieve those objectives.

The Salamanca Market By-Law No.1 of 2010 has expired. The Salamanca Market By-Law acts as a mechanism to regulate conduct onsite on market days including buskers, stallholders, tour groups, waste disposal, noise and parking onsite.

The Salamanca Market By-Law No. 1 of 2022 has provided the City with the opportunity to modernise the by-law to reflect changing community expectations, changes in the City's objectives, as well as changes in the external environment such as new legislation.

In preparing the Salamanca Market By-Law No. 1 of 2022, there has been a focus on eliminating duplication with other legislation and to ensure consistency with all existing City of Hobart by-laws.

This by-law addresses the following areas:

- Stallholders
- Prohibitions
- Permits
- Recovery of Costs
- Infringement Notices
- Enforcement

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Regulatory Impact Statement

The means of achieving the above overall objectives are set out in the table below:

	Area	Objective	Measures to Achieve them
1	Preliminary	Definitions	Definitions and interpretation of drafting
2	Stallholders	To ensure controls are in place to provide authority for stallholder licence agreements and manage waste,	This part details the information that is required to be provided by any applicant under the by-law. Regulates certain conduct of stallholders.
3	Prohibitions	To ensure controls are in place for stall sites, commercial conduct, control of animals, control of vehicles, power of authorised officers and interactions with others.	<ul style="list-style-type: none"> Clearly stated prohibited behaviours Creates a head of power for an authorised officer under the by-law to remove a person from City property Powers for City to tow vehicles parked in the market area on market day
4	Permits	To provide a process where normally prohibited activities may take place through a permit system	A permit, which may include a series of restrictions or controls to ensure that the permitted activity has a minimal impact
5	Recovery of costs	To enable the City to recover the costs incurred as a result of a breach of the by-law	Costs for any breach borne by the offender, rather than by non-offending rate payers as part of the rates system
6	Infringement notices	To ensure that the City is able to proceed against parties committing an offence under the by-law	Clearly outlined process for issuing notices against offending parties
7	Enforcement	To provide the powers for authorised officers to instruct and enforce compliance with the by-law	Powers for the City to issue an infringement notice for an offence or take other appropriate action

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Salamanca Market By-Law
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3 Background

Salamanca Market context

Salamanca Market is proudly owned and operated by the City of Hobart and is Tasmania's most visited tourist attraction. Pre COVID-19, the market welcomed around 980,000 visitors each year and had grown to more than 300 stalls. The event generates an estimated \$64 million to \$69 million directly to the Tasmanian economy, supporting many small family-owned businesses.

Each stallholder is issued with a licence agreement by the Council under a regulatory system that is separate to the By-law. There are currently 269 permanent market licences held by 286 businesses (some are joint licensees) and 98 casual stallholder licences. Both types of stallholders have signed an agreement which deals with matters such as sub-letting, transfer of sites, suspension of the market, approved product lines, site fee adjustments, dispute resolution, insurances, relocation, intellectual property, privacy, operating hours, onsite behaviour and exclusivity.

The permanent licence has a rolling life of five (5) years, with the current agreement period being 2017-2022. As June 2022 approaches, all permanent stallholders will be consulted through a 30 day consultation period and a new five (5) year licence will be prepared. Stallholders will have the option to renew their licence or surrender it back to the City.

During this licence negotiation period, a formal valuation process will be undertaken by a suitably qualified valuer to enable the setting of the fees and charges for the start of the next five (5) year period. For all other years the fees and charges will be indexed to the most recent available twelve month change in the Consumer Price Index. Both of these processes are set out in greater detail within the terms of the licence agreement.

The 2021/22 site fees for this type of licence ranges from \$56.11 (incl. GST) to \$87.14 (incl. GST) per Saturday depending on the location of the site.

During the licence period, permanent stallholders may transfer their site to another party by application to the City. If an incoming purchaser wishes to change their product line from the one approved in the licence, they will have to apply to the City for product approval. Stamp duty is applicable on most sales and is levied by, and payable to, the Tasmanian State Revenue Office.

The casual agreements have a life of two (2) years, with the current agreement period expiring on 30 June 2022. The 2021/22 site fee for casual stallholders is a fixed \$80.44 (incl. GST) per Saturday regardless of the trading location.

