



BRISBANE BOYS' COLLEGE



CLAYFIELD COLLEGE



SUNSHINE COAST  
GRAMMAR SCHOOL

# PMSA Constitution

June 2022



# PMSA

PRESBYTERIAN AND METHODIST  
SCHOOLS ASSOCIATION

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## 1. Name and authority

This is the Constitution for the Presbyterian and Methodist Schools Association (PMSA).

The PMSA is incorporated under letters patent issued pursuant to the Religious Educational & Charitable Institutions Act 1861-1959 on 28 June 1918.

## 2. Definitions and interpretation

### 2.1 Definitions

In this Constitution, unless the context or subject matter otherwise require:

- (1) **“ACNC”** means the Australian Charities & Not-for-profits Commission.
- (2) **“ACNC Act”** means the Australian Charities & Not-for-profits Commission Act 2012 (Cth).
- (3) **“Appointing Body”** means either the Presbyterian Church, the Uniting Church or the Board itself, as the context requires.
- (4) **“Approved Electronic Software”** means the software product approved by the PMSA for conducting Board and Committee business
- (5) **“Authorised representative”** means a person authorised by resolution of the Board to act on behalf of the PMSA.
- (6) **“Basic Christian Doctrine”** means the pursuit of Christian Doctrine as summarised in the Apostles Creed.
- (7) **“Board”** means the governing body of the PMSA.
- (8) **“Board Member”** means any person who is a duly appointed member of the Board and who therefore holds and exercises the office of Councillor for the time being as named in the Letters Patent.
- (9) **“Calendar Year”** means the period of 12 months commencing on the 1st day of January and ending on the 31st day of December every year.
- (10) **“Chaplain”** means a Church recognised lay or ordained person whose primary role is in Christian formation of the School community members.
- (11) **“Churches”** means the religious entities that appoint Board Members to the PMSA, namely:
  - (a) Presbyterian Church; and
  - (b) Uniting Church.
- (12) **“Constitution”** means those rules for the operation of the PMSA set forth in this Constitution and as amended, modified or supplemented from time to time.
- (13) **“Corporations Act”** means the Corporations Act 2001 (Cth).
- (14) **“Financial Quarter”** means a period of three (3) months either:
  - (a) commencing on the 1st day of January and ending on the 31st day of March every year;
  - (b) commencing on the 1st day of April and ending on the 30th day of June every year;
  - (c) commencing on the 1st day of July and ending on the 30th day of September every year; or
  - (d) commencing on the 1st day of October and ending on the 31st day of December every year.
- (15) **“Instantaneous Communication Device”** means any device by which the processes of a meeting may be conducted between persons in different places and includes telephone, television or any other audio and/or visual device or technology, which permits instantaneous (or near as practical thereto) communication.
- (16) **“Material Change Report”** is described in clause 9.3(2).

- (17) **“Moderator of the Presbyterian Church”** means the individual appointed to the office of Moderator of the Presbyterian Church by the Presbyterian Church in accordance with the Standing Orders and Rules and Forms of Procedure of the Presbyterian Church.
- (18) **“Moderator of the Uniting Church”** means the individual appointed to the office of Moderator of the Uniting Church in accordance with the Constitution of the Uniting Church.
- (19) **“Letters Patent”** means the letters patent issued under the hand of the Governor of Queensland on 28th June 1918 pursuant to which the Presbyterian and Methodist Schools Association was constituted as a body corporate.
- (20) **“PMSA School”** means a school which is owned, operated or conducted by the PMSA.
- (21) **“Person”** means a natural person or other body recognised by law.
- (22) **“Presbyterian Church”** means the Presbyterian Church of Queensland ABN 43 015 755 489.
- (23) **“Presbyterian Church Assembly”** means the annual convocation of the Presbyterian Church.
- (24) **“Rehabilitation Period”** is defined in the Criminal Law (Rehabilitation of Offenders) Act 1986 (Qld).
- (25) **“Special Resolution”** means a resolution passed by at least 75% of the votes cast by Board Members entitled to vote on the resolution.
- (26) **“Stipulated Rate”** means  $X + 10\%$  per annum where X is the interest rate quoted by the Reserve Bank of Australia (Bank) as its cash rate (Published Rate) or should there cease to be a Published Rate, the rate which the Bank designates as being an appropriate substitute for the Published Rate (Substitute Rate). A certificate signed by a manager or other office of the Bank stating the Published Rate or the Substitute Rate at a particular date is conclusive evidence of the rate at the particular date.
- (27) **“Uniting Church”** means the Uniting Church in Australia Queensland Synod ABN 25 548 385 225, the statutorily created legal representative of which is the Uniting Church in Australia Property Trust (Q.).
- (28) **“Uniting Church Synod”** means the regular convocation of the Uniting Church.
- (29) **“Working with Children Act”** means the Working with Children (Risk Management and Screening) Act 2000 (Qld).

