

Board Charter

Mornington Peninsula Foundation Limited

ACN 613 870 250

Adopted by Board on 12 September 2018

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Board Charter of Mornington Peninsula Foundation Limited (MPF)

1 Purpose of the Board Charter

The Mornington Peninsula Foundation (MPF) Board has adopted this Charter to outline the manner in which its powers and responsibilities will be exercised and discharged by the Board members.

The Charter ensures compliance with the principles of good governance, the Australian Charities and Not-for-profits Commission (ACNC) Governance Standards and applicable laws.

This Charter includes an overview of:

- (a) the role and responsibilities of the Board;
- (b) the requirements and duties of Board members;
- (c) Board size and composition;
- (d) the authority delegated by the Board to Board Sub - Committees;
- (e) Board procedures; and
- (f) transparency and accountability.

The Board Charter and the charters adopted by the Board for its Committees have been prepared and adopted on the basis that strong corporate governance can add to the performance of MPF and engender the confidence of the community.

This Charter is to be reviewed by the Board every 3 years or more often as required.

This Charter is to be signed by each original Board member and given to and signed by all new Board members.

2 Purpose and activities of Mornington Peninsula Foundation

2.1 Purpose

The primary role of the Board is to ensure that MPF carries out its purposes as expressed in the Constitution clause 2.5 which are:

Objects of the Company:

The object of the Company is to undertake public charitable activities in Australia for the direct relief of poverty, sickness, suffering misfortune, destitution, helplessness or disability in the manner the directors or members decide and, in particular, but without limitation, by:

- (a) providing a range of support services to disadvantaged families or youth suffering or facing hardship or difficulties in the Mornington Peninsula area;
- (b) developing community activity programs for those living in the Mornington Peninsula area;

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- (c) liaising with other sources and agencies to expand the accessibility to community services for those living in the Mornington Peninsula area;
 - (d) promoting ongoing support and social reintegration activities of all kinds for people who have been marginalised in the Mornington Peninsula area;
 - (e) raising funds to assist in the achievement of the objects of the Company, by voluntary contributions, fund raising efforts and other appropriate means;
 - (f) acquiring, operating and maintaining such buildings and equipment as the Company considers necessary to further its objects
 - (g) employing such persons as may be required to promote any of the above objects or to provide any service in accordance with them; and
 - (h) any other activities that are incidental or ancillary to, and not inconsistent with, these objectives.

2.2 Not-for-profit

The Board must ensure the not-for-profit nature of MPF is maintained by not providing any profit, distribution or benefits to members.

2.3 Activities

The main activities of MPF are raising revenue through fundraising partnerships, collaboration, donations, grants, investment and other means as permitted under its Constitution, and awarding, grants to not-for-profit and charitable organisations and auspiced groups within the Mornington Peninsula. These grants must be made to further the purposes of the MPF.

3 Entity type, charity and Tax Status

3.1 ABN

The MPF is listed on the Australian Business Register (ABR) as:

Mornington Peninsula Foundation
ABN 58 613 870 250
Active from 26 July 2016

3.2 Entity type

MPF is a company limited by guarantee.

3.3 ACNC

MPF is listed on the ACNC register as a charity.

3.4 ATO

MPF is endorsed by the ATO under Item 1 DGR as a Public Benevolent Institution for income tax exemption and is also GST exempt.

4 Board role and responsibilities

4.1 Board role

The role of the Board is to govern MPF in such a way that it is able to pursue its purposes successfully.

The Board is responsible for and has the authority to determine all matters relating to the policies, practices, administration and operations of the organisation. This includes ensuring good corporate governance, determining and approving strategies and providing guidance and oversight to management.

The Board will:

- (a) set strategies, plans and policies for MPF to enable it to carry out its purposes, including ensuring there are adequate resources;
- (b) monitor and evaluate performance or impact against the purposes, strategies and goals;
- (c) consider adopting the viewpoints of the various stakeholders including service providers, funders, supported organisations and the Mornington Peninsula Community;
- (d) implement effective risk management strategies.