Casual stallholders are not permitted to roll over their agreement on expiration and they have no right to transfer their licence to a third party during the term.

Hobart City Council
Salamanca Market By-Law
Regulatory Impact Statement

By-law context

This by-law has been developed for the purposes of replacing the expired Salamanca Market By-law No.1 of 2010 made under Section 145 of the Local Government Act 1993 ("the Act") for the purpose of regulating and controlling conduct in Salamanca Market.

In June 2019, the City engaged a legal practitioner to review the expiring by-law and to assist to drafting the new by-law. The legal practitioner was provided with the expiring by-law and the current Salamanca Market stallholder licence agreement.

An internal stakeholder engagement process was undertaken with council officers. In the development of the draft by-law, discussion was undertaken with the stallholder member body, Salamanca Market Stallholders' Association Inc (SMSA).

In April 2020, Council noted the draft by-law and resolved that an initial informal stakeholder engagement take place with external stakeholders. The draft by-law was distributed to all stallholders, the SMSA and Waterfront Business Association.

During the informal submission period, one (1) submission was received from a stallholder which was considered, with no changes being made to the draft by-law.

On 22 June 2020, the draft by-law was re-presented to the Council which passed a formal resolution (by an absolute majority) of its intention to make this by-law.

The by-law will be made available for public comment through Council's platform 'Your Say' for a period of three weeks after certification by the Director of Local Government, as is required by the Act. To make the public aware of this, an advertisement will be placed in the Mercury newspaper and council officers will contact relevant stakeholder organisations that may be affected by, or may wish to comment on the by-law.

In preparing the draft Salamanca Market By-Law No. 1 of 2022, there has been a focus on eliminating duplication with other legislation and to ensure consistency with all existing City of Hobart by-laws.

It is important from the City's perspective to have appropriate powers and authority in place to effectively regulate the conduct of patrons of Salamanca Market as well as some aspects of the operation of Salamanca Market. This is beneficial to not only stallholders within Salamanca Market, but also to the numerous patrons that visit Salamanca Market each Saturday it is held.

A number of changes have been made within the updated by-law, including:

- a contents page in the draft Salamanca Market By-Law No. 1 of 2022

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- removing clauses 3 and 4 from Salamanca Market By-Law No.1 of 2010 as they do not provide any additional substantive benefit above the current regulatory framework
- replacing specific buskers' permit (clause 17) in Salamanca Market By-Law No.1 of 2010 with more generic permit clauses to allow for greater control over a broader range of activities
- removing clauses 9, 10(2), 11, 12 from Salamanca Market By-Law No.1 of 2010 as they are already covered by the existing 2017-2022 Salamanca Market Licence Agreement
- removing clauses 18, 19, 20, 25 and 26 from Salamanca Market By-Law No.1 of 2010 which are already covered by the existing Police Offences Act 1935, Vehicle and Traffic Act 1999 and Litter Act 2007
- addition of clauses 64, 65, and 66 in the draft Salamanca Market By-Law No. 1 of 2022 for the removal and sale of vehicles
- an increase in schedule penalty units from 0.5 point to 1 point for parking a vehicle within the designated market area between 5:30 am to 6 pm in the draft Salamanca Market By-Law No. 1 of 2022
- addition of a new Schedule 2 – Prescribed Fees with permit fee units set to zero (0).

The by-law will support and work in conjunction with several existing Council policies, including:

- Hobart Dog Management Policy 2019-2023
- City of Hobart Waste Management Strategy 2015-2030
- Public Spaces By-Law 2018
- Single-Use Plastics By-Law 2020.

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Regulatory Impact Statement

4 Restriction on competition and impact on the conduct of business

The by-law has a number of restrictions on competition including the provisions of licences for occupation within the market area. The provisions enables the Chief Executive Officer to exercise discretion in granting or refusing a transfer of licence application. This is also the case with respect to existing Salamanca Place traders making application to occupy part of the market area.

The by-law also prohibits the sale of material by Salamanca Market stallholders that may be considered offensive or obscene.

