

Trust Charter

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1. Introduction

The Greater Metropolitan Cemeteries Trust (the Trust) is classified as a Class A Cemetery Trust under the *Cemeteries and Crematoria Act 2003* (Vic) (*the Act*). The Trust was established on 1 March 2010, as a body corporate with perpetual succession established by Governor in Council pursuant to *the Act*.

- The Trust is governed by a board of six (6) to nine (9) members. The functions of the Trust and its members are as prescribed by section 12 and 12B of the *Act* (as amended), which is set out in **Attachment 1**. The powers of the Trust are set out in sections 13 and 14 of *the Act*. Requirements in respect of the preparation of an Annual Plan and a Strategic Plan are set out in sections 18M and 18N of *the Act*.
- This Charter provides the framework for the way in which the board of the Greater Metropolitan Cemeteries Trust (GMCT) carries out its governance responsibilities.

The board is responsible for the governance of the organisation including the key roles of setting strategic direction, approving the annual budget, monitoring performance, ensuring compliance, developing policy, high level stakeholder management and ensuring that a risk management framework is in place. The board delegates day-to-day management of the cemeteries within its control to management via the Chief Executive Officer subject to documented delegations.

The term “Trust” is used to refer to the legal entity, and “trust members” refers to those individual persons appointed as members of the Trust pursuant to the Act. The term “board” refers to the trust members collectively as they comprise the decision-making forum of the Trust, and “board meeting” refers to the formal meetings that are held for decision-making by the board. This terminology is consistent with the language used in the DHHS manual for Class A trusts.

2. Board Composition

2.1 Board Membership

The *Act* specifies that a cemetery trust shall consist of no less than six (6) and no more than nine (9) members. The members collectively comprise the board which holds formal meetings to make decisions of the Trust.¹

Notwithstanding that, where the Trust has fewer than six (6) members from time to time, pending the appointment of more members, any actions and decisions taken by the board shall be as effective as if taken by the board with a fully constituted membership.

Members will be remunerated in accordance with the *Appointment and Remuneration Guidelines* which are issued by the Department of Premier and Cabinet. Metropolitan trusts are classified as Group A Band 4.

See <http://www.dpc.vic.gov.au/index.php/policies/governance/appointment-and-remuneration-guidelines>.

¹ Manual for Victorian Class A Cemetery Trusts, pg 3.

2.2 Trust Member - Skills and Attributes

The contribution of each member to the Trust's governance role is a key element in the success of the cemetery operations. The need for individual Trust Members to apply a range of appropriate skills and attributes remains an essential component in the ability of the Trust to deliver the required outputs and operate in an ethical and appropriate way.

As outlined by the Department of Health and Human Services (DHHS), the board includes members with some or all of the following skills to enable informed and balanced decision-making:

- Public company, governance or community based board experience
- Corporate governance
- Strategic planning
- Financial and/or investment management
- Community representation and engagement
- Stakeholder management
- Business experience
- Industry specific skills and knowledge.

2.3 Trust member - Desirable skills and experience

As outlined by the Department of Health and Human Services, the desired skills and experience required of Trust Members are as follows:

- Knowledge of the sector
- Business development
- Accounting
- Legal skills
- Risk management
- Audit
- Facilities/infrastructure management
- Public sector knowledge.

2.4 Appointment of Members

Trust Members are appointed by the Governor in Council on the advice of the Minister for Health.

Schedule 1A of the Cemeteries and Crematoria Act 2003 establishes the terms of appointment of Class A Cemetery Trust Members as:

- A member of a Class A Cemetery Trust holds office for the period, not exceeding three (3) years, as specified in the instrument of his or her appointment.
- A member of a Class A Cemetery Trust is eligible for re-appointment.
- A member of a Class A Cemetery Trust is appointed on the terms and conditions specified in the instrument of appointment.
- The Public Administration Act 2004 (other than Part 3 of that Act) applies to a member in respect of the office of member.