4.2 Board key responsibilities

The responsibilities/functions of the Board include:

- (a) ensuring Board members:
 - (i) are not disqualified from managing a corporation, within the meaning of the *Corporations Act 2001*; and
 - (ii) are not currently disqualified by the ACNC Commissioner nor have been disqualified by the ACNC Commissioner at any time during the preceding 12 months;

Board members who are under investigation and may be disqualified must resign when requested by the other Board members;

- (b) contributing to and approving development of vision, purpose, values and strategy, including setting measurable goals;
- (c) in relation to the assets of the MPF, setting in each year:
 - (i) an investment policy;
 - (ii) a grant making policy;
 - (iii) a fund raising objective.
- (d) approving operating budgets and sources of funding;

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- (e) reviewing, ratifying and monitoring systems of risk management and internal control together with ethical and legal compliance. This includes reviewing procedures to identify the main risks associated with MPF's activities and the implementation of appropriate systems to manage these risks;
 - (f) monitoring performance, impact and implementation of its strategy, its policies, and its grantmaking;
 - (g) approving grants;
 - (h) monitoring and reviewing management processes aimed at ensuring the integrity of financial and other reporting; and
 - (i) developing and reviewing policies, processes and procedures which seek to ensure MPF is accountable to its donors and other stakeholders.

4.3 Key documents

- (a) MPF Constitution.
- (b) Board policies including policies relating to: conflict of interest and duty, investment policy, fundraising policy, and grant making policy.
- (c) Annual Reports.

4.4 Board Committees

The Board currently has a Grants committee, an Audit and Risk Committee, a Nominations Committee and a Marketing and Events Committee. Consideration may be given to forming other Committees or sub-committees as required.

Each Committee will establish its own Charter, which will be approved by the Board.

5 Commitment of Board members

Board members will:

- (a) use all reasonable endeavours to attend every Board meeting either in person or by phone or video link;
- (b) maintain a strong commitment to the purposes of MPF, and its not-for-profit character;
- (c) participate in any induction and Board programs and all training arranged for them;
- (d) be well informed on the activities of MPF and the issues affecting its activities;
- (e) be well informed on all matters discussed by the Board and participate in discussions and express their views at Board meetings;
- (f) be well informed on the finances and the financial management to ensure the Board is responsible and there are adequate resources for sustainable on-going operations;

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- (g) adhere to all policies of MPF;
 - (h) treat all Board meetings and Board discussions as confidential and not share Board papers or Board discussions outside of the Board, without the Board's permission;
 - (i) take an active part in fund raising, promoting and raising awareness of the organisation, including attendance, where possible at events and functions of the organisation;
 - (j) immediately declare a possible, perceived or actual conflict of interest or conflict of duty and follow the conflicts procedure and policy set out in Attachment 2;
 - (k) immediately notify the Chair and resign as and when requested by the Board, if they are likely to be or are:
 - (i) disqualified from managing a corporation, within the meaning of the *Corporations Act 2001*; or
 - (ii) disqualified by the ACNC Commissioner.
 - (l) immediately raise any concerns with the Chair or the Board on any matter, including any behaviours that may be inconsistent with the purposes of MPF, this Charter, any duties of the Board members or any policy;
 - (m) always act in a manner which promotes the public reputation and integrity of MPF.

6 Duties and Governance standards

6.1 Board members will:

- (a) exercise their powers and discharge their duties with the degree of care and diligence of a reasonable person in their position;
- (b) act in good faith, in the best interests of MPF and to further its purposes;
- (c) not misuse their position eg - not use their position as a Board member to gain an advantage for a Board member or someone else or to the detriment of MPF;
- (d) disclose perceived, potential and actual conflicts of interest or conflicts of duty in accordance with the policy and procedures and not vote or participate in Board discussions if requested not to;
- (e) ensure MPF's financial affairs are managed responsibly by considering the systems and processes in place to ensure the finances are applied for the purposes of MPF; and
- (f) not allow MPF to operate while insolvent. The Board members must adequately understand the finances and ensure there are sufficient resources to pay debts as and when they are due.

6.2 Board members may rely on information, in good faith, when making decisions if:

- (a) the Board member makes an independent assessment of the information;
- (b) the information is given by:
 - (i) an employee that the Board member believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (ii) a professional adviser or expert on matters the Board member believes on reasonable grounds to be within their competence;
 - (iii) another Board member or committee in relation to matters within their authority or area of responsibility.

7 Compliance and Risk Management

- (a) The Board must ensure MPF operates in compliance with all relevant laws and the risks are identified and managed to minimise the occurrence and effects of risks.
- (b) All relevant laws (Federal, State and local) have been identified including the Public Benevolent Institution Guidelines to ensure compliance and that these are reflected in the risk management register.
- (c) The Board has a communication policy to ensure effective and consistent communication to stakeholders as part of its risk management.