There could potentially be a restriction on competition in the Chief Executive Officer exercising their discretion to either approve or refuse product pre-approval applications made to the City, however, it is considered necessary for the Chief Executive Officer to have this power so that a degree of control can be maintained over the product offerings for those parties wishing to occupy the market area. This increases the diversity and character of available product offerings add continues to enhance the Salamanca Market brand.

The by-law prevents hawkers and other entities that do not hold a market licence or permit from distributing business pamphlets, newspapers and other such materials. This allows the Chief Executive Officer to have control over the commercial activity in the market area.

The by-law also contains controls with regard to access to and parking within the market area. This is an imperative part of the controls exercised with respect to Salamanca Market. Maintaining appropriate levels of pedestrian access within the market area is achieved through the controls placed on vehicular access and parking within the market area. This minimises the risk to patrons and provides safe egresses throughout the market area.

Although there are these restrictions placed on competition, the need for regulation outweigh any costs and are in context of the Salamanca Market brand and are justified.

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5 Assessment of the costs versus the benefits of any restriction on competition or on the conduct of business

It is acknowledged that there are impacts on business and some restrictions on competition as a result of this by-law. However it is believed that any costs are fairly applied. In regards to the costs associated with the permit system, the application and approval process applies to all.

The more common permits issued under this by-law include 'The use of an amplified microphone in the market area' and 'Speaker's Corner'. The City has not prescribed a fee or charge for any of these permits.

The quantum of penalties under the by-law are set on a cost recovery basis. This ensures the costs to business associated with any breaches of the by-law are borne by the offender and not the Hobart ratepayer. In particular, the cost of removing a vehicle left in market area on Saturday mornings is equal to one (1) penalty unit and is intended to cover the cost of crew and equipment to relocate the vehicle out of the market area. In some circumstances the vehicle may also be required to be moved back at the end of the market period if it has not been collected during the day.

In terms of the period of time in after which the City may dispose of an illegally parked vehicle, the City has carefully considered the provisions of the *Disposal of Uncollected Goods Act 2020* (Tas) in drafting this provision in the by-law. Whilst this act will not apply to the City when acting under the by-law to remove and dispose of a vehicle, this existing regulatory framework was considered when drafting the by-law. However, it is the view of the City that the regulatory framework in this Act allows for a shorter timeframe for disposal when goods are removed for enforcement purposes, as is the case in the context of the by-law.

It is unlikely that the need to sell or destroy a vehicle left in the market will be required, however it is important to have this enforcement capability if the need arises. This is particularly so if a vehicle has been abandoned within the market area as the Council has no current capacity to store abandoned vehicles.

The City provides clear onsite signage and the public is provided with fair warning before deciding to leave a vehicle inside the market trading area on Friday evenings/ Saturday mornings.

Imposing a financial penalty for non-compliance with the by-law is also expected to act as a deterrent to others that may consider non-compliance as a normal means of operation.

Through these mechanisms Council is able to provide the best possible standard of infrastructure and ensure safety and amenity for all users.

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 Salamanca Market By-Law
 Regulatory Impact Statement

The benefits far outweigh costs associated with the conduct of business and the restriction on competition imposed by this by-law

	Costs	Benefits
Prohibition of sale of offensive material	<ul style="list-style-type: none"> • Prevents some stallholders from selling wares; • Restriction on the types of products available for purchase 	<ul style="list-style-type: none"> • Increases patron safety • Prevents offending any patrons; • Protects minors from offensive material • Supports the market brand as a family friendly and inclusive experience
Requirement of Permit for occupation of market area	<ul style="list-style-type: none"> • Imposes financial costs through licence application and approval processes • Restrictions on parties able to operate at Salamanca Market 	<ul style="list-style-type: none"> • Appropriate considerations are given to all stallholders; • Ensures diverse distribution of product types at Salamanca Market; • Prevents particular products dominating the market
Requirement of Permit for the display of items	<ul style="list-style-type: none"> • Restricts those with plentiful resources • Prohibitions in some areas prevents local businesses outside of Salamanca Market from promotion within the market area 	<ul style="list-style-type: none"> • Prevents electoral signage and politicising the market • Prevents local businesses outside of Salamanca Market from advertising within the market area • Maintains equity amongst stallholders • Increases safety and amenity of foot-traffic areas for pedestrians
Parking and vehicular access restrictions	<ul style="list-style-type: none"> • Impacts on stallholder stock transportation; • Restricts access for those with limited mobility 	<ul style="list-style-type: none"> • Critical for market operation; • Essential risk management provision; • Promotes pedestrian safety;

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	Costs	Benefits
		<ul style="list-style-type: none">• Encourages ease of moving around market area for all patrons

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6 Assessment of direct or indirect economic, environmental or social impacts

The restrictions on competition that have been identified above do have some costs imposed on the community. However these costs are outweighed by the benefits they provide.