## 2.2 Interpretation

In the interpretation of this Constitution, unless the context or subject matter otherwise require:

- (1) words importing any gender include the other genders;
- (2) singular words include the plural and vice versa;
- (3) references to statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders in Board, rules, by-laws and ordinances made under those statutes;
- (4) headings and the table of contents are inserted for convenience only and are to be disregarded in the interpretation of this Constitution;
- (5) a reference to dollars (\$) means a reference to Australian dollars, unless otherwise expressly intended; and
- (6) a reference to a document includes an amendment or supplement to, or replacement or novation of that document.

## 3. Objects

3.1 The PMSA is established to be a charity whose purposes are:

- (1) To advance education; and
- (2) To advance religion;

by undertaking activities such as:

- (3) Providing education to children in accordance with Basic Christian Doctrine for the betterment of students in pursuit of their holistic formation, including by operating the PMSA Schools; and
- (4) Undertaking and carrying out any benevolent act, matter or thing in furtherance of all or any of the purposes above.

3.2 The PMSA shall pursue such principal objects by the pursuit of Christian culture and practices supported by chaplaincy services.

3.3 The PMSA must pursue its charitable purposes only and must apply its income in promoting these purposes.

## **4. Powers and duties**

### **4.1 Powers generally**

- (1) For the purposes of carrying out its Objects set out in clause 3, the PMSA has all of the powers of a natural person to the fullest extent permitted by law and in equity. The PMSA also has all the powers of a Body Corporate to the fullest extent permitted by law and in equity.
- (2) The PMSA may, for example:
  - (a) Enter into contracts;
  - (b) Acquire, hold, mortgage, deal with and dispose of property;
  - (c) Make changes for services and facilities it supplies; and
  - (d) Do other things necessary or convenient to be done in carrying out its affairs.
- (3) The PMSA may also issue secured and unsecured notes, debentures and debenture stock for PMSA.
- (4) Despite clause 4.1, the powers of the PMSA are ancillary to and exercisable only to pursue the objects of PMSA set out in clause 3.

### **4.2 Application of income and property**

The income and property of the PMSA from wherever it is derived, must be applied solely towards the promotion of the objects of the PMSA set out in clause 3.

### **4.3 No distribution to Churches**

- (1) No portion of the income or property of the PMSA may be paid directly or indirectly, by way of dividend, bonus or otherwise to a Church.
- (2) Clause 4.3 (1) does not prevent:
  - (a) The payment in good faith of remuneration to any officer or employee of the PMSA or a Church in return for any services actually rendered or goods supplied in the ordinary and usual way of business;
  - (b) The payment of interest at a rate not exceeding the Stipulated Rate on money borrowed from any Church;
  - (c) The payment of reasonable and proper rent by the PMSA to a Church for premises leased by a Church to the PMSA; or
  - (d) The reimbursement of reasonable expenses incurred by any Church on behalf of the PMSA.

### **4.4 Duties generally**

The Board must pursue the Objects set out in clause 3, in a way that enables and encourages every student of a PMSA School to come to a personal faith and mature in that faith in accordance with Basic Christian Doctrine.

## **5. Governance and the Board**

### **5.1 Governance by Board**

The PMSA is governed by a Board only. The members of the Board are appointed by the Presbyterian Church, the Uniting Church and the Board itself.

### **5.2 Number and proportion of Board Members**

- (1) The Board members will comprise:
  - (a) Three Board Members appointed by the Presbyterian Church;
  - (b) Three Board Members appointed by the Uniting Church; and
  - (c) Up to two Board Members appointed by the Board.

