



## Explanatory Memorandum Australian Men's Shed Association Summary of proposed Draft New Constitution and consequential governance.

### 1. Background

AMSA has evolved since its foundation in 2007, the governance and structure of the organisation has continuously developed and the changes now proposed are the result of an organisational review from professional and legal perspective and incorporates the input from existing Member Men's Sheds of AMSA.

The primary purpose for the proposed changes to the governing document of AMSA are to:

- better align the governance and membership structure of the organisation with the vision and intentions of the founders,
- to enable AMSA to better pursue its objectives in promoting the prevention of diseases in all men in Australia by providing opportunities that will enhance their health and welfare.
- Other specific changes are set out, or referred to in section 2 below.

The proposed amendments, the changed governance and membership rules are ensure that no parallel structures of AMSA's operational model are formed. Duplication generally tends to result in an inefficient use of resources and burdensome membership arrangements for the most important bodies in AMSA's structure, being the Men's Sheds that deliver the "on the ground" support and networks.

The improved structure will enable AMSA to maximise the utilisation of funding from government and other sources, and efficiently deliver services to its members nationally, in its role as a peak body that represents the interests of all Men's Sheds collectively.

The membership and governance arrangements are inspired by the vision and intentions set for AMSA by the founders (being the members of the original Steering Committee of AMSA that met in Canberra in November 2008 to develop a business plan for the future of AMSA). The vision of AMSA set by its founders is that AMSA be a single, unified body that will disseminate information and other support services in pursuit of the Men's Shed movement around the country and act as single point of contact with a collective voice to represent Men's Sheds with Government and other stakeholders. This vision is still as valid today and the future as it was at that time.

It is important that AMSA's mandate as a single national peak body which represents all AMSA Member Men's Sheds in Australia is preserved and maintained in the most appropriate governance and membership structure.

Consideration of the proposed amendments; it is worthwhile to reflect on the developments of AMSA over time; its commitment that the Men's Shed movement in Australia continues to grow strong. From AMSA's original conception until May 2010, AMSA had no formal funding agreements and relied fully on the support of a network of volunteers. The first service delivery contact with the Department of Health and Ageing (as it was then known) opened opportunities for AMSA to evolve. **This agreement focused on AMSA being a centralised service delivery provider for Men's Sheds.** As a result, more efficient communications, marketing and support for Men's Sheds became available and a surge in the development of new Men's Sheds occurred in the following years. AMSA has grown exponentially into a successful organisation with large membership (957 Men's Sheds) that is in a strong position to present a unified service delivery model with governments, private funding bodies and other stakeholders in order to obtain much needed funding in the pursuit of its purposes.

It is essential that there be no confusion in dealing with the Member Men's Sheds, public, government and all other stakeholders. The single, unified national scope and representation of Men's Sheds by AMSA in the context of the State Associations that are members of AMSA is vital. It was never intended that the State Associations provide a parallel model of representation of Men's Sheds with the Member Men's Sheds, public and stakeholders. Apart from being confusing for our stakeholders, it may provide limitations in achieving the best funding outcomes for our organisation and results in inefficiencies in administration and use of resources.

The AMSA membership model was envisioned to comprise a system, whereby State Associations are in effect "interposed" between AMSA and the Men's Sheds for the purposes of better representation of the Men's Sheds' voice at the national level. The intent of this membership model is to ensure that the views of members are expressed collectively on the basis of their geographical (State) location and then via the State Association, represented and raised at a national level. This segmented approach is considered to provide a structured manner to ensure a better depth in the representation of the Men's Sheds.

In this context, it is important to clarify the concept of membership to AMSA to assist the Men's Sheds in better understanding the relationship with the peak body, and as a consequence to consider changes to the governance model in the context of contemporary governance practices to best reflect the strategic direction of AMSA as a unified, collective voice for Men's Sheds in Australia.

The current categories of membership, Men's Sheds and State Associations, are proposed to be retained however the terms and conditions of membership are clarified. Member Men's Sheds will be granted voting rights and the ability to nominate a candidate for election to the Board. These are set out in detail in the By-Laws Conditions for Membership, which accompany this Explanatory Memorandum. Accepting the amended Constitution will also include accepting the terms of these By-Laws and are a condition for continued membership.