All the restrictions on competition impact upon the stallholders and their ability to trade. This is necessary for the appropriate regulation of the operation of Salamanca Market. Salamanca Market appeals to and attracts a range of people from diverse cultural backgrounds, varying ages locally based and tourists from intrastate, interstate and overseas and it is necessary to ensure that a broad range of products, services and entertainment is available to cater to the range of people who attend the market. It is an important part of the market brand that the experience is inclusive and family-friendly. It is also for this reason that offensive and obscene material must be prohibited.

Placing restrictions on parking and vehicular access to the market area is critical for the effective operation of the market, and is consistent with the Council's powers to conduct a market under section 189 of the Act. These restrictions are also an important risk management provision in terms of event and patron safety, they allow the City to adhere to its obligations under Work Health and Safety regulations, and they ensure that all stallholders and patrons have equal access to Salamanca Market.

It is important that all stallholders have equal opportunity for access at the commencement and completion of the Salamanca Market on a market day to ensure that all have adequate time to prepare their stall for patrons of the market.

		Direct	Indirect
Environ-mental	Benefits	<ul style="list-style-type: none"> Requires stallholders to dispose of waste in designated areas and to maintain stall sites in a clean condition Prevents noisy activities unless a permit has been granted 	<ul style="list-style-type: none"> Works towards the City's Zero Waste to Landfill by 2030 strategy Increased amenity for neighbouring residential and commercial properties Increased amenity and enjoyment for patrons and stallholders at the market
	Costs	<ul style="list-style-type: none"> Limited increased waste and refuse from stallholder trading 	<ul style="list-style-type: none"> Increased foot traffic on Salamanca Lawns

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		Direct	Indirect
		<ul style="list-style-type: none"> High numbers of people in Salamanca Place 	
Social	Benefits	<ul style="list-style-type: none"> Appropriate regulation of a major Tasmanian tourist attraction Promotion of appropriate conduct within market area Greater vibrancy in the community through a diversity of activities in a range of spaces in the market area Safety and amenity in public spaces for all users 	<ul style="list-style-type: none"> Enhanced unique character of the City of Hobart Improved community safety through greater natural surveillance of public realm Improved business conditions generally Increased amenity of the municipal area generally resulting in greater attractiveness of the City of Hobart as a destination
	Costs	<ul style="list-style-type: none"> Prevents use of Salamanca Place by other users during market days Lower amenity for residents in vicinity of Salamanca Market 	
Economic	Benefits	<ul style="list-style-type: none"> Equitable system for commercial use and the assessment of any applications made by potential stallholders 	<ul style="list-style-type: none"> Contributes to the City's brand
	Costs	<ul style="list-style-type: none"> Financial impost of permit application and approval process for stallholders and one-off activities Financial penalties for non-compliance Some restriction of trade 	<ul style="list-style-type: none"> Administrative costs associated with providing the service and administering the by-law

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7 Discussion of alternatives

As was highlighted during the introduction to this document, there are very few alternatives to the implementation of this by-law.

Salamanca Market is a unique public event. There are extraordinary requirements that come with running Tasmania's leading weekly event and the largest Tasmanian tourist attraction.

Under the Stallholder Licence Agreement the only options available to the City to achieve rectification of a breach is to either suspend them from trading at the market for a period or to terminate the licence, which are excessive for potentially minor breaches. The City always prefers to adopt a conciliatory approach in obtaining rectification and does not seek to unduly penalise a stallholder for something that could be a minor infringement. It is not in the best interests for either the stallholder or the City to prevent a business from making a living. In short, it is much preferred to issue a monetary infringement notice rather than a suspension or termination, where that is appropriate.