2.5 Expenses, Development and Insurance

All reasonable expenses incurred in carrying out the duties of a Trust Member are met by GMCT in accordance with GMCT's Reimbursement of Expenses Policy or Motor Vehicle Policy as varied from time to time.

Trust Members are entitled to participate in governance development relevant to performance of their duties as agreed with the Trust Chairperson.

GMCT has an industry based insurance premium through the Victorian Managed Insurance Policy (VMIA) which covers assets, public liability and professional indemnity for Trust Members.

3. Trust Duties

The Trust Members undertake to meet the Victorian Public Sector Commission (VPSC) Code of Conduct for Directors of Victorian Public Entities (“Code”) issued by the Public Sector Standards Commissioner. Section 7 of the Public Administration Act 2004 requires public officials, including Directors and statutory office holders, to demonstrate the public sector values by behaving in a particular way.

A. Responsiveness – public officials should demonstrate responsiveness by:

- providing frank, impartial and timely advice to the Government; and
- providing high quality services to the Victorian community; and
- identifying and promoting best practice.

B. Integrity – public officials should demonstrate integrity by:

- being honest, open and transparent in their dealings; and
- using powers responsibly; and
- reporting improper conduct; and
- avoiding any real or apparent conflicts of interest; and
- striving to earn and sustain public trust of a high level.

C. Impartiality – public officials should demonstrate impartiality by:

- making decisions and providing advice on merit and without bias, caprice, favouritism or self-interest; and
- acting fairly by objectively considering all relevant facts and fair criteria; and
- implementing Government policies and programs equitably.

D. Accountability – public officials should demonstrate accountability by:

- working to clear objectives in a transparent manner; and
- accepting responsibility for their decisions and actions; and
- seeking to achieve best use of resources; and
- submitting themselves to appropriate scrutiny.

E. Respect – public officials should demonstrate respect for colleagues, other public officials and members of the Victorian community by:

- treating them fairly and objectively; and
- ensuring freedom from discrimination, harassment and bullying; and
- using their views to improve outcomes on an ongoing basis.

F. Leadership – public officials should demonstrate leadership by actively implementing, promoting and supporting these values.

G. Human Rights – public officials should respect and promote the human rights set out in the Charter of Human Rights and Responsibilities by:

- making decisions and providing advice consistent with human rights; and
- actively implementing, promoting and supporting human rights.

Members of the public entity’s Board have both individual and collective responsibilities. This section of the Code outlines the behaviours expected of Boards.

3.1 Leadership and Stewardship

The board safeguards and oversees management of the public entity. Effective stewardship includes managing the public entity’s reputation, intellectual capital and relationship with stakeholders such as the portfolio department and Minister on matters of public administration and governance. The board should provide sufficient information for the department to advise the Minister on the public entity’s activities.

The board when it meets, focuses mainly on strategic matters to ensure that the public entity continues to fulfil its purpose for Government and other stakeholders.

The board ensures that the public entity has appropriate arrangements in place to meet its legal, ethical and policy obligations.

3.2 Trust Authority and Delegation

The board ensures that matters reserved for the board are clearly identified. It also ensures that necessary delegations are in place.

The board makes decisions within its power. If the board wishes to do something not authorised under the public entity's establishing legislation, but in the public interest or consistent with the objectives of the public entity, then it raises the matter with the Department or Minister for consideration. The Minister may be able to issue directions to facilitate the action or may consider potential legislative change.

The board is accountable for the actions of its delegates and sub-committees. Members of a sub-committee who are delegated to consider a matter cannot lawfully delegate that power or function to any other individual or body unless the law expressly authorises such delegation.

3.3 Best Interests of the Public Entity

The board acts consistently with the functions and objectives of the public entity and with any business or strategic plan or other document relevant to its work program.

