

## Constitution

### PMI Victorian History Library Inc

Reg. A0115282K

ABN 39 630 371 948

**An incorporated association under the  
*Associations Incorporation Reform Act 2012 (Vic)***

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## Part 1 - Preliminary

### 1 Preamble

- 1.1 The Registrable Body was first established in 1854 and was then incorporated under the PMI Act as a statutory incorporated entity subject to the provisions of the PMI Act.
- 1.2 On 16 May 2019 the Members of the Registrable Body resolved to apply as a registrable body for incorporation under Division 2 of the Act.
- 1.3 In accordance with section 15 of the Act, on registration under the Act, the Association:
  - (a) is taken to be the same body before and after the registration [section 15(1)];
  - (b) the Registrable Body is dissolved and no provision of the PMI Act applies to the Association [section 15(3)];
  - (c) all property of the Registrable Body vests in the Association subject to any trust or any mortgage, lease or contract to which the property was subject immediately before it so vested [section 15(4)].

### 2 Definitions and interpretation

- 2.1 In this Constitution:

**ABN** means Australian Business Number.

**ACNC** means the Australian Charities and Not-for-profits Commission.

**ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and includes any regulations made under the ACNC Act and any rulings or requirements of the Commissioner made under the ACNC Act having application to the Association.

**Act** means the *Associations Incorporation Reform Act 2012* (Vic).

**Annual General Meeting** means a General Meeting required to be held annually as provided in clause 39.

**Appointed Board Member** means the Board Member appointed pursuant to clause 20.2(b) from time to time.

**Association** means the PMI Victorian History Library Inc being an incorporated association described in this Constitution and established under the Act with Registration number A0115282K.

**Board** means the governing body of the Association with powers as provided in clause 19.

**Board Member** means:

- (a) in accordance with section 77(b) of the Act, on the registration of the Association, the persons who were Members of the governing body of the Registrable Body immediately before its registration under the Act, and
- (b) a person elected or appointed as a Board Member pursuant to clause 20.2.

**Chief Executive Officer** means the person appointed pursuant to clause 34 from time to time.

**Constitution** means this constitution as amended from time to time and for the purposes of the Act the Constitution constitutes the rules of the Association.

**Council Board Member** means a Board Member appointed in accordance with clause 24.

**Elected Board Member** means a Board Member elected in accordance with clause 21.1 and does not include the Appointed Board Member or the Council Board Member.

**Financial Year** means the Association's accounting period of 12 months, which begins on the first day of January and ends on the last day of December each year.

**General Meeting** means a meeting of Members and includes an Annual General Meeting and a Special General Meeting.

**ITAA** means the *Income Tax Assessment Act 1997* (Cth).

**Member** means:

- (a) in accordance with section 51(1)(b) of the Act, on the registration of the Association, the persons, body corporates or institutions who were Members of the Registrable Body immediately before its registration under the Act, and
- (b) a person, body corporate or institution entered as a Member on the register of the Association in accordance with clause 8.3.

**Membership** means Membership of the Association.

**PMI Act** means the *Prahran Mechanics' Institute Act 1899* (Vic).

**Registrable Body** means the former body corporate incorporated under the PMI Act.

**Registrar** means the Registrar of Incorporated Associations.

**Regulation** means the *Associations Incorporation Reform Regulations 2012* (Vic).

**Secretary** means the person appointed as secretary of the Association in accordance with clause 31.

**Special General Meeting** means a General Meeting of the Association other than an Annual General Meeting.

**Special Resolution** has the meaning given by clause 47.

2.2 In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty;
- (c) words importing any gender include all other genders;
- (d) the singular includes the plural and vice versa;
- (e) a reference to a law includes regulations and instruments made under the law;
- (f) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;

- (g) a reference to a meeting includes a meeting occurring by use of technology where all participants can actively participate in the meeting and a Member participating by use of technology is taken to be present at, and can vote at, the meeting;
  - (h) a power, an authority or a discretion reposed in a Board Member, the Board, the Association in General Meeting or a Member may be exercised at any time and from time to time;
  - (i) where, by a provision of this Constitution, a document including a notice or resolution is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner (including by email and electronic signature) approved by the Board;
  - (j) the use of “including”, “for example” or similar expressions does not limit what else is included;
  - (k) “writing” and “written” includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
  - (l) Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia.
- 2.3 The provisions of the *Interpretation of Legislation Act 1984* (Vic) apply to and in respect of this Constitution in the same manner as those provisions would so apply if this Constitution was an instrument made under the Act.

### **3 Objects**

- 3.1 The Association is established to be a charity and public library (endorsed as a deductible gift recipient under item 12.1.2 of the table of cultural organisations set out in section 30-100 of the ITAA) pursuing the following charitable objects:
- (a) to provide a circulating and reference library which includes works on the history of the State of Victoria and in particular the history of places in the State of Victoria; and
  - (b) to organise and conduct educational activities for the benefit of the Members of the Association and for the general public;
  - (c) to encourage, facilitate and promote historical and educational research;
  - (d) to act as trustee and to perform and discharge the duties and functions incidental to acting as a trustee where this is incidental or conducive to the attainment of these objects; and
  - (e) to do such things as are incidental or ancillary to the attainment of these objects.