### **5.3 Board Member qualifications**

- (1) No person may be a Board Member unless that person:
  - (a) Complies with the Working with Children Act; and
  - (b) Is not precluded from:
    - (i) Being a director under the Corporations Act; and
    - (ii) Being a responsible entity under the ACNC Act.

### **5.4 Board Members appointed by a Church**

A person appointed as a Board Member by a Church must be from that Church's denomination or an active member of a Christian Church in accordance with 5.5 (3).

### **5.5 Board Members appointed by the Board**

Each person appointed as a Board Member by the Board must be either:

- (1) A member of the Presbyterian Church; or
- (2) A member of the Uniting Church; or
- (3) An active member of another Christian Church who has agreed in writing to uphold the education policies of both the Presbyterian and Uniting Churches.

### **5.6 Term of office**

- (1) Each Board Member will be appointed for a term up to three years, or to the AGM immediately following the completion of three years, unless the Board Member has attained the age of 72 years, in which case the Board Member will be appointed for a term of one year.
- (2) At the end of each term, Board Members will be subject to retirement by rotation, but shall be eligible for re-appointment subject to clause 5.7 (2).

### **5.7 Additional eligibility requirements**

- (1) A person whose term of office has not renewed by a Church or the Board is not eligible to be appointed to Board and may not be appointed by a different Appointing Body without the consent of the original Appointing Body.
- (2) A Board Member who has held office for a period of nine years, or longer is not eligible to be reappointed to the Board by any Appointing Body, excepting for by mutual agreement of the Churches and the Board whereby an additional term of a maximum period of one year may be offered in extenuating circumstances.
- (3) The Board will develop a matrix of skills required for Board Members and such skills matrix must be taken into consideration by each Appointing Body when appointing a Board Member to the intent that the skills of the Board Members meet the criteria of the matrix of skills so far as is possible.

## 5.8 Time appointment or retirement to the Board takes effect

- (1) A person appointed to the Board takes up office as a Board Member from the first meeting following their appointment and continues to serve in that office as Board Member until conclusion of their term, resignation, removal or pursuant to clauses 5.9 and 5.10.
- (2) Board Members who retire at a meeting continue to hold office until the end of the meeting.

## 5.9 Removal of Board Members and vacancy of office

- (1) *Board Members appointed by a Church*
  - (a) A Board Member appointed by a Church may be removed from office at any time by the appointing Church.
  - (b) By Special Resolution of the Board, the Board may request an appointing Church to conduct an enquiry into the conduct of a Board Member appointed by that Church. The Board must provide all supporting material to the appointing Church which demonstrates the reason for the enquiry.
  - (c) If the Board requests an appointing Church conduct an enquiry under clause 5.9 (1) (b), then:
    - (i) The appointing Church will proceed in accordance with its processes and shall investigate the conduct of the Board Member in accordance with the Board's request; and
    - (ii) The Board Member who is the subject of the enquiry must stand aside from the Board for the duration of the enquiry.
- (2) *Board Members appointed by the Board*
  - (a) A Board Member appointed by the Board may be removed from office at a meeting of the Board if a majority of the Board Members present and eligible to vote at the meeting vote in favour of removing the Board Member, provided that before a vote of Board Members is taken about removing the Board Member from office, the Board Member must be given a full and fair opportunity to show cause why he or she should not be removed from office.
  - (b) A Board Member appointed by the Board has no right of appeal against the decision of the Board Members.
- (3) *All Board Members*
  - (a) The office of a Board Member immediately becomes vacant if the Board Member:
    - (i) Dies;
    - (ii) Becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
    - (iii) Becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
    - (iv) Is convicted of an indictable offence or an offence punishable on summary conviction for which the person is sentenced to imprisonment, other than in default of payment of a fine;
    - (v) Has been convicted on indictment or summarily and sentenced to imprisonment, other than in default of payment of a fine and the Rehabilitation Period in relation to the conviction has not expired;
    - (vi) Becomes disqualified from being a director under the Corporations Act or a responsible entity under the ACNC Act or any order made under the Act or the ACNC Act;
    - (vii) No longer complies with the Working with Children Act; or
    - (viii) Resigns from office in accordance with clause 5.10.