In summary, the decision to determine whether a Men's Shed or a State Association is eligible to be a member of AMSA is a determination of the Board of AMSA, and detailed definitions are provided in the Proposed Constitution.

It is considered that in accordance with good governance standards and contemporary practices, it is important for an organisation of the size and nature of AMSA to have an opportunity to have directors who can bring skills, experience and expertise to AMSA. It is considered there has been insufficient opportunity for this, with the current representative model Board (where State Associations have had respective representatives on the Board).

This detracts from the intentions behind the establishment of AMSA – that it be a truly unified national body without segmentation of State operations which will be represented on the Board. Indeed, the State Association membership is intended to provide infrastructure support and administrative relief in the consolidation of all Men's Sheds across Australia in a single, national operation that will represent the interests of all Men's Sheds in unified manner in the dealings with Government and all other stakeholders.

AMSA now proposes provide the ability for skills based Directors to be appointed to the Board by the Directors, in addition to 6 Sheddors, as state based directors, who will be elected by the Members. The composition of the Board and the representation of Men's Sheds on the Board in a collective, unified manner is discussed further below in this Memorandum.

The governance principles are outlined in the Australian Men's Shed Association – Governance Principles which is attached.

## 2. Summary of changes included in the Proposed Constitution.

The Proposed Constitution provides for each of the following:

- Introducing voting rights for AMSA member sheds.
- Introducing state based directors (6) elected by members from their region.
- Allowing for the appointment of up to 5 specialist directors
- Including provision for standing committees.
- One committee will be the National Men's Shed Advisory Committee (NSMAC), with representation from each of the state organisations enabling a chain of communication from sheds through the NMSAC to the board and back down to sheds.
- Enabling the Board to appoint additional committees, as required

Further information on changes included in the Proposed Constitution and the accompanying proposed By-Laws, which include specific 'operational' and or 'procedural' detail, which is supportive of the changes flowing from changes in the Proposed Constitution may be found in each of the following By-Laws.

These By- Laws include:

- AMSA Board Charter
- AMSA Code of Conduct
- Membership By-Laws 2017
- AMSA National Membership Advisory Committee
- AMSA Volunteer Field Support Officers

## 3. Summary of the Proposed Constitution

This paper explains the provisions of the proposed replacement Constitution (**Proposed Constitution**) for Australian Men's Shed Association (ACN 144 866 277) (**AMSA**) with a comparison to each of the provisions in the Current Constitution of AMSA (**Current Constitution**). The comparison is presented in a table form for ease of reference, indicating the equivalent provision in the Proposed Constitution as well as commentary where the provisions differ and the reasons for it.

Uppercased terms set out in the Commentary take their meaning as defined in clause 23 of the Proposed Constitution.

**The result is a simpler, more user-friendly constitution which aligns with modern governance standards and the requirements of the Corporations Act 2001 (Cth) (the Act) and the Australian Charities and Not for Profit Commission Act 2012 (Cth) (the ACNC Act).**

**The Proposed Constitution of AMSA has been prepared in a format which does not incorporate the ordinary provisions contained in the Act (as these have mandatory application and will apply as a matter of law), but selectively adopts replaceable rules of the Act (all or some of which may be replaced by different provisions in a company's constitution). The Proposed Constitution excludes or varies the application of those replaceable rules relevant to public companies limited by guarantee which deal with matters for which different mechanisms have been provided for in the Constitution (at clause 2).**

The Proposed Constitution does not incorporate topics that are more 'operational' and may be subject to change which if included in the proposed constitution would require a special resolution and a special general meeting to change. These 'operational' provisions are included in the By-Laws which can be more readily altered by decision of the Board.