### **4 Powers**

The Association has the legal capacity and powers of an individual and also has all the powers of a body corporate under the Act.

### **5 Application of income for objects only**

- 5.1 The income and the property of the Association, however derived:
- (a) must be applied solely towards the promotion of the objects of the Association as set out in clause 3; and

- (b) may not be paid or transferred to the Members, in whole or in part, either directly or indirectly by way of dividend, bonus or otherwise.

5.2 Clause 5.1 does not prevent payment in good faith to a Member, or to a firm of which a Member is a partner:

- (a) of reasonable remuneration for services to the Association;
- (b) for goods supplied in the ordinary course of business;
- (c) of fair and reasonable interest on money borrowed from a Member at a rate not exceeding that fixed for the purposes of this clause 5.2 by the Association in a General Meeting;
- (d) of reasonable rent for premises let by a Member; or
- (e) for reimbursement of reasonable out-of-pocket expenses incurred on behalf of the Association.

## **6 Winding up and cancellation**

6.1 The Association may be wound up by Special Resolution.

6.2 In the event of the winding up or the cancellation of the incorporation of the Association, the surplus assets of the Association must not be distributed to any Members or former Members.

6.3 Subject to the Act and any court order made under section 133 of the Act, and subject to clause 7, the surplus assets must be given or transferred to 1 or more funds or institutions:

- (a) that has charitable objects similar to, or inclusive of, the Association; and
- (b) is a not-for-profit entity whose rules or governing document prohibit the distribution of its income and assets among its Members to an extent at least as great as imposed on the Association under this Constitution.

6.4 The funds or institutions to which the surplus assets are to be given must be decided by Special Resolution at or before the time of dissolution.

## **7 Transfer of surplus assets – deductible gift recipients**

7.1 Where the Association has been endorsed as a deductible gift recipient under Subdivision 30-BA of the ITAA, either as an entity or in relation to a fund or an institution it operates, then where:

- (a) the Association is wound up;
- (b) the fund or institution is wound up; or
- (c) the endorsement under Subdivision 30-BA of the ITAA is revoked;

any surplus:

- (d) gifts of money or property for the principal purpose of the Association, fund or institution (whichever is relevant);
- (e) contributions described in item 7 or 8 of the table in section 30-15 of the ITAA in relation to a fundraising event held for that purpose; and
- (f) money received by the Association because of such gifts or contributions,

of the Association, fund or institution (whichever is relevant) remaining after payment of all liabilities must be transferred to 1 or more funds or institutions that comply with clause 6.3 and are deductible gift recipients.

- 7.2 Where the Association operates more than 1 fund or institution for which it is a deductible gift recipient and its endorsement under Subdivision 30-BA of the ITAA is revoked only in relation to 1 of those funds or institutions, then it may transfer any surplus assets of that fund or institution after payment of all liabilities to any other fund or institution for which it is endorsed as a deductible gift recipient.

## **Part 2 - Membership**

### **8 Membership qualifications**

- 8.1 The Members of the Association shall be at least five (5) persons, body corporates or institutions.
- 8.2 The Board may determine different classes of Members and the rights that attach to different classes of Members in bylaws made in accordance with clause 19.2.
- 8.3 Subject to this Constitution, a person, body corporate or institution is qualified to be a Member if the person or institution:
- (a) is a natural person or a body corporate;
  - (b) for a natural person, is 18 years of age and over;
  - (c) supports the objects of the Association;
  - (d) agrees to be bound by this Constitution, and
  - (e) has made an application for Membership in the manner described under clause 9.1.

### **9 Application for Membership**

- 9.1 An application for Membership (**the application**):
- (a) must be made in writing in the form determined by the Board; and
  - (b) must be lodged with the Chief Executive Officer.
- 9.2 As soon as practicable after receiving the application, the Chief Executive Officer must:
- (a) check that the applicant is qualified to be a Member under clause 8.3; and
  - (b) request the nominee to pay the sum payable under this Constitution by a Member as a Membership fee.
- 9.3 As soon as practicable after an application for Membership is received, the Chief Executive Officer must:
- (a) decide whether to accept or reject the application or bring the application to the Board for the Board's consideration; and
  - (b) assign a class of Membership (if any have been determined by the Board under clause 8.2) for each person granted Membership.



- 9.4 If the application is brought to the Board under clause 9.3(a), then the Board must, within a reasonable time after receiving the application, decide whether to accept or reject the application and, if accepted, assign a class of Membership.
- 9.5 No reason need be given by the Chief Executive Officer or the Board for the rejection of an application or for assigning a class of Membership.
- 9.6 If the application is approved by the Chief Executive Officer:
- (a) the Secretary must, as soon as practicable, enter the name and address of the new Member, and the date of becoming a Member, in the register of Members; and
  - (b) on the name being so entered, the nominee becomes a Member and the Chief Executive Officer or the Secretary must notify the nominee that the application has been accepted.