## 5.10 Resignation

- (1) A Board Member may resign from office by giving written notice to the Chair and Appointing Body, if applicable.
- (2) The resignation of a Board Member takes effect on the date of receipt of the notice of resignation or any later date provided in the notice.

## 5.11 Board Members' duties

- (1) The Board Members must comply with their duties as board members and with the duties described in Governance Standard 5 of the Regulations made under the ACNC Act which are:
  - (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Board Member of the PMSA;
  - (b) to act in good faith in the best interests of the PMSA and to further the purposes of the PMSA set out in clause 3;
  - (c) not to misuse their position as a Board Member;
  - (d) not to misuse the information they gain in their role as a Board Member;
  - (e) to disclose any perceived or material or actual material conflicts of interest in the manner set out in clause 10;
  - (f) to ensure the financial affairs of the PMSA are managed responsibly; and
  - (g) not to allow the PMSA to operate whilst it is insolvent.

## 6. General business management

### 6.1 General business management

- (1) The business of the PMSA is to be managed by or under the direction of the Board.
- (2) The Board Members may exercise all powers of the PMSA.

### 6.2 Borrowing powers

Without limiting the generality of clause 6.1, but subject to clause 4.3, the Board may exercise all the powers of the PMSA to borrow money, to charge any property or business of the PMSA and to issue debentures or give any other security for a debt, liability or obligation of the PMSA or of any other person.

### 6.3 Financial management

The Board must decide on the responsible financial management of the PMSA including:

- (1) Any suitable written delegations of power under clause 6.1; and
- (2) How money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorized and signed or otherwise approved.

### 6.4 Delegation

- (1) The Board Members may delegate any of their powers and functions to a committee, a Board Member, an employee of the PMSA or any other person as they may consider appropriate.
- (2) The delegation must be recorded in the PMSA's minute book.

### 6.5 Committees

The Board may form committees including Board Members and other persons of the wider community as they think fit to achieve the objects of the PMSA.

## **7. Board Member rights and remuneration**

### **7.1 Rights of Board Members to receive notices, attend and vote**

- (1) Board Members are entitled to receive notices, attend and vote at all meetings of the Board.
- (2) Each Board Member has one vote.

### **7.2 No remuneration**

- (1) No Board Member may receive any remuneration for his or her services in his or her capacity as a Board Member of the PMSA.
- (2) Despite clause 7.2 (1), the PMSA may pay the Board Members' travelling and other expenses that they properly incur:
  - (a) In attending Board meetings or any meetings of committees of the Board; and
  - (b) In connection with the PMSA's business.
- (3) The Board must approve all payments the PMSA makes to its Board Members.

## **8. Proceedings of the Board**

### **8.1 Regulation of meeting**

- (1) The Board Members must elect from their number a Chair and a Deputy Chair.
- (2) The Chair or in his absence the Deputy Chair shall preside at meetings of the Board but if no such Chair or Deputy Chair is elected or if at any meeting neither the Chair nor Deputy Chair is present within 10 minutes of the time appointed for holding the same, the Board Members present shall choose someone of their number to be Chair of such meeting.
- (3) Each Chair and Deputy Chair shall retain office for a minimum period of three years subject to appointment or re-appointment pursuant to clause 5.6.
- (4) The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (5) A meeting of the Board may be called by five or more Board Members, or the Chair alone. The Chair or Deputy Chair must, on their or his or her requisition, summon a meeting of the Board.

### **8.2 Notice of meeting**

Notice of every meeting of the Board, stating in general terms all business to be considered at such meeting, must be sent to each Board Member at least seven days before such meeting is due to be held unless urgent circumstances require shorter notice.

### **8.3 Decisions by majority**

Except as otherwise provided in this Constitution, a resolution of the Board must be passed by a majority of votes cast by the Board Members entitled to vote.

### **8.4 Quorum**

- (1) The quorum necessary for the transaction of the business of the Board must be a majority of the total number of Board Members, but that number shall not include any unfilled vacancies on the Board.
- (2) A quorum must be present throughout each meeting of the Board. If a quorum is not present at any time, the meeting is not validly convened but this does not affect the validity of any business discussed before the absence of a quorum occurs.