A summary of all replaceable rules of the Corporations Act (the Act)(prepared by ASIC) is enclosed for your information. Some of these rules do not apply to a public company limited by guarantee and therefore, it is not necessary to exclude them from the Constitution. The replaceable rules which have been excluded under clause 2.2 of the Constitution are explained as follows:

(a) sections 198C, 201J and 203F (managing director) – The Proposed Constitution provides for the appointment of the Chief Executive Officer of AMSA at clause 17. Therefore the standard provisions dealing with the appointment of a managing director have been replaced;

(b) section 201G (company may appoint a director) and section 201H (directors may appoint other directors) – a specific procedure for appointment of the Directors is set out in clause 9 of the Proposed Constitution, therefore the standard provisions are excluded;

(c) section 201H (Directors may appoint other Directors) – This replaceable rule has been displaced to provide a specific procedure for Board appointments and elections and removes the requirement that any appointments be approved by the Members at the next annual general meeting (save for Directors who are appointed to a casual vacancy position, who will only hold office until the conclusion of the next annual general meeting);

(d) section 202A (remuneration of directors) – in the circumstances of a not-for-profit entity where it is intended that Directors of AMSA will not be remunerated for the services rendered in their capacity as Directors, this rule is not applicable. Note, however, the permission in clause 4.4 of the Constitution as to when payments may be made to Directors;

(e) section 248A (circulating resolution of companies with more than 1 director) – a specific procedure in clause 12.5 of the Proposed Constitution provides for the passing of resolutions by Directors without a meeting, which differs from the default position in the Act;

(f) section 248C (calling directors' meetings) – the default position under the Act is that directors meetings are called by any director giving reasonable notice to the other directors. Clause 8 of the Proposed Constitution provides flexibility for the Board to determine all procedures regarding meetings;

(g) section 248E (chairing directors' meetings) – the Chairman of Board meetings is determined in accordance with clause 12.2 of the Proposed Constitution;

(h) section 248F (quorum at directors' meetings) – clause 12.3 of the Proposed Constitution provides for a flexible determination of quorum at Director's meetings, replacing the standard provision under the Act for 2 directors to constitute quorum;

(i) section 249C (calling of meetings of members by a director) – clause 8.1 of the Proposed Constitution provides for the calling of a meeting of Members' to be a decision of the Board, replacing the standard provision in the Act that a single Director may call a members meeting;

(j) section 249T(1) (quorum at meetings of members) – clause 8.2 of the Proposed Constitution provides for the determination of quorum, replacing the standard provision under the Act; and

(k) section 249U (chairing meetings of members) – clause 8.3 of the Proposed Constitution provides for the Chairman of the Board to chair the meetings of members and the procedure in the case of absence of the Chairman of the Board;

(l) section 250E (How many votes a member has) – clause 8.5 of the Proposed Constitution provides for a larger number of votes for State Association Members, as described further in the table below. In the event of an equality of votes at a members meeting, the Chair will have a casting vote.

Current Constitution	Proposed Constitution	Commentary
Clause 1 (Name)	Clause 1	The name of AMSA has been similarly reflected in the Proposed Constitution.
Clause 2 (Vision Statement)		AMSA's Vision Statement has not been retained in the Proposed Constitution as this is not necessary, however we have slightly revised the objects at clause 3.1 to incorporate the vision.
Clauses 3 and 4 (Objects and Powers)	Clause 3	<p>The objects of AMSA have been re-expressed in the Proposed Constitution with improved semantics and a stronger statement of AMSA's purpose. In light of AMSA's registration as a Health Promotion Charity, the overarching purpose of AMSA has been set out explicitly in the objects, being the prevention or control of diseases in human beings through the advancement of the health and welfare of men in Australia by supporting the Men's Shed Movement.</p> <p>The objects in the Current Constitution appear to include several matters which are powers of AMSA, rather than purposes, which have been removed. The list of powers of AMSA set out at clause 4 of the Current Constitution have also been removed, as the specific powers of a company (such as, raising, accepting and holding funds, power to purchase and lease, etc.) are implicit in the broad powers of AMSA prescribed by the Act. Clause 3.2 of the Proposed Constitution confirms AMSA has all the powers under the Act, which may only be undertaken in the pursuit of the purposes.</p> <p>The objects clause as redrafted will not prejudice the charitable registration or deductible gift recipient endorsement of AMSA.</p>
Clause 5 (Not for profit)	Clause 4	<p>The same restrictions on the application of the income and property of AMSA solely to its purposes have been retained and reflected in clause 4 of the Proposed Constitution, which preserves the not-for-profit nature of AMSA. The principle that a not-for-profit entity only applies its income and property for its objects, and no part of it is distributed to the entity's members except in limited circumstances (such as bona fide compensation), has been reflected in clause 4 of the Proposed Constitution, which is a standard form provision that will not prejudice AMSA's status as a registered charity. A specific provision has been inserted at clause 4.3(e) of the Proposed Constitution to ensure a payment may be made to a Member provided that such payment is in furtherance of AMSA's charitable purposes.</p> <p>This will ensure property or payments can be transferred to Men's Sheds or State Associations in pursuit of AMSA's advancement of the Men's Shed Movement. In accordance with this position, clause 21.4 also enables surplus to be distributed to a Member upon AMSA's winding up, provided that the Member meets the relevant eligibility criteria to receive the distribution (is either a charity or endorsed to receive tax deductible gifts, depending on the type of the surplus funds).</p> <p>Clause 4.5 has been inserted to deal specifically with the application of grants and funding from</p>