## **10 Cessation of Membership**

A person ceases to be a Member if the person:

- (a) in the case of an individual, death, or in the case of a body corporate, of it ceasing to exist or being wound up; or
- (b) resigns Membership in accordance with clause 12; or
- (c) fails to pay an annual Membership fee within 3 months after the fee was due and payable; or
- (d) where no Membership fee is payable:
  - (i) the Secretary has made a written request to the Member to confirm that they wish to remain a Member; and
  - (ii) the Member has not, within 3 months after receiving that request, confirmed in writing that they wish to remain a Member; or
- (e) is expelled from the Association under clause 17.

## **11 Membership entitlements not transferable**

A right, privilege or obligation which a person has by reason of being a Member:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates on cessation of the person's Membership.

## **12 Resignation of Membership**

12.1 A Member who has paid all amounts payable by the Member to the Association in respect of their Membership may resign from Membership by:

- (a) first giving to the Secretary written notice of at least 1 month (or such other period as the Board may determine) of the Member's intention to resign; and
- (b) on the expiration of the period of notice, the Member ceases to be a Member.

### **13 Register of Members**

- 13.1 The Secretary must establish and maintain a register of Members specifying:
- (a) the name of the Member;
  - (b) the postal, residential or email address of the Member;
  - (c) if applicable, the class of Membership of the person;
  - (d) the date on which the person became a Member, and
  - (e) the date on which the person ceases being a Member.
- 13.2 The register of Members must be kept:
- (a) at the main premises of the Association; or
  - (b) if the Association has no premises, at the Association's official address.
- 13.3 Subject to section 59 of the Act and clause 55(b), the register of Members must be open for inspection, free of charge, by any Member at any reasonable hour.
- 13.4 Subject to section 59 of the Act and clause 55(b), a Member may obtain a copy of any part of the register on payment of a fee of \$1 for each page copied or, if some other amount is determined by the Board, that other amount.

### **14 Membership fees**

The Members must pay such Membership fees or subscriptions as prescribed by the Board from time to time.

### **15 Members' liabilities**

The liability of a Member to contribute towards:

- (a) the payment of the debts and liabilities of the Association; or
- (b) the costs, charges and expenses of the winding up of the Association;

is limited to the amount, if any, unpaid by the Member in respect of Membership as required by clause 14.

### **16 Grievance Procedure**

- 16.1 Disputes between Members (in their capacity as Members) of the Association, and disputes between Members and the Association, are to be referred to the Dispute Settlement Centre of Victoria (Department of Justice and Community Safety) for mediation.
- 16.2 At least 7 days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.
- 16.3 A Member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

## **17 Disciplining of Members**

- 17.1 A complaint may be made to the Board by any person that a Member:
- (a) has persistently refused or neglected to comply with a provision or provisions of this Constitution; or
  - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the Association; or
  - (c) has acted or made statements which in the reasonable opinion of the Board are inconsistent with, or contrary to, the objects of the Association.
- 17.2 On receiving such a complaint, the Board:
- (a) must cause notice of the complaint to be served on the Member concerned;
  - (b) must give the Member at least 14 days from the time the notice is served within which to make submissions to the Board in connection with the complaint; and
  - (c) must take into consideration any submissions made by the Member in connection with the complaint.
- 17.3 The Board, subject to its consideration of the complaint and determination being made by unbiased decision makers or a Committee appointed under clause 36, may, by resolution, expel the Member from the Association or suspend the Member if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.
- 17.4 If the Board expels or suspends a Member, the Secretary must, within 7 days after the action is taken, cause written notice to be given to the Member of the action taken, of the reasons given by the Board for having taken that action and of the Member's right of appeal under clause 18.
- 17.5 The expulsion or suspension does not take effect:
- (a) until the expiration of the period within which the Member is entitled to appeal against the resolution concerned; or
  - (b) if within that period the Member exercises the right of appeal, unless and until the Association confirms the resolution under clause 18.5, whichever is the later.

## **18 Right of appeal of disciplined Member**

- 18.1 A Member may appeal to the Association in General Meeting against a resolution of the Board under clause 17, within 7 days after notice of the resolution is served on the Member, by lodging with the Secretary a notice to that effect.
- 18.2 The notice may, but need not, be accompanied by a statement of the grounds on which the Member intends to rely for the purposes of the appeal.
- 18.3 On receipt of a notice from a Member under clause 18.1, the Secretary must notify the Board which is to convene a General Meeting of the Association to be held within 28 days after the date on which the Secretary received the notice.
- 18.4 At a General Meeting convened under clause 18.3:
- (a) no business other than the question of the appeal is to be transacted; and

- (b) the Board and the Member must be given the opportunity to state their respective cases orally or in writing, or both; and
  - (c) the Members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- 18.5 If the General Meeting passes a Special Resolution in favour of the confirmation of the resolution, the resolution is confirmed.