3.4 Risk Management and Financial Responsibility

The board plays an important role in overseeing the management of risks faced by a public entity. As part of this role, the board informs the portfolio department and Minister of known major risks to the effective operation of the public entity and of the processes in place to address those risks. It also ensures there are adequate controls in place to prevent fraudulent behaviour.

The board assures itself that the public entity's financial management system is adequate and designed to minimise processes that can lead to errors. It also ensures that the financial statements or accounts are audited at regular intervals.

3.5 Conflicts of Interest and Duty

The Trust manages any conflicts of interest and duty in the public interest. Depending on the nature of the conflict, the board may recommend that members restrict their involvement in a matter, step down from the position they hold on a temporary or permanent basis or relinquish their private interest. If the Trust determines that a conflict is material, it makes sure that affected members do not participate in the matter at all. The Trust may seek advice from a disinterested third party such as a probity adviser, lawyer or governance expert when deciding the best option.

The board records Members' private interest disclosures in the minutes of its meetings and notifies the Minister in writing of any breach of process.

The Trust does not make loans, or give guarantees to provide security for loans or other undertakings, to Trust Members or their families or associates.

4. Board Roles

The board ensures that the organisation meets its strategic and operational objectives and compliance requirements, per the Victorian Public Sector Commission (VPSC) Code of Conduct for Directors of Victorian Public Entities ("Code") issued by the Public Sector Standards Commissioner; through undertaking the following roles:

a. Strategic Direction

- Set the vision and strategic direction for the organisation
- Develop the Strategic Plan in consultation with the CEO and senior management.
- Review the Strategic Plan annually including measurable KPI's and undertake a comprehensive strategic planning process as a minimum every three (3) years.
- Ensure that the tone and culture of the organisation are in accordance with its Vision and Values

b. Policy Making

- Set policy parameters and approve policies and delegations as identified for board approval.

c. Monitor Performance

- Ensure strategic, operational and financial performance is monitored and reviewed, and appropriate internal controls are in place, including regularly monitoring progress against the Strategic Plan, Business Plan and budget.
- Approve annual budget and financial transactions within delegations.
- Report on Trust performance against set criteria on an annual basis.

d. Chief Executive Officer

- Select and appoint the Chief Executive Officer to perform the functions set out in section 18M of *the Act*.
- Manage the performance of the Chief Executive Officer
- Endorse appointment of Chief Executive's direct reports with board agreed parameters.
- Ensure ongoing development of Chief Executive Officer and Executive team.

e. Risk Management

- Ensure that high-level risks are brought to the attention of the board by management in a timely manner.
- Ensure a Risk Management Framework with adequate policies, procedures and controls are in place to assess and manage risk.
- Monitor risk regularly.

f. Stakeholder Management

- Maintain positive relationships with major stakeholders including the Minister for Health and senior Departmental officers.
- Engage local communities through the Community Advisory Committee and other appropriate mechanisms.

4.1 Duties and Responsibilities of Trust Members

- Ensuring the cemeteries for which the trust is responsible are managed properly and efficiently
- Exercising their power under the *Cemeteries and Crematoria Act 2003* for the intended purpose
- Developing Annual Plans and Strategic Plans in accordance with the *Cemeteries and Crematoria Act 2003*
- Monitoring compliance with Annual Plans and Strategic Plans
- Ensuring systems are in place to enable effective and accountable risk management, financial management and records management
- Monitoring the performance of the Chief Executive Officer
- Ensuring the DHHS is informed as soon as practicable of significant issues of public concern in relation to the cemetery trust, cemetery or crematoria services provided by that cemetery trust
- Ensuring the DHHS is informed as soon as practicable of significant risks that affect, or may affect, the cemetery trust or cemetery or crematoria services provided by that cemetery trust
- Managing potential conflicts of interest appropriately by ensuring disclosed conflicts of interest are recorded in meeting minutes and that any member who has disclosed a conflict of interest takes no further part in the discussion of or vote on any matter relating to the conflict of interest
- Making decisions in good faith by being adequately informed about Trust matters and exercising their judgement in the best interest of the Trust.