### **8.5 Procedure where no quorum**

- (1) If a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting will be adjourned.

- (2) Any meeting adjourned will be rescheduled to take place on a day and time and at the place that the Board decides.
- (3) If no Board Members are present at the meeting or if no decision is made by the Board, the meeting will take place on the same day and at the same time and place as originally notified but in the next succeeding week.
- (4) If at the rescheduled meeting a quorum is not present within 30 minutes after the appointed time, then the meeting will be dissolved.

## **8.6 Board to continue to act**

If a vacancy on the Board occurs, the remaining Board Members on the Board may continue to act.

## **8.7 Validity of acts of Board**

All acts done by any meeting of the Board or by any person acting as a Board Member will be valid even though it subsequently becomes known:

- (1) That there was some defect in the appointment of a person to be a Board Member: or
- (2) That a person appointed was disqualified.

## **8.8 Resolution in writing**

- (1) The Board Members may pass a resolution without a Board Members' meeting being held if a majority of the Board Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (2) The copy of the document must be provided to all Board Members entitled to vote.
- (3) Separate copies of a document may be used for signing by the Board Members if the wording of the resolution and the statement is identical in each copy.
- (4) The resolution is passed when the last Board Member entitled to vote signs.

## **8.9 Resolution by email**

- (1) The Board Members may pass a resolution without a Board Members' meeting being held if a majority of the Board Members entitled to vote on the resolution send an email to the Chair, Deputy Chair or Company Secretary using their ordinary email address, containing a statement that they are in favour of the resolution set out in the email and the wording of the resolution and the statement is identical in each email.
- (2) The resolution is passed when a majority of Board Members entitled to vote sends an email in favour of the resolution and the emails are received by the Chair, Deputy Chair or Company Secretary.
- (3) If an initial email proposing the resolution is sent by the Chair or Deputy Chair using their ordinary email address, the initial email constitutes their support of the resolution and a separate email is not required.

## **8.10 Resolution by approved electronic software**

- (1) The Board Members may pass a resolution without a Board Members' meeting being held if a majority of the Board Members who are entitled to vote on the resolution activate their vote, generated through the approved electronic software, in favour of the resolution.
- (2) The resolution is passed when a majority of affirmative votes by Board Members entitled to vote on the resolution have been activated and the notification is received by the Chair or the Company Secretary on behalf of the Chair.

## **8.11 Electronic communication**

- (1) For the purposes of this Constitution, the contemporaneous linking together by Instantaneous Communication Device of a number of Board Members being not less than the quorum (whether or not any one or more of the Board Members is out of Australia), is deemed to

constitute a meeting of the Board duly convened and held with persons actually present so long as:

- (a) The use of the Instantaneous Communication Device is consented by:
    - (i) All Board Members and this consent may be a standing one. A Board Member may only withdraw their consent within a reasonable period before the meeting; and
    - (ii) All the Board Members being entitled to receive notice of the Board Members' meeting receive notice of such a meeting and such notice may be given by any means authorised by this Constitution; and
  - (b) Each of the Board Members taking part in the meeting by Instantaneous Communication Device must be able to hear the Chair and each of the other Board Members taking part during the meeting; and
  - (c) At the commencement of the meeting, each Board Member must acknowledge his or her presence to all the other Board Members taking part.
- (2) A Board Member may not leave the meeting by disconnecting his or her Instantaneous Communication Device unless he or she has previously obtained the express consent of the Chair of the meeting.
  - (3) A Board Members' meeting by Instantaneous Communication Device is not invalidated by any voluntary or involuntary disconnection of a participant, provided that sufficient persons are still able to hear each other to constitute a quorum.
  - (4) A minute of the proceedings at a meeting by Instantaneous Communication Device must be prepared by such duly appointed person and is prima facie evidence of the proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chair of the meeting.
  - (5) A Board Member shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting held through the use of the Instantaneous Communication Device unless the Board Member has previously obtained the express consent of the Chair of the meeting to leave the meeting as aforesaid.