### **Part 3 - The Board**

#### **19 Powers of the Board**

- 19.1 Subject to the Act, the Regulation and this Constitution and to any resolution passed by the Association in General Meeting, the Board:
- (a) is to control and manage the affairs of the Association, and
  - (b) may exercise all such functions as may be exercised by the Association, other than those functions that are required by this Constitution to be exercised by a General Meeting.
- 19.2 The Board has power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Association, including making, rescinding or altering rules, bylaws or policies which are binding on Members for the management and conduct of the Association.
- 19.3 The Association and each Board Member must comply with the duties described in governance standard 5 as set out in the regulations made under the ACNC Act and such other obligations as apply under the ACNC Act from time to time.

#### **20 Number and Composition of the Board**

- 20.1 The number of Board Members must be between 4 and 8 (notwithstanding casual vacancies).
- 20.2 The Board shall consist of:
- (a) between 3 and 6 Board Members elected in accordance with clause 21.1 (**Elected Board Members**);
  - (b) 1 Board Member appointed by the Elected Board Members from time to time (**Appointed Board Member**), and
  - (c) 1 Council Board Member appointed in accordance with clause 24 (**Council Board Member**).
- 20.3 For the avoidance of doubt and as a transitional rule, the term of all Board Members on registration of the Association begins to run from the first Annual General Meeting after the date of registration of the Association.
- 20.4 The term of newly elected or appointed Board Members begins at the end of the General Meeting at which they are elected or appointed.
- 20.5 To enable a rotation of elected Board Members, at the first Annual General Meeting after this amendment is adopted, there will be an election of 6 Board Members. The 3 elected Board Members with the highest votes will serve a term of 3 years. The 3 elected Board

Members with the next highest votes will serve a first term of two years. Each Board Member will be eligible to serve up to 3 consecutive terms as specified in 25.1 (a).

In the event of 6 or less nominations being received for the 6 Board positions, an election will not be necessary. In which case, after the election, Board Members will draw lots to determine which Board Members will serve 3 years and which ones will serve 2 years.

## **21 Election of Elected Board Members by Members**

21.1 Upon:

- (a) an Elected Board Member retiring or otherwise vacating office; or
- (b) an Elected Board Member vacancy arising,

the Members may, by ballot conducted before a General Meeting, fill the vacated office by electing an individual to that office.

## **22 Qualifications of Board Members**

22.1 To be eligible to be a Board Member, a person must consent in writing to act as a Board Member and also be a Member.

22.2 In the event that it is required under a law, regulation or guideline applicable to the Association registered as a Public Library under item 12.1.2 of section 30-100 of the ITAA, the Association<sup>1</sup> must ensure that a majority of the Board Members are persons who have the requisite level or degree of responsibility to the general public.

## **23 Nominations of Elected Board Members**

23.1 Prior to the election of each Elected Board Member, the Chairperson will call for nominations to fill that position.

23.2 A Member of the Association may:

- (a) nominate himself or herself; or
- (b) with the Member's consent, be nominated by another Member.

## **24 Nomination and Appointment of Council Board Member**

24.1 The City of Stonnington Council may be invited to provide a nominee to act as the Council Board Member. The nominee must be approved by the Board prior to being appointed as the Council Board Member.

24.2 If the Board reject the nominee then the City of Stonnington Council may be asked to provide another nominee to act as the Council Board Member.

24.3 If the City of Stonnington Council does not nominate a person to act as the Council Board Member or the Board does not seek a nomination from the City of Stonnington Council, then the Board may seek nominations from other government agencies including but not

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<sup>1</sup> Such as where the Association is endorsed as a deductible gift recipient and this is a condition for such endorsement.

limited to other local government councils. This nominee must also be approved by the Board prior to being appointed as the Council Board Member.

- 24.4 Once appointed by the Board the Council Board Member holds office in accordance with clause 25.1(b).
- 24.5 The City of Stonnington Council or other government agency who has nominated a Council Board Member may withdraw their nomination at any time if the person so nominated no longer holds office with that government agency or is no longer suitable to be nominated as the Council Board Member.

## **25 Terms of Board Members**

- 25.1 Subject to clauses 20.3, 20.4, 20.5 and 25.2:
  - (a) an Elected or Appointed Board Member holds office for a term of 3 years unless the Board Member has been elected for 2 years under clause 20.5, and
  - (b) a Council Board Member holds office for a term of 1 year.
- 25.2 A General Meeting of the Association may:
  - (a) by special resolution remove a Board Member from office; and
  - (b) elect an eligible Member of the Association to fill the vacant position or,
  - (c) if the Board Member removed is the Council Board Member, request that the Board seek a new nomination for a Council Board Member in accordance with clause 24.
- 25.3 A Member who is the subject of a proposed special resolution under clause 25.2(a) may make representations in writing (not exceeding a reasonable length) to the Secretary or President of the Association and may request that the representations be provided to the Members of the Association.
- 25.4 The Secretary or the President may give a copy of the representations to each Member of the Association or, if they are not so given, the Member may require that they be read out at the meeting at which the special resolution is to be proposed.

