



Bacchus Marsh  
Grammar

Celebrating 30 Years

## Questions & Answers

### Proposal to change BMG legal structure from incorporated association to company limited by guarantee

- Q. Why is Bacchus Marsh Grammar considering this change?
- A. Bacchus Marsh Grammar (BMG) was registered as an incorporated association on 31 August 1987 under the now *Associations Incorporation Reform Act 2012 (Vic)*. Given the scale and nature of the School's activities, turnover and asset value, we believe that BMG has outgrown the structure of an incorporated association. In addition, BMG has received professional advice which recommended BMG transition from an incorporated association to a company limited by guarantee.
- Q. What legal structure applies to other comparable schools?
- A. Similar schools to BMG operate as a Company Limited by Guarantee. These include Ballarat Grammar, Westbourne Grammar and Kardinia College.
- Q. What are the benefits of making the transition?
- A. These include:
- An easier, more streamlined reporting regime;
  - Fewer intricacies and inconsistencies to navigate when operating interstate;
  - A greater understanding of the corporate structure by the public;
  - Clearer governing rules in relation to dispute resolution;
  - Flexibility in signing legal documents;
  - A clearer, more certain corporate structure to aid in transacting with third parties, particularly entities that operate outside of Australia; and
  - Less personal risk for Members and increased accountability for the Board in terms of reporting, compliance and Directors' duties as prescribed by law.
- Q. Will this change affect BMG's charity or tax status?
- A. No. BMG will continue to operate as a not-for-profit and a charity (under the advancing education subtype). Existing tax concessions will roll over.
- Q. Will staff be employed by a new legal entity?
- A. No. The conversion does not create a new legal entity. All references to "Bacchus Marsh Grammar Inc." will be the same as for the Company Limited by Guarantee for legal purposes.

- Q. Will the name of the School be “Bacchus Marsh Grammar Limited”?
- A. No, the name will be “Bacchus Marsh Grammar” which is consistent with the name we currently use on documents, brochures and other written material. Section 150 of the Corporations Act 2001 (Cth) allows for charity companies limited by guarantee to omit the word “Limited” at the end of the company name provided it has applied to ASIC to do so.
- Q. How will this change affect contracts Bacchus Marsh Grammar Inc. has with third parties?
- A. They will simply continue with Bacchus Marsh Grammar, the Company Limited by Guarantee. However, BMG will need to notify third parties (i.e. BMG’s Bank, insurers, the Land Titles Office etc.) of the change of the name of the entity.
- Q. Will staff members be required to notify the ATO, their superannuation company, bank etc. of the change?
- A. No. BMG will notify these organisations.
- Q. Will Members of Bacchus Marsh Inc. transfer over to become Members of Bacchus Marsh Limited?
- A. No. Currently, the Members of the Incorporated Association are the parents of the students currently enrolled at BMG. As the school has grown significantly retaining the large membership base is impracticable. It is proposed that the Members of the Company Limited by Guarantee will be limited in scope so that the Directors of the Company will also be the Members.
- Q. Who will decide on the composition of the new board of directors and the new constitution?
- A. The existing School Council will agree on the new constitution and the new Directors and Members for the Company Limited by Guarantee.
- Q. What is the process for effecting this change?
- A. There are several steps involved, including:
- Notification to members and staff of the proposed change.
  - Drafting a new Constitution.
  - At the Annual General Meeting on Wednesday, 24 October 2018 this matter will be included on the agenda. A resolution approving the transfer to a Company Limited by Guarantee will be put to the Members (pursuant to section 110 of the *Associated Incorporations Reform Act 2012 (Vic)*).
  - Appointing an auditor within one month of the registration of the company.
  - BMG’s lawyers will handle the completion of all forms and documents to give effect to the change and to ensure that BMG’s tax concessions are not affected by the change.
  - Update ACNC and Consumer Affairs Victoria as to the change of legal structure.

Please contact the Principal, Mr Andrew Neal if you have questions which are not covered above. The Principal may be contacted via email: [school@bmg.vic.edu.au](mailto:school@bmg.vic.edu.au) or Phone: 5366 4800.