## 8.12 Minutes to be kept

- (1) The Board must keep minute books in which they record within one month:
  - (a) Proceedings and resolutions of Board meetings (including meetings of a committee of Board members); and
  - (b) Resolutions passed by the Board without a meeting.
- (2) The Board must ensure that minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
  - (a) The Chair of the meeting; or
  - (b) The Chair of the next meeting.
- (3) The Board must ensure that minutes of the passing of a resolution without a meeting are signed by a Board Member within a reasonable time after the resolution is passed.
- (4) Without limiting the foregoing, the Board must record in the minute books:
  - (a) All appointments of officers;
  - (b) The names of the Board Members present at all meetings;
  - (c) In the case of a technology meeting, the nature of the technology; and
  - (d) All other matters determined by the Board to be recorded in the minute books, including each notice and standing notice given by a Board Member of a material personal interest.

## 9. Reporting

### 9.1 Annual Reports

The PMSA must report to the Churches annually in the following ways:

- (1) By providing to each of the Churches a written ministry report at such a time and in such a way as they may each reasonably request setting out:
  - (a) How the PMSA is carrying out its Objects set out in clause 3; and
  - (b) Its financial position and that of its Committees and PMSA schools;
- (2) By providing each of the Churches a copy of the auditor's report within one month of receipt of that report from its auditors; and
- (3) By one or more Board members or officers who are able to speak to and explain the written ministry reports and activities and financial position of the PMSA attending both the:
  - (a) The Presbyterian Church Assembly; and
  - (b) The Uniting Church Synod.

### 9.2 Quarterly reports

The PMSA must report to the Churches for a Financial Quarter by sending the Churches copies;

- (1) Of financial management reports summarizing key financial data as determined by the Board or requested by a Church; and
- (2) Of a Chair's report including updates on any change to risk, strategy, or key personnel particularly PMSA School principals, and any other issues as determined by the Board or requested by either of both of the Churches.
- (3) Of chaplaincy services and Christian culture and practices.

### 9.3 Material Change Reporting

- (1) The PMSA will report to the Churches any adverse material change. Without limiting the generality of this clause, the following are likely to be adverse material changes that must be reported by the PMSA under this clause:
  - (a) Allegations of physical, psychological, emotional or sexual abuse or exploitation against a Board Member of the PMSA or a teacher, Chaplain or staff of a PMSA School;
  - (b) Substantiated complaints of a breach of PMSA policies or guidelines including an abuse policy, Blue Card (working with children) policy, child protection policy, homestay welfare and accommodation policy, child protection and risk management policy, antidiscrimination policy, work health and safety policy or this Constitution;
  - (c) Evidence that the PMSA or a PMSA School is or might be unable to pay its debts as and when those debts fall due; or
  - (d) Anything that a reasonable person would expect to have a material effect on the reputation or financial position of the PMSA or either or both of the Churches.
- (2) Subject to clause 9.3(3), the PMSA must forthwith report the information regarding any adverse material changes to the Churches as soon as practicable by sending Churches copies of Material Change Report that contains:
  - (a) The words "Material Change Report" in the heading of its cover page, letter or email;
  - (b) At minimum, a summary of or introduction to the relevant information;
  - (c) If known, the dates on which any relevant events occurred and
  - (d) If known, the names of any relevant persons involved in any relevant events.
- (3) The PMSA is not required to comply with clause 9.3(2) if:
  - (a) It would be a breach of a law to disclose the relevant information; or

- (b) If the information comprises matters of such supposition or is insufficiently definite to warrant disclosure and a reasonable person would not expect the information to be disclosed in the circumstances.
- (4) If a Board Member or officer of the PMSA sends a Material Change Report to a Church or the Churches before that report is provided to the Board then the PMSA, upon receipt of that report, must also send a copy of that report to all Board Members as soon as is practicable.

#### **9.4 Visit and visitors**

The Moderator of the Presbyterian Church and the Moderator of the Uniting Church, or their delegates, shall by virtue of such offices, and so long as they shall hold such respective offices, be visitors of the PMSA. They shall have the right to visit the PMSA at any time and to attend all meetings of the Board or its committees, to examine the manner in which the PMSA is conducted, and to see that its laws and regulations are duly observed and executed.