## **26 Retirement of Elected Board Members – transitional rule applying to first Annual General Meeting Deleted 2023**

## **27 Reappointment of Board Members**

- 27.1 The Appointed Board Member and the Elected Board Members are entitled to seek reappointment as Board Members on 3 consecutive occasions provided that a Board Member's period of continuous service to the Association shall not exceed a period of 9 years.
- 27.2 Following the completion of the Appointed Board Member or the Elected Board Member's continuous service of 3 terms (by way of reappointment on 3 consecutive occasions), the person must wait at least 2 years to be eligible again for election or appointment as a Board Member.
- 27.3 The Council Board Member is entitled to seek re-nomination and reappointment as the Council Board Member on 5 consecutive occasions provided that the City of Stonnington Council or such other government agency by whom they have been nominated under clause 24.3 continues to approve their nomination.

## **28 Vacation of office**

- 28.1 For the purposes of this Constitution, a casual vacancy in the office of a Board Member occurs if that person:
- (a) dies;
  - (b) ceases to be a Member;
  - (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth);
  - (d) resigns office by notice in writing given to the Secretary;
  - (e) is removed from office under clause 25.2;
  - (f) is the Council Board Member and ceases to be nominated as such under clause 24.5;
  - (g) becomes a mentally incapacitated person;
  - (h) is absent without providing acceptable reasons and without the consent of the Board from 3 or more meetings of the Board;
  - (i) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months;
  - (j) becomes prohibited, disqualified or removed from being a Board Member by any reason of any order of any court of competent jurisdiction or regulator;
  - (k) makes statements which are inconsistent with, or contrary to, the objects of the Association;
  - (l) is no longer willing or able to subscribe to or support the objects of the Association;  
or
  - (m) otherwise ceases to be a Board Member by operation of section 78 of the Act.

## **29 Filling casual vacancies**

- 29.1 The Board may appoint an eligible Member of the Association to fill a position on the Board that:
- (a) has become vacant under clause 28; or
  - (b) was not filled by election at the last Annual General Meeting.
- 29.2 If the position of Secretary becomes vacant, the Board must appoint a Member to the position within 14 days after the vacancy arises.
- 29.3 The Member so appointed to fill a casual vacancy is to hold office as a Board Member, subject to this Constitution, until the end of the term of the Board Member that they replaced.
- 29.4 The Board may continue to act despite any vacancy in its Membership.

## **30 President, Vice-President and Chairperson**

- 30.1 The Board may elect from their number a President and Vice-President and may determine the period for which the persons elected as President and Vice-President are to hold office.

30.2 In accordance with section with section 77(b) of the Act, on the registration of the Association, the persons who were President and Vice-President of the Registrable Body immediately before its registration under the Act will continue to hold office until the expiry of their term as Board Members or such other period as determined by the Board.

30.3 The President will act as the chairperson of Board meetings.

30.4 If a Board meeting is held and:

- (a) a chairperson has not been elected; or
- (b) the chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act;

then the Vice-President, if elected under clause 30.1, must be the chairperson of the meeting or, if the Vice-President is not present, the Board Members present must elect 1 of their number to be a chairperson of the meeting.

### **31 Secretary**

31.1 The Board must appoint at least 1 Secretary. A person must not be appointed as the Secretary unless the person:

- (a) consents to being appointed as Secretary; and
- (b) is at least 18 years of age; and
- (c) is resident in Australia.

31.2 The Board may suspend or remove the Secretary.

31.3 A Secretary holds office as Secretary on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Board. The exercise of those powers and authorities and the performance of those duties by a Secretary are subject at all times to the control of the Board.

31.4 If the position of Secretary becomes vacant for any reason, the Board must appoint a Member to the position within 14 days after the vacancy arises.

31.5 The Secretary must, within 14 days after being appointed as Secretary, lodge notice with the Registrar as required under the Act and Regulation.

31.6 Unless otherwise determined by the Board, it is the duty of the Secretary to keep minutes of:

- (a) all appointments of Board Members;
- (b) the names of Board Members present at a Board meeting or a General Meeting; and
- (c) all proceedings at Board meetings and General Meetings.

31.7 Minutes of proceedings at a meeting referred to in clause 31.6 must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

### **32 Chair of Finance, Risk and Audit Committee**

32.1 The Board may appoint, suspend or remove a chairperson for the Finance, Risk and Audit Committee.



- 32.2 Unless otherwise determined by the Board, it is the duty of the chairperson for the Finance, Risk and Audit Committee to ensure:
- (a) that all money due to the Association is collected and received and that all payments authorised by the Association are made; and
  - (b) that correct books and accounts are kept showing the financial affairs of the Association, including full details of all receipts and expenditure connected with the activities of the Association.

### **33 Employees**

- 33.1 No person who is an employee of the Association may be elected or appointed as a Board Member of the Association both while employed by the Association and for five (5) years after leaving their employment with the Association.
- 33.2 No Board Member shall be appointed to any salaried office of the Association or any office of the Association paid by fees and no remuneration or other benefit in money or money's worth shall be given by the Association to any Board Member who is not an employee, except that payments may be made to a Board Member:
- (a) for the payment of out-of-pocket expenses incurred in carrying out the duties of a Board Member where the payments do not exceed an amount previously approved by the Board; or
  - (b) for any service rendered to the Association in a professional or technical capacity, where the provision of that service has the prior approval of the Board and is on reasonable commercial terms.