The sum payable for an infringement notice is specified in column 3 of the schedule adjacent to the relevant offence.

This by-law helps create a regulatory framework that has scalable enforcement for offences, and where necessary, serious, dangerous or recalcitrant behaviour can be dealt with under the licence agreement where appropriate.

There is no bespoke piece of legislation to manage a market or the conduct of third parties within a market. Without the by-law, the City would have to rely on a patchwork of different laws dealing with public order (most of which must be enforced by third parties) in attempting to manage the market and control the conduct of persons within the market area. This is an undesirable position to be in as it limits the City's ability to react and creates an ambiguous regulatory framework. In contrast, the by-law clearly sets out the rules of the market in a clear form and ensures the fair regulation of third party conduct and that the City does not overstep its powers.

Division 4 of Part 12 of the *Local Government Act 1993* gives Council a power to hold a market and close all, or part of, a local highway for that purpose. The by-law does not impact on this Division in any way, and if it were to impact upon it, the Local Government Act would prevail.

The absence of any by-law will leave no regulatory mechanism in place to address regulation within Salamanca Market. The by-law is necessary to allow the Council to ensure that the highest standards can be provided.

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8 Assessment of the public costs and benefits

The Hobart ratepayer, along with any visitor, will benefit from the implementation of this by-law through effective management of Salamanca Market. Through this effective management, benefits will be gained by stallholders in the way that Salamanca Market is administered, and patrons in the ability of the Council to regulate the way in which Salamanca Market is utilised.

The by-law ensures that there is sufficient regulation in place to adequately cater for the demands of stallholders in the operation of their stalls. It provides the Council with a regulatory framework with which to operate Salamanca Market.

The by-law also ensures that people visiting Salamanca Market are provided with a safe and appropriate environment during their visit.

Regulation is the most feasible option to achieve the by-law's objectives and the by-law has been carefully constructed by a certified legal practitioner to ensure it imposes the least regulatory burden on the community possible. As outlined above it targets issues that are not otherwise addressed by regulation in a proportionate and effective manner.

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9 Details of the public consultation process

On receipt of the certificate of compliance from the office of the Director of Local Government, a formal consultation period will commence. The by-law will be made available for public comment through Council's platform 'Your Say' for a period of three weeks after certification, as is required by the Local Government Act.

To make the public aware of this, an advertisement will be placed in the Mercury newspaper and council officers will contact relevant stakeholder organisations that may be affected by, or may wish to comment on the by-law. Copies of the RIS and by-law will be available for inspection at the Council Service Centre during business hours and available for viewing on the City's website.

In terms of the consultation that has been completed to date, comments and recommendations were sought from City officers on those sections of the by-law relevant to their operational areas.

These officers range from those in managerial positions to those who are directly involved with the parties that will be affected by the implementation of the new by-law.

As the proposed by-law would be replacing a by-law currently in operation, officers were asked to consider the following in relation to each clause:

- Whether the clause needed to remain.
- Whether the subject matter of the clause was adequately addressed in separate legislation.
- Whether there were any practical problems with the application of the Clause.
- If a penalty is imposed, whether the penalty was appropriate for the particular offence created.
- Whether there should be an amendment to the Clause.
- Whether any additional clauses should be drafted for inclusion in the by-law.

These officers used their experience of operating under the expired by-law on a day-to-day basis to inform their responses. As these officers are required to interact with the community on a regular basis in the operation of the current by-law, they have the required insight to determine the effectiveness and necessary amendments of the current by-law.

Upon the preparation of a draft of the by-law, it was presented to the Council meeting of 27 April 2020. The Council approved the draft by-law for release for further stakeholder engagement.

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An informal engagement of three (3) weeks was undertaken whereby the following groups and individuals were sent a draft copy of the by-law seeking comments via online submissions or by letter to the City:

- Salamanca Market Stallholders' Association Incorporated
- Waterfront Business Community Incorporated
- 402 Salamanca Market stallholders

One (1) submission was received during the informal consultation period. Officers assessed the submission and were satisfied that no changes were required of the draft by-law.

The by-law was subsequently presented to the Community Culture and Events Committee for consideration at a special open meeting on 22 June 2020. After approval at Committee it was then passed to Council for consideration in an open meeting also of 22 June 2020.