5. Trust Chairperson

Schedule 1A of the *Cemeteries and Crematoria Act 2003* (Vic) stipulates that The Governor in Council, by instrument, must appoint one of the members of a Class A Cemetery Trust to be Chairperson.

A person appointed as Chairperson of a Class A Cemetery Trust -

- Holds that office for the period not exceeding 3 years; and
- Is eligible for re-appointment.

A person appointed as Chairperson ceases to hold that office -

- On ceasing to be a member of the Class A Cemetery Trust; or
- On resigning as Chairperson but remaining as a member; or
- On the expiry of his or her appointment as Chairperson.

5.1 Responsibilities of the Chairperson

The Chairperson presides at meetings of the Trust's board. The Chairperson gives Members ready access to up-to-date copies of relevant legislation, policies and procedures. The policies and procedures are tailored to the public entity's operating environment and support application of the Code.

The Chairperson of the Trust holds both a leadership and relationship management role, and in addition to the responsibilities of a Trust Member the Chairperson holds the additional responsibilities as follows:

- Leading the cemetery trust
- Assisting Trust Members in understanding their role, responsibilities and accountabilities
- Leading Trust Members and developing them as a cohesive and effective team
- Ensuring all Trust Members actively participate in the governance of the trust
- Maintaining a skills matrix of all Trust Members to assist with succession planning
- Facilitating discussions at board meetings by ensuring all members have the opportunity to speak, managing meetings appropriately and ensuring decisions are properly understood and minuted
- Managing the principal relationships of the Trust
- Appoints the Deputy Chairperson and Chairpersons of the Trust sub committees

5.2 Required skills and experience

As outlined by the DHHS, the required skills and experience required of the Trust Chairperson in addition to those outlined in 2.2 are as follows:

- Communication and negotiation

5.3 Appointment of Deputy Chairperson and Trust Sub-committee Chairpersons

Annually, as part of the review of Trust Member skills and attributes, the Trust Chairperson will conduct one on one interviews with each Trust Member to assess their contribution to the Trust and to review the appointment of the Deputy Chairperson and Sub-committee Chairpersons. The Trust Chairperson will take into account the experience of the Trust Member, their contribution to the functioning of the Trust and board meetings and any specific skills they may have which would make them suitable to specific committee roles. The Chairperson will propose the appointments to a board meeting for endorsement to ensure reasonable transparency in the decision making.

5.4 Deputy Chairperson

The Trust Chairperson may choose to appoint a Deputy Chairperson, who, in the event of the Trust Chairperson being unavailable, will act in their role and conduct the responsibilities as set out below as Deputy Chairperson.

The Deputy Chairperson role will be determined annually.

The Deputy Chairperson of the Trust holds both a leadership support and relationship management support role and the primary responsibilities of the role are as follows:

- To assist and support the Chairperson in providing leadership, through governance arrangements;
- To act as a 'sounding board' to the Chairperson in the execution of his/her role;
- In the Chairperson's absence, to chair meetings of the board :
 - to ensure board meetings and any Trust subcommittee meetings (to be chaired by the Chairperson) are conducted efficiently and effectively
 - to give all Trust Members an opportunity to express their views
 - to assist and support the Chairperson in ensuring all new Trust Members, when taking up office, are fully briefed on the terms of their appointment and their duties and responsibilities
 - to undertake ceremonial activities in the role as Deputy Chairperson where the Chairperson is unavailable.

6. Trust Committees

Under *the Act* the Trust is required to establish and operate the following Committees:

- Finance & Investment Committee (FIC)
- Audit & Risk Management Committee (ARMC)
- Community Advisory Committee (CAC)

Under the Act, the Trust can also establish and operate other sub-committees as required and has established the following:

- Executive Performance & Remuneration Committee (EPRC).