		government agencies, in accordance with any conditions attaching to such grants or funding of which AMSA may be in receipt.
Clause 6 and 7 (Overview of structure and membership and membership categories and eligibility)	Clauses 5, 6, 7, 8 and 21.1	<p>The description of the membership structure of AMSA has been refined and clarified in clause 5 of the Proposed Constitution to clearly set out the categories of membership. The only persons/bodies eligible for membership of AMSA are Men's Sheds and the State Associations of each State or Territory and this is clearly stated in clause 5. The Board will still be permitted to appoint Patrons or award Life Membership to deserving Shedders, however these honorary positions do not admit such persons as Members of AMSA within the meaning of the Act. For this reason, the honorary positions are now separately set out at clause 16 of the Proposed Constitution to avoid confusion.</p> <p>In the interests of maintaining a simple form constitution, clause 5 provides that more detailed eligibility criteria for membership will be set out in a dedicated By-Law. Such By-Law will contain essential terms which would be imposed on all Members to ensure they maintain the certain standards and procedures required by AMSA to be and remain eligible for membership.</p> <p>Under the Current Constitution, Men's Sheds are not counted in forming a quorum at Members' meetings or allowed to vote. Voting rights have been extended to provide that, all Members will be eligible to vote at Members meetings provided that, in the case of a Men's Shed, they have been a Member of AMSA for 12 months. As is detailed in clause 8.5, Men's Sheds will be eligible to cast one vote each, with State Associations eligible to cast 5 votes. An additional right of membership which has been afforded to Men's Sheds under the proposed Constitution is the ability to nominate a candidate for election to the Board.</p> <p>Clause 7 of the Proposed Constitution reflects in the main the cessation of membership provisions of the Current Constitution, with improved drafting to align with the clarified membership structure.</p> <p>Clauses 7.2 and 7.3 of the Proposed Constitution set out in detail the circumstances in which the Board may suspend or expel a Member and the procedure that must be followed in this instance. This procedure reflects the current provision contained in clause 7.2 of the Current Constitution (albeit the provisions have been reorganised and the process clarified with improved drafting).</p> <p>The ability for the Board to determine membership fees (clause 7.5 of the Current Constitution) is reflected in broad terms at clause 8 of the Proposed Constitution providing the Board with flexibility in levying subscription fees. In addition, clause 8(d) imposes a condition that some membership rights will be suspended whilst a Member's Subscription Fee remains unpaid.</p> <p>The liability of Members set out at clause 7.6 of the Current Constitution has been replicated in the</p>

