

# **Queen Victoria Market Precinct Renewal Program**

## **Trader Connect Fund Establishment Rules**

March 2018

## **Background**

The Queen Victoria Market Trader Connect Fund (the Fund) has been established by the Melbourne City Council (the Council) as the mechanism for making financial assistance available to traders during the period of the Queen Victoria Market Precinct Renewal (QVMPR) Program.

This document sets out the rules relating to the establishment and administration of, and disbursement from, the Fund.

This Fund is overseen by the Trader Connect Advisory Committee (the Committee).

Separately, a range of non-financial Trader Connect initiatives will be available to support traders to mitigate impacts, realise opportunities and facilitate business development during renewal.

There is no legal requirement for Council to establish the Trader Connect Program or Fund, and the offer for Traders to make a claim against the Fund does not constitute an acknowledgement by Council of any legal obligation to award payment.

## **Purpose**

The purpose of the Fund is to provide financial assistance to Traders where the effects of the QVMPR Program works cannot be adequately mitigated and have resulted in a demonstrable negative impact on the trader's profit during the period of the works.

## **Fund establishment**

Council will set aside at least \$8 million over the duration of the QVMPR Program works for the purposes of the Trader Connect Fund and Program.

The Fund must be accounted for separately. Contributions into the Fund each year will accumulate with previous contributions to the Fund.

Council may determine to cap the total amount in the Fund at any one time. Any such decision by Council to cap the Fund must take into account the extent and value of successful claims against, and disbursements from, the Fund to date, and the foreseeability of additional claims and disbursements being made against the Fund given the nature and scope of QVMPR Program works to be completed.

Council will review any cap applied to the Fund on an annual basis.

A claim on the fund is limited to \$100,000 per claim (excluding GST). Any previously claimed amount or period cannot be included in subsequent claims on the fund.

## Review

Unless there is a manifest error, or the recommendations of the Committee have been reached illegally, there is no right to seek a review of decisions made by the Trader Connect Advisory Committee in respect of any claim made by Traders against the Fund.

A Trader may make a verbal submission to the Committee in support of the application following a decision where a Trader believes there has been a material omission of information.

## Duration

Council must maintain the Fund during the period of the QVMPR Program works.

At the completion of the QVMPR Program, Council may return any money remaining in the Fund to its general accounts.

The Council has the ability to review and amend the establishment rules to reflect changing circumstances and feedback from the Trader Connect Fund Advisory Committee.

## Criteria for Fund allocation

For a Trader's financial assistance claim on the Fund to be successful, all of the following criteria must be satisfied:

The Trader must:

- have been a lawful:
  - tenant of QVM Pty Ltd; or
  - owner, lessee or licensee of the shops or stalls at QVM,
- be operating at the date the relevant QVMPR Program works commenced;
- be registered for GST, have an ABN, and provide quarterly or monthly Business Activity Statements to the Australian Tax Office (if applicable);
- have no rental arrears or debt to QVM Pty Ltd or Council, prior to payment of any financial assistance from the Fund;
- have taken all reasonable steps to maintain its profits and minimise losses during the claim period. This includes accessing other initiatives offered through the QVMPR Trader Connect program to proactively maintain profits or mitigate against any losses arising directly from relevant QVMPR Program works.

Application for claims can only be made:

- when QVMPR Program works have taken place during the period of the trader's claim.
- on the basis of the retail trade of the business as operated at the market by the trader.
- as a business group basis, rather than on a stall or shop basis

Maximum claim amount:

An individual claim on the fund is limited to \$100,000 per claim (excluding GST). Any previously claimed amount or period cannot be included in subsequent claims on the fund.

## Process for making a claim

To make a claim, a Trader must submit a completed and signed claim form to the Committee secretariat.

Applications are to be lodged to the Committee secretariat via:

- email [traderconnectclaim@melbourne.vic.gov.au](mailto:traderconnectclaim@melbourne.vic.gov.au)
- post: Chief Financial Officer, City of Melbourne, GPO Box 1603 Melbourne 3001.

The claim form must include a clear statement of the losses being alleged by the Trader, including:

- statement of losses, including quantum, the period during which the losses were experienced and relevant QVMPR Program works,
- details of how those losses have been calculated,
- details of reasonable steps taken by the trader to maintain its profits and minimise losses, including initiatives offered through the QVMPR Trader Connect program.