### **10. Interests of Board Members**

#### **10.1 Prohibition on being present and voting**

A Board Member who has a material personal interest in a matter that is being considered at a meeting of the Board:

- (1) Must not be counted in a quorum;
- (2) Must not vote on the matter; and
- (3) Must not be present while the matter is being considered at the meeting.

#### **10.2 Board Member to disclose interest**

- (1) A Board Member who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the PMSA must, as soon as practicable after the relevant facts have come to the Board Member's knowledge, declare the nature of the interest at a meeting of the Board or by written notice to the Chair.
- (2) A Board Member who holds any office or possesses any property by which, whether directly or indirectly, duties or interest might be created in conflict with his or her duties or interests as a Board Member must declare at a meeting of the Board or by written notice to the Chair the fact and the nature, character and extent of the conflict.

#### **10.3 Effect of interest in contract**

- (1) If a Board Member has an interest in a contract or proposed contract with the PMSA, or a conflicting interest or duty in relation to any other matter being considered by the Board, and the Board Member discloses the nature and extent of the interest or duty at a meeting of the Board or by written notice to Chair:
  - (a) The contract may be entered into; and
  - (b) If the disclosure is made before the contract is entered into:
    - (i) the Board Member may retain benefits under the contract even though the Board Member has an interest in the contract;
    - (ii) the PMSA cannot avoid the contract merely because of the existence of the interest; and
    - (iii) the Board Member is not disqualified from the office of Board Member.
- (2) For the purposes of clause 10.3, contract includes an arrangement, dealing or other transaction.

## **11. Accounts**

### **11.1 Proper records to be kept**

The Board must ensure that proper financial accounting and other records are kept by the PMSA in accordance with the ACNC Act.

### **11.2 Accounts in relation to tax deductible funds**

The PMSA and any committee of the PMSA must conduct all and any accounts in relation to tax-deductible funds in accordance with the conditions of such tax deductibility and must keep the auditor of such funds aware of all and any particular obligations in relation to such funds.

## **12. Audits**

### **12.1 Audits generally**

- (1) If required by the ACNC Act, a registered company auditor must be appointed in accordance with the ACNC Act.
- (2) The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the ACNC Act.

## **13. Notices**

### **13.1 Form of notice**

A notice may be given by the PMSA to an intended recipient by:

- (1) Delivering it personally; or
- (2) By sending it either:
  - (a) By post to the intended recipient's registered address; or
  - (b) By facsimile to the intended recipient's facsimile number; or
  - (c) By email to the intended recipient's ordinary email address; or
- (3) any other means determined by the Board by Special Resolution.

### **13.2 Notice by post**

When notices are served by post, the sender must allow time for the mail to arrive when counting the days and working out the date for the notice period to end. This means that the first day counted in the notice period is the day after the notice arrives at the address. For metropolitan and regional areas, refer to Australia Post to determine delivery time.

### **13.3 Notice facsimile**

Where a notice is sent by facsimile, service of the notice is deemed to be effected on the date of its transmission.

### **13.4 Notice by email**

Where a notice is sent by email:

- (1) Service of the notice is deemed to be effected unless an "undelivered" notification is received from the intended recipients' email server;
- (2) It should be sent with a "delivered" and "read receipt" request.

### **13.5 Manner of notice**

Notice of every meeting of the Board must be given in any manner authorised in this Constitution to every Board Member eligible to attend and whether or not they are eligible to vote at meetings.

### **13.6 Irregularity may not invalidate meeting**

The accidental omission to give notice of the meeting or the non-receipt by a Board Member of a notice of meeting does not invalidate the proceedings at any meeting of the PMSA.

## **14. Indemnity and insurance**

### **14.1 Indemnity against liability**

To the extent permitted by law, the PMSA may indemnify every person who is, or who has been a Board Member or officer of the PMSA against:

- (1) Any liability incurred by them in their capacity as a Board Member or officer, to a person other than the PMSA, except where the liability relates to a willful breach or a contravention of their duties under law;
- (2) Any liability for legal costs or expenses incurred by them in defending any proceedings in which judgement is given in their favour; or
- (3) Any liability for legal costs or expenses incurred by them in defending any proceedings in which they are acquitted or the Court grants relief in their favour.