8 Transparency and Accountability

The Board will ensure MPF makes available the following documents relating to MPF to the public on request, on the website and will lodge, if required, these with the ACNC for the ACNC public register:

- (a) Vision and purpose;
- (b) Constitution;
- (c) Annual Report;
- (d) Annual financial statements; and

9 Board Composition

9.1 Board composition and size

- (a) It is intended that the Board should comprise a minimum of 4 and maximum of 9 Board members and comprise Board members with a broad range of skills, expertise and experience from a diverse range of backgrounds.

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- (b) The Board is cognisant of the need for diversity, including a balance of age, geography, gender and race.
 - (c) The Board, as a whole, should ideally have the following skills:
 - (i) experience or knowledge specific to philanthropic activities supported and conducted by the MPF;
 - (ii) experience or knowledge of networks in fundraising;
 - (iii) experience on governance issues and practices;
 - (iv) accounting or auditing skills;
 - (v) marketing, communications or media experience;
 - (vi) strategic planning experience;
 - (vii) legal experience in relevant fields;
 - (viii) experience in event coordination and management; and
 - (ix) social and economic knowledge of the Mornington Peninsula
 - (x) knowledge of community socio-economic drivers of the MPF
 - (xi) knowledge of monitoring and evaluation techniques to assess the viability, veracity, reliability and cost of proposed funded projects
 - (d) It is essential that at all times, a majority of the Board meets the Responsible Person requirement for a Public Benevolent Institution.
 - (e) The Board will annually review the skills represented by the Board members and determine whether the composition and mix of those skills remain appropriate for MPF's strategy, and satisfies the requirement for a majority to be Responsible Persons and the terms served by existing Board members.

9.2 Sustainability of Board members

Board members must:

- (a) not be disqualified from acting as a director under the Corporations Act;
- (b) not be disqualified from acting as a responsible entity under the ACNC Act;
- (c) include sufficient Responsible Persons to enable the MPF to demonstrate public control and accountability to the ACNC on an ongoing basis;
- (d) not have been convicted of fraud; and
- (e) not have been bankrupt.

9.3 Selection and Appointment of Board members

- (a) Board members will be selected for their individual skills, experience and expertise which they can bring to the Board, and their suitability.

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- (b) The Board will review the nomination of a potential Board member candidate.
 - (c) Factors to be considered when reviewing a potential candidate include, without limitation:
 - (i) the skills, experience, expertise and personal qualities that will best complement Board effectiveness;
 - (ii) whether the candidate is a Responsible Person;
 - (iii) the capability of the candidate to devote necessary time and commitment to the role;
 - (iv) potential conflicts of interest; and
 - (v) the suitability requirements in this Board charter.

9.4 Retirement, term or re-appointment

- (a) Board members should review their appointment after 3 years with the assistance of the Chair to ensure they are still adding value to the Board, and if so, put themselves forward to the Board for re-appointment.
- (b) There is a maximum term of 9 years, unless the Board otherwise decides for a particular Board member, and in each case, this must be reviewed each year.
- (c) The Secretary will keep a schedule of appointments and re-appointments and at each meeting approving the end of years accounts, note the period of service of each Board member to determine if any Board member is up for review.

10 Board review

The Board will annually consider the following to ensure the role of the Board can be carried out:

- (a) the size and composition of the Board;
- (b) the Board succession plan;
- (c) the necessary and desirable competencies and skills of the Board members;
- (d) the number and type of committees and their size and composition;
- (e) the performance evaluation of the Board, Board committees and individual Board members, and the development and implementation of plans for identifying, assessing and enhancing Board member competencies;

11 Roles of Chair and Executive Director

11.1 Role of the Chair

- (a) The Board will appoint one of its members to be Chair;

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- (b) The role of the Chair includes:
 - (i) setting the board meeting agendas;
 - (ii) leading board meetings and ensuring the minutes correctly reflect the meetings;
 - (iii) providing leadership and promoting cohesive, effective teamwork by the Board;
 - (iv) ensuring the Board is meeting its functions, duties and responsibilities;
 - (v) ensuring proper Board delegations, reporting and monitoring systems;
 - (vi) reviewing the composition and effective working of the Board;
 - (c) The Board will appoint one of its members to be Deputy Chair;
 - (d) When the Chair is unable to attend a Board meeting, the Deputy Chair will chair the meeting, provided that if the Deputy Chair is not present then those Board members present will elect a Chair for that meeting in accordance with the Constitution clause 13.11.