### **34 Chief Executive Officer**

- 34.1 The Board may appoint a Chief Executive Officer by whatever title on such terms and conditions (including as to remuneration) as they think fit.
- 34.2 Subject to any agreement between the Board and the Chief Executive Officer, the Board may remove, dismiss or suspend the Chief Executive Officer at any time.
- 34.3 The Board may delegate any of its powers to the Chief Executive Officer:
- (a) on the terms and subject to any restrictions it decides; and
  - (b) so as to be concurrent with, or to the exclusion of, the powers of the Board, and may revoke the delegation at any time.
- 34.4 The Chief Executive Officer may be invited to attend and speak at all meetings of the Board Members, but may not hold the office of a Board Member and is not entitled to vote.

### **35 Meetings of the Board**

- 35.1 The Board will meet at such place and time as the Board may determine.
- 35.2 Additional meetings of the Board may be convened by the chairperson or by any Board Member.
- 35.3 Oral or written notice of a meeting of the Board must be given by the Secretary to each Board Member at least 48 hours (or such other period as may be unanimously agreed on by the Board Members) before the time appointed for the holding of the meeting.

- 35.4 Notice of a meeting given under clause 35.3 must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Board Members present at the meeting unanimously agree to treat as urgent business.
- 35.5 A quorum for meetings of the Board is the presence (in person or by technology) of a majority of the Board Members.
- 35.6 No business is to be transacted by the Board unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- 35.7 If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.

### **36 Delegation by Board to a Committee**

- 36.1 The Board may, by instrument in writing, delegate to 1 or more Committees (consisting of such Members as the Board thinks fit) the exercise of such of the functions of the Board as are specified in the instrument, other than:
- (a) this power of delegation; and
  - (b) a function which is a duty imposed on the Board by the Act or by any other law.
- 36.2 A function the exercise of which has been delegated to a Committee under clause 36.1 may, while the delegation remains unrevoked, be exercised from time to time by the Committee in accordance with the terms of the delegation.
- 36.3 A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- 36.4 Despite any delegation under this clause 36, the Board may continue to exercise any function delegated.
- 36.5 Any act by a Committee acting in the exercise of a delegation under this clause 36 has the same force and effect as it would have if it had been done by or to the Board.
- 36.6 The Board may, by instrument in writing, revoke wholly or in part any delegation under this clause 36.
- 36.7 A Committee may meet and adjourn as it thinks proper.

### **37 Voting and decisions**

- 37.1 Questions arising at a meeting of the Board or of any Committee appointed by the Board are to be determined by a majority of Board Members
- 37.2 Each Member present at a meeting of the Board or of any Committee appointed by the Board (including the person presiding at the meeting) is entitled to 1 vote.
- 37.3 Subject to clause 35.5, the Board may act despite any vacancy on the Board.
- 37.4 Any act by the Board or a Committee is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any Member of the Board or Committee.

- 37.5 In the event of an equality of votes cast for and against a question, the chairperson of the Board meeting does not have a second or casting vote, and consequently the question is decided in the negative.
- 37.6 Circular resolutions
- (a) The Board may pass a resolution without a Board 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.
  - (b) A single or separate copies of a document may be used for signing by Board Members if the wording of the resolution and statement is identical in each copy.
  - (c) The resolution is passed when a document containing a statement that they are in favour of the resolution is signed by the last Board Member who constitutes a majority.

### **38 Conflicts of interest**

- 38.1 A Board Member must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Board Members (or that is proposed in a circular resolution):
- (a) to the Board Members; or
  - (b) if all of the Board Members have the same conflict of interest, to the Members at the next General Meeting, or at an earlier time if reasonable to do so.
- 38.2 The disclosure of a conflict of interest by a Board Member must be recorded in the minutes of the meeting and the conflicts of interest register (if any) kept by the Association.
- 38.3 Each Board Member who has a material personal interest in a matter that is being considered at a meeting of the Board Members (or that is proposed in a circular resolution) must not, except as provided under clause 36.4:
- (a) be present at the meeting while the matter is being discussed; or
  - (b) vote on the matter.
- 38.4 A Board Member with a material personal interest in a matter may still be present and vote if:
- (a) their interest arises because they are a Member of the Association and the other Members have the same interest;
  - (b) their interest relates to an insurance contract that insures, or would insure, the Board Member against liabilities that the Board Member incurs as a Board Member of the Association;
  - (c) their interest relates to a payment by the Association under clause 49, or any contract relating to an indemnity that is allowed under the Act;
  - (d) the Registrar makes an order allowing the Board Member to vote on the matter; or

- (e) the Board Members who do not have material personal interest in the matter pass a resolution that:
  - (i) identifies the Board Member, the nature and extent of the Board Member's interest in the matter and how it related to the affairs of the Association; and
  - (ii) states that those Board Members are satisfied that the interest should not stop the Board Member from voting or being present.