The following information must also be provided by the Trader to the Committee secretariat:

- accountant prepared and certified trading accounts for the financial year relevant to the claim period, as well as the two financial years prior to the claim period (or from the whole trading period where the business has been operating for less than 2 years), with evidence of Australian Tax Office lodgement for GST and Income Tax as relevant;
- weekly sales figures for the two financial years prior to the claim period (or for the whole period where the business has been operating for less than 2 years); and
- weekly sales figures for the period during the relevant QVMPR Program works.

The Committee, exercising professional judgement, is able to exempt certain requirements where it is reasonable to do so such and request additional relevant information in order to assist with assessing the claim.

## **The role of QVM Pty Ltd**

All completed Trader claim forms, as determined by the Committee secretariat, and accompanying material will be provided to QVM Pty Ltd to allow QVM Pty Ltd to confirm/provide the following prior to each meeting:

- That the Trader was a lawful tenant of QVM Pty Ltd as at the date the relevant QVMPR Program works occurred.
- That the Trader was a lawful tenant of QVM Pty Ltd during the period of the Trader's claim.
- That the information in the Trader claim relates to all stalls or shops operated by the Trader at QVM.
- That the information in the Trader claim relates only to the retail business of the Trader conducted at QVM (ie – does not relate to wholesale business, online business or other business interests outside of QVM).
- An opinion on whether the Trader had taken reasonable steps to maintain its profits and minimise losses during the claim period.
- An assessment of any rental arrears or debt to QVM Pty Ltd.
- Analysis of QVM Pty Ltd data during the period of the Trader's claim, including such things as car parking and pedestrian numbers, visitation rates, trader composition and turnover, and other information as required to assist in the assessment of the Trader claim.

Minutes of each Committee meeting will be provided to QVM Pty Ltd for the purpose of:

- Making any payment recommended by the Committee for approved claims to the Trader.
- Assessing whether the Trader has amounts owing to QVM P/L that are to be deducted from approved claims prior to making payment to the Trader.
- Assessing whether the Trader has been provided rental abatement during the period of the claim that is to be deducted from approved claims prior to making payment to the Trader.

QVM Pty Ltd will provide a report to the Committee of all payments made to Traders in relation to approved claims.

## **Audit**

The Committee reserves the right to audit the original records and accounts of Traders to determine whether the accounts and sales figures provided by the Trader as part of its claim are accurate.

## **Making of claim payments**

Having regard to the 'Criteria for Fund allocation' as well as a Trader's compliance with the process for making a claim, the Committee will determine whether to agree to accept a claim made by a Trader against the Fund.

If the Secretariat and/or the Committee are of the opinion that further information is required in order to assess a claim, either the Secretariat and/or the Committee may request that the relevant Trader provide that further information (and until that further information is provided, the Committee will not further assess the claim unless it determines otherwise).

Once all required information has been submitted, the Committee will assess the claim at the next available meeting provided sufficient time (one week) has been provided for review of the information by the Committee members prior to the scheduled meeting. Otherwise, the claim will be considered at the subsequent meeting.

If the Committee agrees a claim be accepted (either in part or in full), the recommended payment will be made to the Trader from the Fund or in lieu of the payment and at the request of the Trader this can be provided in the form of rent relief. Any tax implications associated with any payment or rent relief will be the responsibility of the claimant.

No interest will be payable to Traders in relation to payments from the Fund. The costs and expenses incurred by a Trader in preparing, lodging and progressing a claim will also not be paid from the Fund.

Payments out of the Fund will only be made to a Trader on condition that the Trader releases and indemnifies Council and QVM Pty Ltd against, and pays Council and QVM Pty Ltd on demand the amount of all losses, liabilities costs and expenses incurred by the Trader in connection with the QVMPR Program works for the period prior to, and for the duration of, the Trader's claim period. For the purposes of the indemnity and release, 'Loss' includes any loss, damage, liability or obligation, compensation, fine, penalty, charge, payment, cost or expense (including any legal cost and expense on a full indemnity basis) however it arises and whether it is present or future, fixed or unascertained, actual or contingent and including loss of profits, loss of revenue or loss of opportunity.