		Proposed Constitution at clause 21.1, with the liability of each Member to contribute to the debts and liabilities of AMSA upon its wind up limited to a nominal sum (\$10.00).
Clause 8 (Establishment and operation of Gift Fund)	Not reiterated	As AMSA is an institution which is endorsed as a deductible gift recipient (DGR), we have provided at clause 21.3 of the Proposed Constitution the manner in which property received by AMSA as a result of its DGR Status must be dealt with in the event the DGR endorsement is revoked. Such expression of AMSA's obligations is in accordance with the most recent statement of the law and ensures the Constitution complies with the DGR endorsement requirements.
Clause 9 (Winding up of AMSA)	Clause 21	The winding up provision in the Proposed Constitution is in a common contemporary form and complies with the requirements attached to both the charitable registration and DGR endorsement of AMSA.  For completeness, we have subjected the distribution of any surplus that comprises government grants (if any) to the conditions that apply to such grants.
Clause 10 (Altering this Constitution)	Clause 20	This provision has been preserved in the Proposed Constitution with the omission of the outdated reference to the requirement to notify the Commissioner of Taxation if the objects of AMSA are amended. AMSA now has reporting requirements to the ACNC and must notify the ACNC if AMSA's Constitution is amended or replaced, as well as the ATO if the changes affect AMSA's DGR status.
Clause 11 (Application of the Act)	Clause 2	The Current Constitution provides that the replaceable rules of the Act do not apply to AMSA, with the exception of those rules which are mandatory for public companies. In the interests of maintaining a simple form constitution, clause 2.2 provides that the replaceable rules will apply to AMSA, with the exception of the replaceable rules specifically excluded at clause 2.3 of the Proposed Constitution.

<p>Clause 12 (General Meetings)</p>	<p>Clause 8</p>	<p>The provisions regarding meetings of Members of AMSA have not been reiterated in the Proposed Constitution, with the mandatory provisions under the Act applying in regards to the calling, requisitioning and holding of Members' meetings. Part 2G.2 and 2G.3 of the Act which relate to Meetings of Members and Minutes of Meetings of Members respectively, do not usually apply to charities registered under the ACNC Act as they are displaced by reason of section 111L of the Act.</p> <p>This is due to the fact that companies limited by guarantee which are charities are not obligated to hold meetings of their members, provided that they report to their members in another suitable manner. However, given the number and composition of the membership of AMSA, it is considered that a general meeting of members is the most appropriate forum in which AMSA can report to its members. For this reason, the application of section 111L of the Act has been reversed at clause 2.1 of the Proposed Constitution to provide that Part 2G.2 and 2G.3 of the Act will apply to AMSA. The replaceable rules contained in these Parts of the Act will also apply to AMSA with the exception of replaceable rules 249C (calling of meetings of members by directors), 249T(1) (Quorum) and 249(U) (Chairing meetings of members).</p> <p>Provision has been explicitly made for the determination of a quorum of meetings of Members at clause 8.2, which will comprise the presence (by proxy, attorney or Representative) of 5% of Members who are entitled to be counted in a quorum and vote (which will exclude Men's Sheds whose Subscription Fee is unpaid and/or have been a Member of AMSA for less than one year).</p> <p>Clause 8.3 also provides that the Chairman of the Board will act as Chairman of Members' Meetings and the procedure for replacing him if he is unable to act in such role.</p> <p>Clause 8.5 confirms the number of votes each category of Member shall have (being one vote for Men's Shed's and five votes for State Associations).</p>
<p>Clause 13 (The National Board of Directors) Current Constitution</p>	<p>Clauses 9, 10, 11, 12, 13, 14, and 15</p>	<p>Composition of the Board</p> <p>The composition and manner of appointment of the Board are the most fundamental changes in the Proposed Constitution. It is considered than in accordance with good governance standards and contemporary practices, it is important for an organisation of the size and nature of AMSA to have an opportunity to have directors who can bring skills, experience and expertise to AMSA. It is considered that there is no sufficient opportunity for this with the current representative model Board, which in any event detracts from the intentions behind the establishment of AMSA – that it be a truly unified national body without segmentation of State operations which will be represented on the Board. Indeed, the State Association membership is intended to provide infrastructure support and administrative relief in the consolidation of all Men's Sheds across Australia in a single, national operation that will represent the interests of all Men's Sheds in a unified manner in the</p>