## **Part 4 - General Meeting**

### **39 Annual General Meetings**

- 39.1 With the exception of the first Annual General Meeting, which may be held at any time within the period of 18 months after its incorporation, the Association must, at least once in each calendar year and within the period of 5 months after the expiration of each Financial Year, convene an Annual General Meeting of its Members.
- 39.2 Clause 39.1 has effect subject to any extension or permission granted by the Registrar.
- 39.3 The Annual General Meeting is, subject to the Act and to clause 39, to be convened on such date and at such place and time as the Board thinks fit.

### **40 Business at Annual General Meetings**

- 40.1 In addition to any other business which may be transacted at an Annual General Meeting, the business of an Annual General Meeting is to include the following:
  - (a) to confirm the minutes of the last preceding Annual General Meeting and of any Special General Meeting held since that meeting;
  - (b) to receive from the Board reports on the activities of the Association during the last preceding Financial Year;
  - (c) to receive the appointment of any new Members as Board Members; and
  - (d) to receive and consider the financial statement which is required to be submitted to Members under the Act.
- 40.2 An Annual General Meeting must be specified as such in the notice convening it.

### **41 Calling of Special General Meetings**

- 41.1 The Board may, whenever it thinks fit, convene a Special General Meeting.
- 41.2 The Board must, on the requisition in writing of at least 10% of the total number of Members, convene a Special General Meeting.
- 41.3 A requisition of Members for a Special General Meeting:
  - (a) must be in writing and state the business to be considered at the meeting and any resolutions to be proposed;
  - (b) must be signed by the Members making the requisition;
  - (c) must be lodged with the Secretary; and

(d) may consist of several documents in a similar form, each signed by 1 or more of the Members making the requisition.

41.4 If the Board fails to convene a Special General Meeting to be held within 1 month after that date on which a requisition of Members for the meeting is lodged with the Secretary, any 1 or more of the Members who made the requisition may convene a Special General Meeting to be held not later than 3 months after that date.

41.5 A Special General Meeting convened by a Member as referred to in clause 41.4 must be convened as nearly as is practicable in the same manner as General Meetings are convened by the Board and any Member who consequently incurs expenses is entitled to be reimbursed by the Association for any expense so incurred.

## **42 Notice of General Meetings**

42.1 Except where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association, the Secretary must, at least 14 days before the date fixed for the holding of the General Meeting, give a notice to each Member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

42.2 Where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association, the Secretary must, at least 21 days before the date fixed for the holding of the General Meeting, cause notice to be given to each Member specifying, in addition to the matters required under clause 42.1, the intention to propose the resolution as a Special Resolution.

42.3 No business other than that specified in the notice convening a General Meeting is to be transacted at the meeting except, in the case of an Annual General Meeting, business which may be transacted under clause 40.1.

42.4 A Member desiring to bring any business before a General Meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a General Meeting given after receipt of the notice from the Member.

## **43 Procedure at General Meetings**

43.1 No item of business is to be transacted at a General Meeting unless a quorum of Members entitled under this Constitution to vote is present during the time the meeting is considering that item.

43.2 A minimum of fifteen (15) Members, (being Members entitled under this Constitution to vote at a General Meeting) present in person or by technology or by proxy, constitute a quorum for the transaction of the business of a General Meeting.

43.3 In determining whether a quorum is present, each individual attending by technology and as a proxy is to be counted, except that:

(a) where a Member has appointed more than 1 proxy, only 1 is to be counted; and

(b) where a Member is attending holding more than 1 proxy, that Member is to be counted only once.

43.4 If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting:

(a) if convened on the requisition of Members, is to be dissolved; and

(b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the

adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) at the same place.

- 43.5 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being at least 3 Members) is to constitute a quorum.

#### **44 Chairperson of General Meeting**

- 44.1 The chairperson elected under clause 30.3 is to preside as chairperson at each General Meeting.
- 44.2 If the chairperson is absent or unwilling to act, the Vice-President must act as the chairperson at the meeting and, if the Vice-President is absent or unwilling to act, the Members present must elect 1 of their number to preside as chairperson at the meeting.

#### **45 Adjournment**

- 45.1 The chairperson of a General Meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 45.2 If a General Meeting is adjourned for 14 days or more, the Secretary must give written or oral notice of the adjourned meeting to each Member stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- 45.3 Except as provided in clauses 45.1 and 45.2, notice of an adjournment of a General Meeting or of the business to be transacted at an adjourned meeting is not required to be given.