In accordance with Sections 7 and 9 of the *Local Government (Meeting Procedures) Regulations 2005*, the meeting was advertised and the agendas for the above Committee and Council meetings were made available to the public at the council's office and on the council's website. This transparent process enables any member of the public to be aware of matters the Council is considering, including the by-law and also gives access to the draft by-law. During the COVID-19 pandemic, Council and Committee meetings are streamed on YouTube via Zoom, and this is publicised using the City's social media channels.

As the Aldermen are required to represent¹ and act in the best interests of the community², this also provided a further opportunity for the public's interests and wishes to be represented.

The Council then resolved on 22 June 2020, by absolute majority, its intention to make the Salamanca Market By-Law No. 2. of 2020 (as it was then known).

¹ Section 28(1)(a) *Local Government Act 1993*

² Section 28(1)(b) *Local Government Act 1993*

7. COMMITTEE ACTION STATUS REPORT

7.1 Committee Actions - Status Report

A report indicating the status of current decisions is attached for the information of Elected Members.

RECOMMENDATION

That the information be received and noted.

Delegation: Committee

Attachment A: Community, Culture and Events Open Status
Report

**COMMUNITY, CULTURE AND EVENTS COMMITTEE – STATUS REPORT
OPEN PORTION OF THE MEETING
31 March 2022**

Ref	Meeting	Report / Action	Action Officer	Comments
1	NORTH HOBART MULTICULTURAL FESTIVAL PROPOSAL – COUNCIL ASSISTANCE Council 10/3/2020, Item 13	<p>Notice of Motion</p> <p>“That the Council consider providing guidance, assistance and support in facilitating the resurgence of the North Hobart Multicultural street festival in North Hobart, in consultation with the North Hobart Traders’ Association, the North Hobart Residents and Community Associations and other relevant community associations, in line with the festivals of the late 1980s & ’90s.</p> <p>(i) The report to address the potential estimated costs to the Council to provide the requested guidance and support to facilitate the event.</p>	<p>Director Connected City</p> <p>Director City Futures</p>	<p>Officers are progressing this matter and have commenced consultation, however detailed planning has been deferred due to COVID-19.</p>
2	CITY OF HOBART GRANTS PROGRAM – REVIEW OF CITY PARTNERSHIP PROGRAM Council 9/11/2020, Item 10	<p>That</p> <ol style="list-style-type: none"> 1. The Council endorse a broader review of the City of Hobart event grants which include the City Partnerships, Event Partnerships and Event Medium grants be conducted in consultation with stakeholders to be undertaken during 2021. 2. The review to consider the realignment of these grants to offer fairer, more streamlined and strategic event funding program that meets the needs of event organisers and the community. 	<p>Head of Intergovernmental Relations and Partnerships</p>	<p>The Council at its meeting held 11 October 2021 endorsed the development of a City of Hobart events strategy.</p> <p>Officers are progressing arrangements for internal and industry engagement post the Organisational Transformation Project.</p>

Ref	Meeting	Report / Action	Action Officer	Comments
3	A COMMEMORATION TO THE LATE ALI SULTAN Council 9/3/2021, Item 11	That: 1. The General Manager, in consultation with Sultan Holdings and the Sultan family, advice on the most appropriate location in the city to commemorate the immense contribution made to the city over many years by the late Ali Sultan. 2. A report be prepared addressing the development of a policy in respect to appropriate ways to commemorate citizens who have made significant contributions to the City of Hobart.	Director City Enablers	A report on this matter is scheduled for the 30 June 2022 committee meeting.
4	WHITE RIBBON WORKPLACE ACCREDITATION Council 31/3/2021, Item 10	That a report be prepared detailing the benefits of achieving White Ribbon Workplace Accreditation status for the City of Hobart. The report provide details on the process for accreditation and the costs of same, including any ongoing or recurrent costs.	Head of Intergovernmental Relations and Partnerships	Officers will progress this matter further post the Organisational Transformation Project.
5	THE FUTURE OF THE TASTE OF TASMANIA Council 10/5/2021, Item 17	2. The Chief Executive Officer develop a transition plan to divest the City of the exclusive ownership and delivery of the Taste of Tasmania. 3. A further report be provided to the Council with the transition plan outcome and proposal for the future of the Taste of Tasmania, by the end of the 2021-22 financial year. 5. The new State Government be requested to honour the commitment of the previous Government to support the consideration of further options around the Taste of Tasmania event.	Director City Futures	Clause 1 and 4 noted and complete. Clause 2, 3 and 5 are being considered as part of the transition plan to divest the City of the exclusive ownership and delivery of the Taste of Tasmania.