		<p>dealings with Government and all other stakeholders.</p>
		<p>For this reason, it is considered that up to 5 Directors will be independent appointments by the Board, having regard to skills and expertise which will be beneficial to AMSA from time to time. Such qualifications may include persons with a finance or legal background, or other persons who have board experience.</p> <p>The Members will be provided with the opportunity to elect 6 Directors, one from each of the 6 "Regions" which have been defined as each of the States with the Northern Territory and the Australian Capital Territory to be taken to form part of New South Wales and South Australia respectively. Such Directors will be appointed to represent the collective interests of all members and are not representative of their particular State. Clause 9.4 sets out the relevant eligibility criteria which a person must satisfy before they may be elected to the Board, including the requirement that they must have been a Shedder for at least 12 months and must reside in the Region for which they are nominated for election (for example, only Shedders from South Australia will be eligible to nominate as the Director from the South Australia/Northern Territory Region. In addition to this, only Members may only vote in the election for the Director from their Region (for example, the Victorian Men's Shed Association and Men's Sheds in Victoria can only vote in the election for the Director from the Victorian Region).</p>
		<p>Clause 9.4 and 9.5 set out the nomination and election process, which will take place by postal or electronic ballot prior to the Annual General Meeting, with the successful candidates announced at the Annual General Meeting.</p>
		<p>The Proposed Constitution provides a transitional procedure for migrating to the new Board composition comprising elected and appointed directors (in clause 9.8). As an initial step, the current Board will remain in office until the conclusion of the 2018 annual general meeting.</p>