### **14.2 Insurance**

To the fullest extent permitted by law, the PMSA may insure or pay any premiums on a policy of insurance for a Board Member or officer of the PMSA against any liability for which the PMSA indemnifies the Board Member or officer.

### **14.3 Resolution to grant indemnity**

A Board Member may vote in favour of a resolution that the PMSA grant an indemnity, take insurance or pay the premiums on an insurance policy pursuant to subclause 14.1 even though the Board Member has a direct and material interest in the outcome of that resolution.

## **15. Execution of documents**

### **15.1 Common seal**

The PMSA must have a common seal.

### **15.2 Use of common seal**

- (1) The Board must provide for the safe custody of the common seal.
- (2) The common seal may not be fixed to any document except by the authority of a resolution of the Board.

### **15.3 Execution of documents by Common Seal**

The PMSA executes a document by common seal if the fixing of the seal is witnessed by two Board Members or one Board Member and the Company Secretary.

### **15.4 Execution of documents by Agent**

- (1) The PMSA may execute a document by an individual who is nominated as the authorized representative acting with the Board's expressed authority and on behalf of the PMSA.
- (2) The power to act as the PMSA's authorized representative must be conferred by a resolution of the Board.

### **15.5 Execution of document as a deed**

The PMSA may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with clause 15.3.



- (1) Persons signing company documents (including deeds) on behalf of a company will be permitted to do so electronically, so long as the following measures are taken:
  - (a) a method is used to identify the person and indicate their intention to sign the document; and
  - (b) the method used is as reliable as appropriate for the purposes for which the information was recorded or proven in fact to have indicated the person's identity and intention.

## **16. Winding Up**

### **16.1 Winding up**

- (1) If upon the winding up or dissolution of the PMSA any property remains, after satisfaction of all its debts and liabilities, that property must not be paid to or distributed to a Church unless that Church is a registered charity that has the same or similar objects to the PMSA, but must be given or transferred to some other institution or institutions determined by the Board at or before the time of dissolution which has similar objects to the PMSA and which is registered as a charity with the ACNC.
- (2) If the Board does not make the necessary determination under clause 16.1(1), the Board may apply to the Supreme Court to determine the institution or institutions.

## **17. Alteration of Constitution**

- 17.1 This constitution or any other constitution for the time being in force may be altered, rescinded, or repealed and a new constitution may be adopted if the Board so resolves by Special Resolution, and it approved by the Churches.
- 17.2 If the PMSA is registered as a charity by the ACNC, the ACNC must be notified in writing of any alterations to this Constitution.

## **18. By-laws**

- 18.1 The Board shall have power from time to time to make, repeal or alter all such By-laws as to the Board shall seem expedient for carrying into effect the several provisions of this Constitution and the objects of the PMSA and particularly for meetings of the Board and the order of all things in and in connection with its schools and discipline thereof to the promotion of religion and learning.
- 18.2 The Board shall appoint a School Council for each PMSA School, to oversee the operation of the PMSA School and for that purpose the Board will delegate certain powers to the School Council with such delegated powers being set out in the By-laws. The Board delegates powers to School Councils and reserves the right to withdraw delegation at any time.

## **19. Continuation of By-laws**

It is declared that any By-laws or Standing Orders of the PMSA current and in existence shall continue in existence and remain in full force and effect until revoked, amended or rescinded to the extent that they do not conflict with the Constitution.

## 20. Amendment register

Issue no.	Date of issue	Page no.	Details of and reason for amendment
02	10 December 2018	All	<p>Review and amendment of the PMSA Constitution in its entirety by the PMSA Board, Presbyterian Church of Qld and the Uniting Church Qld Synod.</p> <p><u>Approval Dates</u></p> <p>PMSA Board: 10 December 2018            Presbyterian Church of Qld: 5 December 2018            Uniting Church Qld Synod: 5 December 2018</p>
03	2 June 2022	All	<p>Review and amendment of the PMSA Constitution in relation to: Board membership and electronic signing of deeds.</p> <p><u>Approval Dates</u></p> <p>PMSA Board: 15 March 2022            Presbyterian Church of Qld: 11 April 2022            Uniting Church Qld Synod: 2 June 2022</p>