Each Committee shall be chaired by a Trust Member and include three (3) Trust Members, including the Chairperson of the committee, in its membership. External experts may be invited to join committees as observers. Additional Committee Members for the Community Advisory Committee shall be publicly advertised.

Each Committee shall operate within Terms of Reference that are approved by the Trust and are attached as appendices to the Trust Charter.

Appendix 1 – Finance & Investment Committee (FIC)

Appendix 2 – Audit & Risk Management Committee (ARMC)

Appendix 3 – Executive Performance & Remuneration Committee (EPRC)

Appendix 4 – Community Advisory Committee (CAC)

The functions and membership of Community Advisory Committee are set out in sections 18E, 18F and 18 G of *the Act*.

All Trust members will receive copies of minutes and have access to all papers of all Committees (via Diligent) and have an open invitation to attend all Committee Meetings as observers. The Trust may appoint other Committees or Working Groups as required, subject to establishing Terms of Reference that are approved by the Trust.

Trust Committees are advisory and make recommendations to the Trust.

7. Board Meetings

There is a requirement that all Trust members attend a minimum of 75% of meetings. The Company Secretary will monitor attendance and bring to the attention of the Chairperson any breach of this expectation.

- Meetings may be called with a minimum of 48 hours' notice to be given to Trust Members where possible. Meetings may be called or held using any technology determined by the Trust Chairperson.
- The CEO and members of the executive team attend all board meetings but have no voting rights
- There is provision for the board to meet "in Camera" at any board meeting.

7.1 Frequency

- The board will meet at least 10 times a year, including at least one Strategic Planning Workshop.
- The Trust must hold an Annual Meeting before the 30th December each year which is open to the public.

7.2 Quorum

A quorum shall consist of a majority of board members, one of whom shall be the Trust Chairperson or a nominee of the Trust Chairperson.

7.3 Board Meeting Papers

Trust members have their board meeting papers delivered electronically. Tablets (iPads) are provided to members on appointment preloaded with secure software. Training is provided to Trust members to enable them to use the tablet and software effectively and efficiently.

7.4 Agendas

- The Trust Chairperson is responsible for the development of the Agenda for board meetings in conjunction with the Chief Executive Officer.

- b. Items for Agenda shall be submitted two weeks prior to the meeting date unless otherwise agreed.
- c. The Agenda will be circulated together with relevant meeting papers, electronically or via email, if requested to Trust members the week prior to the meeting date.

7.5 Minutes

- a. Proceedings, findings and recommendations of all board meetings are minuted.
- b. Draft Minutes must be provided to the Chairperson for review no later than two business days following the meeting.
- c. Draft Minutes shall be distributed to all members no later than seven (7) business days following the meeting unless otherwise agreed by the board. Minutes are approved by the board at its subsequent meeting and signed by the presiding Chairperson at its subsequent meeting.

7.6 Circular Resolution

- a. Where a need arise for time bound decision making by the Trust, and in the absence of a board meeting within the required timeframe, the board may pass a resolution via email without a board meeting being held. This requires all the Trust Members to respond in writing to confirm if they are in favour of the resolution set out in the email.
- b. A unanimous decision is required from all Trust Members, given that a circular resolution does not provide an opportunity for a full debate at a board meeting.
- c. The resolution is passed when an approval email is received from the last Trust Member.

Passage of the Circular Resolution under this section must be recorded in the approval of minutes at the following board meeting.

8. Board Review of Performance

- a. The board will self-review its performance annually with a requirement that an externally independent board review be undertaken tri-annually.
- b. Each Trust Member will complete a skills assessment and development needs review annually, and from this information the board will develop a gap analysis and learning plan for the year.
- c. The Executive Performance & Remuneration Committee are responsible for assisting the board in reviewing its own effectiveness and performance.
- d. After the completion of the Review, the Trust Charter is reviewed to reflect any changes to Trust practice.

9. Terms of Reference Owner

For all queries or feedback regarding this Terms of Reference document, please contact the officer below.