		<p>Thereafter, elections will commence in a staggered manner, with 3 Regions alternating each year in the election of Directors from their Region.</p> <p>The Current Constitution also provides for both the Chief Executive Officer (CEO) and the Immediate Past Chairman to be ex officio members of the Board. As these persons are not intended to be voting members of the Board but rather attend in an observer capacity, clause 13 specifically deals with the right of the Immediate Past Chairman of the Board and the CEO to be invited to attend Board meetings. Practically, there may be some topics which are not appropriately discussed in the presence of the CEO, such as the CEO's performance. Consequently, there is an ability for the Chairman of the Board to request the CEO (or the Immediate Past Chairman) not to attend such meetings (or part thereof) to ensure robust and constructive discussion can be had by the Board.</p> <p>Under the Proposed Constitution, Appointed Directors will hold office for a 3 year term, and will be eligible for reappointment at the close of their term. Elected Directors will hold office until the second Annual General Meeting following their election, and will be eligible for re-election.</p> <p>Directors will be subject to a maximum period in office of 6 consecutive years, but will be able to be reappointed or re-elected after a 2 year absence from the Board. The circumstances where a Director's office becomes vacant have been preserved with updated and modernised drafting and accommodating the changed composition of the Board. Events of vacancy which are contained in the Act have not been reiterated (such as, death, bankruptcy, etc.).</p> <p>In accordance with the requirements of AMSA's charitable registration, the proposed Constitution also lists the circumstances prescribed by the ACNC Act in which a director will vacate their office. Clause 13.2(b) has not been reiterated as it is no longer applicable given State Associations will not directly appoint a representative to the Board.</p> <p>As a general principle, it is not necessary that specific powers and duties of the Board be set out in a defined list in a constitution, and therefore clause 13.4 of the Current Constitution has not been replicated in its entirety. Clause 10 of the Proposed Constitution does however, provide an overarching statement in respect of the Board's power and imposes an obligation on the Directors to use reasonable endeavours to meet a request of AMSA to comply with the ACNC governance standards and requirements in respect of such which are imposed by the ACNC Act.</p> <p>An explicit power is also provided at clause 14 of the Proposed Constitution for the Board to specify By-Laws in relation to the operation and good governance of AMSA. The provision sets out various matters on which AMSA may wish to provide further direction, without limiting the scope of the matters which may be regulated by AMSA (consistent, of course, with the Constitution and the Act).</p>
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		<p>Such provision will enable the Board to continue setting out such matters in By-Laws (such as the Membership Conditions By-Law which has previously been developed by the Board) without importing unnecessary detail into the Proposed Constitution.</p> <p>The provision relating to the ability to appoint an alternate director has not been replicated as it is contained in section 201K of the Act.</p> <p>Meetings of Directors</p> <p>The current requirement that the Board must meet at least 4 times per year has been retained, with the additional requirement that at least two meetings must be face to face without the use of technology. The use of technology in directors' meetings is otherwise set out at section 248D of the Act and is therefore not repeated in the Proposed Constitution. The quorum for meetings of directors has been expressed as a majority of Directors which provides greater flexibility than is currently provided for at clause 13.8 of the Current Constitution. Clause 13.9 of the Current Constitution relating to the Chairman of the Board has been reflected at clause 11 of the Proposed Constitution with the addition of the provision for the role of a Deputy Chairman.</p> <p>The current provision which provides for directors to pass a resolution without a meeting has been retained and clarified at clause 12.5 of the Proposed Constitution. The Act provides for the Directors to pass resolutions without holding a meeting (circular resolutions) by unanimous agreement of Directors to the relevant resolution (section 248A of the Act). This is the position currently applying to AMSA under clause 13.10 of the Current Constitution (with an allowance for Directors who are on a leave of absence or disqualified from voting due to a conflict of interest). This threshold of 100% approval contained in the Act is replaceable and may be lowered to enable efficient passing of resolutions without a meeting and without having to obtain the agreement of all Directors. For purposes of practicality and ease of passing circular resolutions, clause 12.5 provides for a circular resolution to be passed by 75% of the total number of Directors providing their written consent. The threshold is still higher than that required for a resolution at a meeting of Directors (51% of those Directors present) to acknowledge the fact that circular resolutions do not provide the same opportunity for the Directors to debate a matter but at the same time offer some flexibility to not hamper decision making by the Board due to say, one Director being away and unable to vote on a circular resolution.</p> <p>Committees</p> <p>The provision regarding the establishment of committees of the Board and their operation in clause</p>
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		13.12 has essentially been restated in clause 15 of the Proposed Constitution in a broad manner to provide flexibility to the Board in the establishment of any committees and determining their terms of reference. Clause 15.3 of the Proposed Constitution provides that the committees comprise such membership as determined by the Board provided there is at least one Director on each committee with the Chair of each committee being appointed by the Board.
Clause 14 (Executive Officers)	Clause 17	This provision has been amended to simply refer to the appointment and role of the Chief Executive Officer of AMSA. In accordance with common practice, the appointment and role of Executive Officers will be more appropriately dealt with in By-Laws or employment contracts as relevant.
Clause 15 (Indemnity and Insurance)	Clause 22	This position has been preserved with updates to the law including the restrictions on indemnity granted to officers in sections 199A of the Act and restrictions on insurance premiums in section 199B of the Act.
Clause 16 (Auditor)	No equivalent	Detailed requirements concerning financial reporting and audit and the appointment of the auditor are prescribed by the ACNC Act, with which AMSA is required to comply whilst it is a charity. For this reason, no specific provision relating to audit requirements has been incorporated in the Proposed Constitution.
Clause 17 (Notices by the association to members)	No equivalent	The provision concerning notice of Members' meetings in the Current Constitution reflects the provision in the Act (section 249J) and therefore has not been repeated in the Proposed Constitution.
Clause 18 (Association Secretary (Company Secretary))	Clause 18	Whilst the requirement to appoint a secretary is contained in Part 2D.4 of the Act, for completeness in providing for the appointment and terms of each officer of AMSA, we have retained the Company Secretary provision in the Proposed Constitution with improved drafting.
Clause 19 (Seals)	Clause 19	The provision regarding the execution of documents and the custody and use of AMSA's Seal in clause 19 of the Current Constitution has been preserved in clause 19 of the Proposed Constitution.
Clause 20 (Accounts)	No equivalent	The provision relating to Accounts has not been retained in the Proposed Constitution, as AMSA is required by the ACNC Act to maintain and audit its financial accounts. The exact obligations imposed by the ACNC Act differ depending on the size of the revenue of AMSA, which may fluctuate from year to year. As such requirement is set out in detail in the ACNC Act, it is not necessary to reiterate the position in the Proposed Constitution
Clause 21 (Charitable Fundraising Legislation)	None	AMSA is required by law to comply with the relevant charitable legislation in each State in which it undertakes fundraising and it is therefore not necessary to reiterate this position in the Proposed Constitution.
Clause 22 Definitions	No equivalent	The definitions have been updated to reflect the terminology used in the Proposed Constitution as well as the amendments, with the fundamental concepts retaining the same meaning