Ref	Meeting	Report / Action	Action Officer	Comments
6	SAFER NIGHTS PARTNERSHIP PROJECT TRIAL – EVALUATION REPORT Committee 27/5/2021, Item 6.2	That: 1. The Safer Nights Partnership Project Trial Memorandum be received and noted. 2. The recommendations from the external evaluation report be the subject of a further report to the Council which will include options to further the trial.	Director Connected City	Officers are awaiting the outcome of the Coroner's investigation into safety on the waterfront to inform options going forward.
7	CITY OF HOBART GRANTS PROGRAM – ANNUAL PROGRAM 2021 RECOMMENDATIONS Council 11/10/2021, Item 12	That 5. The Council endorse the development of a City of Hobart events strategy with a draft to be provided to Council for endorsement before wider community engagement.	Director City Futures	Officers are progressing arrangements for internal and industry engagement post the Organisational Transformation Project.
8	2021-22 TASTE OF SUMMER IN KIND SUPPORT Council 8/11/2021, Item 15	4. The Chief Executive Officer be delegated to evaluate items owned but the City and held in storage pertaining to the Taste of Tasmania, and determine what items are no longer required. (i) The Chief Executive Officer consider selling those items identified as unused or no longer required, including the shipping containers used for storing the items, and report back to Council should the need arise.	Director City Futures	Officers are progressing.

8. QUESTIONS WITHOUT NOTICE

Section 29 of the *Local Government (Meeting Procedures) Regulations 2015*.
File Ref: 13-1-10

An Elected Member may ask a question without notice of the Chairman, another Elected Member, the Chief Executive Officer or the Chief Executive Officer's representative, in line with the following procedures:

1. The Chairman will refuse to accept a question without notice if it does not relate to the Terms of Reference of the Council committee at which it is asked.
2. In putting a question without notice, an Elected Member must not:
 - (i) offer an argument or opinion; or
 - (ii) draw any inferences or make any imputations – except so far as may be necessary to explain the question.
3. The Chairman must not permit any debate of a question without notice or its answer.
4. The Chairman, Elected Members, Chief Executive Officer or Chief Executive Officer's representative who is asked a question may decline to answer the question, if in the opinion of the respondent it is considered inappropriate due to its being unclear, insulting or improper.
5. The Chairman may require a question to be put in writing.
6. Where a question without notice is asked and answered at a meeting, both the question and the response will be recorded in the minutes of that meeting.
7. Where a response is not able to be provided at the meeting, the question will be taken on notice and
 - (i) the minutes of the meeting at which the question is asked will record the question and the fact that it has been taken on notice.
 - (ii) a written response will be provided to all Elected Members, at the appropriate time.
 - (iii) upon the answer to the question being circulated to Elected Members, both the question and the answer will be listed on the agenda for the next available ordinary meeting of the committee at which it was asked, where it will be listed for noting purposes only.

9. CLOSED PORTION OF THE MEETING

RECOMMENDATION

That the Committee resolve by majority that the meeting be closed to the public pursuant to regulation 15(1) of the *Local Government (Meeting Procedures) Regulations 2015* because the items included on the closed agenda contain the following matters:

- Confirm the minutes of the Closed portion of the meeting
- Questions without notice in the Closed portion
- Sponsorship request

The following items are listed for discussion:-

- | | |
|--------------|--|
| Item No. 1 | Minutes of the last meeting of the Closed Portion of the Committee Meeting |
| Item No. 2 | Consideration of supplementary items to the agenda |
| Item No. 3 | Indications of pecuniary and conflicts of interest |
| Item No. 4 | Reports |
| Item No. 4.1 | 2022 Dark Mofo Sponsorship Request
LG(MP)R 15(2)(b) |
| Item No. 5 | Questions Without Notice |