Contact	Contact number	Contact email
Chief Executive Officer	9355 3126	DGanderton@gmct.com.au

The responsible officer coordinates the implementation, maintenance and review of the Terms of Reference; ensuring stakeholders are aware of their accountabilities.

10. Terms of Reference History

March 2010	Charter written
July 2010	Date of adoption
November 2014	Charter reviewed
March 2016	Trust Charter reviewed and Committee Terms of Reference added as appendices to form 1 Term of reference aligned to the Better Our Policies Project (BOPP)
September 2016	Trust Charter review including DHHS recommendations of Draft Chairperson and Trust Member roles
September 2019	7.6 Circular Resolution Clause included
September 2020	Trust meeting referred to as “board meeting” and the collective group of Trust members as the “board”.

12A Functions of Class A cemetery trusts**(1) The functions of a Class A cemetery trust are—**

- (a) to properly and efficiently manage and maintain each public cemetery for which it is responsible;
- (b) to develop, in accordance with this Act, annual plans and strategic plans for the operation of the trust and to monitor compliance with those plans;
- (c) to develop annual business plans, strategies and budgets to ensure the efficient and accountable provision of services under *the Act* and the long term viability of the cemetery trust;
- (d) to establish and maintain effective systems to ensure that—
 - (i) the services provided by the cemetery trust meet the needs of the communities which it serves; and
 - (ii) the views of those communities are taken into account;
- (e) to oversee the organisational structure of the cemetery trust;
- (f) to employ a chief executive officer (by whatever title called) for the effective operation and management of the cemetery trust and each public cemetery for which it is responsible;
- (g) to monitor the performance of the chief executive officer;
- (h) to ensure there are systems in place to enable effective and accountable risk management, financial management and records management of the cemetery trust;
- (i) to provide leadership, assistance and advice as requested to listed Class B cemetery trusts;
- (j) to establish committees in accordance with *the Act* and ensure those committees operate effectively;
- (k) to ensure the Secretary is informed as soon as practicable of—
 - (i) any significant issues of public concern in relation to the cemetery trust, cemetery or crematoria services provided by that cemetery trust or the public cemeteries for which that cemetery trust is responsible; or
 - (ii) any significant risks that affect, or may affect, the cemetery trust or cemetery or crematoria services provided by that cemetery trust or the public cemeteries for which that cemetery trust is responsible;
- (l) to develop or adopt a code of conduct for members of the cemetery trust and for staff of the trust;
- (m) to ensure members of the cemetery trust receive adequate training to enable them to meet their obligations as members of the cemetery trust;
- (n) to carry out any other function conferred on a Class A cemetery trust by or under this Act or any other Act.

(2) In exercising its functions, a Class A cemetery trust must have regard to—

- a) its obligations in relation to funding of the perpetual maintenance of the public cemetery for which it is responsible; and
- (b) the cultural values and religious values (if any) of the community; and

- (c) the heritage values (if any) of the public cemetery for which it is responsible; and
- (d) the need to ensure that it uses its resources in an effective and efficient manner; and
- (e) the need to ensure that public resources across the cemeteries and crematoria sector are used effectively and efficiently.

13. General powers of cemetery trusts

A cemetery trust may do anything necessary or convenient to enable it to carry out its functions.

14. Powers in respect of more than one cemetery

If a cemetery trust is responsible for the management of more than one public cemetery, the cemetery trust may manage all the cemeteries as if they were one cemetery.

16. Immunity of members of cemetery trust

- (1) A member of a cemetery trust is not personally liable for anything done or omitted to be done in good faith—
 - (a) in the exercise of a power or the carrying out of a function under this Act or the regulations; or
 - (b) in the reasonable belief that *the Act* or omission was in the exercise of a power or the carrying out of a function under this Act or the regulations.
- (2) Any liability resulting from an act or omission that would, but for subsection (1), attach to a member of the cemetery trust attaches instead to the cemetery trust.