11.2 Role of the Executive Director

- (a) The Board will appoint the Executive Director.
- (b) The Executive Director is accountable to the Board.
- (c) The Executive Director is responsible for carrying out the operational and administrative functions of the Board, coordinating all Board business and assist in ensuring compliance.
- (d) The role of the Executive Director is to carry out the strategic plan for MPF, including:
 - (i) identifying projects on the Mornington Peninsula that should be supported;
 - (ii) liaising and communication with key stakeholders and the broader community on the MP
 - (iii) coordinating the MPF funded projects to ensure their integrity and success
 - (iv) preparing, compiling and distributing agendas and Board papers;
 - (v) maintaining minutes of Board meetings and following-up on action items;
 - (vi) ensuring the necessary paper-work and resolutions are effective for change in the composition of the Board, change to auditors and any changes required to be submitted to the members;
 - (vii) undertaking any other roles clearly delegated to the Executive Director or required by the Board; and
 - (viii) preparing and publishing online the annual report of MPF.

Attachment 1 – Board Members' acknowledgment of Board Charter

I [insert name] Board member of MPF have read the Board Charter of MPF adopted by the Board on [insert date].

I am aware that I am subject to the requirements and duties as a Board Member at law and those set out in the Board Charter. I will comply with these requirements and duties.

I will resign as a Board member of MPF if I have been:

- (a) disqualified from managing a corporation, within the meaning of the *Corporations Act 2001*; or
- (b) disqualified by the ACNC Commissioner.

Signed by

sign here _____

print name _____

date _____

in the presence of

sign here _____
Witness

print name _____

date _____

Board Charter

Attachment 2 – Conflict of interest and duty - Code of Conduct

1 High standards

MPF wishes to adopt a high standard of conduct to ensure all perceived, actual and potential conflicts of interest are disclosed. This will avoid not only real conflicts of interest affecting the responsible decision making of the Board but also avoid any perception of conflicts of interest in relation to the decision making.

2 What is a conflict of interest or duty for this policy?

- (a) A conflict of interest or duty exists where loyalties of Board members are divided. If a Board member's interests or other duties may affect his or her decision making as a Board member of MPF, then this interest is covered in this Code of Conduct.
- (b) Conflicts of interest or duty cover any real or sensible conflicts Board members may have with other duties owed, such as being a Board member or trustee of another entity, and conflicts with a personal interest, such as the interests of an associate or relative.
- (c) Board members perform their functions subject to many influences and loyalties but this conflict of interest and duty Code of Conduct applies to those types of interests and duties which have the possibility or the perception that they could influence the Board members when making judgements relating to the MPF.

3 What must a director do?

(a) Disclosure

- (i) Board members must disclose to the Board, through the Executive Director, their connection to any stakeholder group and other Board memberships, as well as any actual potential or perceived conflict of interest or duty.
- (ii) The Executive Director will keep a list of disclosures which shall be provided at each Board meeting.
- (iii) Board members must disclose any actual, potential or perceived conflicts of interest to the Chair prior to a Board meeting where the conflict may be relevant or to the Board members at a Board meeting prior to discussions.
- (iv) Board members must ensure any change in circumstances relevant to the disclosure of interest is advised to the Chair, and all Board members at a Board meeting considering a matter that gives rise to or may give rise to that Board member having an actual, potential or perceived conflict of interest.

(b) Protocol

If there is a conflict of interest or duties, or the Board members or Chair have decided there is sufficient potential for a perceived or actual material conflict to arise so as to apply the protocol, then the Board member:

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- (i) will not receive the papers on the matter, but will be advised that certain papers have been excluded;
 - (ii) cannot be present (by phone or in person) when the matter is considered unless permitted by law and the other Board members resolve that the Board member in question can stay; and
 - (iii) cannot vote on the matter.

(c) **Open discussion**

- (i) When any matter is being discussed at Board level, any Board member may query another Board member as to whether they consider they have a possible conflict of interest with the matter under discussion.
- (ii) This matter should then be discussed and considered by the Board and if the Board (other than the Board member who is being queried) considers that there may be a possibility of a perceived or actual material conflict of interest, then disclosure must be made and the protocol must apply.
- (iii) If a Board member is uncertain as to whether he or she has or may have a perceived or actual material conflict of interest or duty, he or she must disclose this at the Board meeting discussing the matter or with the Chair.

(d) **Records**

Any discussions, disclosures, resolutions and the application of the protocol relating to a conflict of interest or duty should be recorded in the Board member's minutes.