#### **46 Making of decisions**

- 46.1 A question arising at a General Meeting is to be determined on a show of hands unless a poll is demanded and must be determined by a majority of Members.
- 46.2 Unless before or on the declaration of the show of hands a poll is demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- 46.3 At a General Meeting, a poll may be demanded by the chairperson or by at least ten (10) Members present in person at the meeting.
- 46.4 If a poll is demanded at a General Meeting, the poll must be taken:
- (a) immediately in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment; or
  - (b) in any other case, in such manner and at such time before the close of the meeting as the chairperson directs, and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

#### **47 Special Resolution**

A resolution of the Association is a Special Resolution:

- (a) if it is passed by not less than three-quarters (75%) of Members being entitled under this Constitution to vote in person or by proxy at a General Meeting in favour of the resolution and provided at least 21 days' written notice specifying the intention to propose the resolution as a special resolution was given in accordance with clause 42; or
- (b) where, on application to the Registrar by the Association, the Registrar is satisfied that it is not practicable for the resolution to be passed in the manner specified in paragraph 47(a), if the resolution is passed in a manner specified by the Registrar.

#### **48 Voting**

- 48.1 On any question arising at a General Meeting each Member has 1 vote only. A Member who is a body corporate must authorise, in writing on its letterhead and signed by a director of that body corporate, a representative to vote on its behalf.
- 48.2 All votes must be given personally, by proxy or by any appropriate corresponding method that the Board may determine if the meeting is occurring by use of technology.
- 48.3 In the case of an equality of votes on a question at a General Meeting, the chairperson of the meeting is not entitled to exercise a second or casting vote and the resolution consequently fails.
- 48.4 A Member is not entitled to vote at any General Meeting unless all money due and payable by the Member to the Association has been paid, other than the amount of the annual Membership fee payable in respect of the then current year.

#### **49 Proxy voting**

- 49.1 Each Member is to be entitled to appoint another Member as a proxy by notice given to the Secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- 49.2 A proxy has the same right as the Member to speak and vote at the meeting and may be appointed in respect of more than 1 meeting.
- 49.3 A Member is entitled to instruct their proxy to vote in favour of or against any proposed resolutions. The proxy may vote as they think fit unless otherwise instructed.
- 49.4 The notice appointing the proxy is to be in the form set out in Appendix 1 to this constitution.

## **Part 5 - Miscellaneous**

### **50 Insurance**

The Association may effect and maintain insurance.

### **51 Sources of Funds**

51.1 The funds of the Association are to be derived from:

- (a) Membership fees of Members;
- (b) donations; and
- (c) subject to any resolution passed by the Association in General Meeting, such other sources as the Board determines.

51.2 All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank account.

51.3 The Association must, as soon as practicable after receiving any money, issue an appropriate receipt.

### **52 Management of Funds**

52.1 Subject to clause 5 and any resolution passed by the Association in General Meeting, the funds of the Association are to be used in pursuance of the objects of the Association in such manner as the Board determines.

52.2 All cheques, drafts, bills of exchange, promissory notes and other payments must be signed by any 2 Board Members or employees of the Association, being Members or employees authorised to do so by the Board or by such other means as determined by the Board from time to time.

### **53 Alteration of Constitution**

53.1 This Constitution may be altered, rescinded or added to only by a Special Resolution of the Association.

53.2 The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Association to no longer be a charity or a public library.

### **54 Custody of books**

Except as otherwise provided by this Constitution, all records, books and other documents relating to the Association must be kept:

- (a) at the premises of the Association in the custody of the Secretary or a Member (as the Board determines); or
- (b) if the Association has no premises, at the Association's official address, in the custody of the Secretary.

### **55 Inspection of books**

(a) The records, books and other documents of the Association must be open to inspection, free of charge, by a Member at any reasonable hour.

(b) Despite clause 55(a), the Board may refuse to permit a Member to inspect or obtain a copy of records of the Association that relate to confidential, personal,



employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.

**56 Service of notices**

56.1 For the purpose of this Constitution, a notice may be served on or given to a person:

- (a) by delivering it to the person personally;
- (b) by sending it by post to the address of the person; or
- (c) by sending it by some form of electronic transmission to an email address nominated by the Member.

56.2 For the purpose of this Constitution, a notice is taken, unless the contrary is proved, to have been given or served:

- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee; and
- (b) in the case of a notice sent by ordinary post:
  - (i) if sent to an address in Australia, 3 days after the date of its posting; and
  - (ii) if sent to an address outside Australia, 5 days after the date of its posting.
- (c) in the case of a notice sent by some form of electronic transmission, on the date it was sent.

# Appendix 1

## Form of Appointment of Proxy

Appointment of Proxy

**PMI Victorian History Library Inc (the Association)**

ABN 39 630 371 948

I/We \_\_\_\_\_ [name]

being a Member of the Association hereby appoint

\_\_\_\_\_ [name]

as its proxy to vote for it on its behalf at the meeting of the Members of the Association to be held on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ and at any adjournment of that meeting.

[Insert if desired, this form is to be used in favour of/against the resolution (Delete whichever is not desired)]

[Insert details of specific resolutions if desired]

SIGNED \_\_\_\_\_

NAME \_\_\_\_\_

DATED \_\_\_\_\_

This notice must be returned to the Secretary of the Association at [address and/or email address] by [time] on [date] [insert specific details ensuring that the time is 24 hours before the time for the meeting]