

CONSTITUTION

OF

MENSHEDS AUSTRALIA Ltd

National Body for Sheds

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A company limited by guarantee

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Preamble

Mensheds Australia Ltd (hereinafter referred to as MSA or the company) exists to benefit Sheds, Shedders and the Shed movement.

It is owned and directed by its guarantor members (state and territory associations of Men's Sheds) on behalf of Shedders.

It pursues its goals through three types of activities:

- Services direct to members, Sheds and Shedders, that meet their needs.
- Representation and promotion to government, business and the community, being work that benefits all Sheds but is not practical for individual Sheds to pursue.
- Leadership in the development of the Men's Sheds movement.

Defining a Shed

A Men's Shed is a self-managed group of men who meet to enjoy company and activities.

A Men's Shed is not a community service, but it will usually provide and support community services.

A Men's Shed is not a health program but participation will usually deliver well-being benefits.

A Men's Shed is not an educational institution but men who attend can continue to learn – and to teach.

A Men's Shed is not a program – attendance cannot be prescribed – but participation will improve people's lives.

One Men's Shed is not the same as another Men's Shed – the men in each Shed decide how it will be, to suit them.

A Men's Shed in its essence is a group of men meeting together because spending time with other men is good and valuable.

A Men's Shed is a not for profit, community organisation owned and run by its members.

A Men's Shed does not promote particular religious or political views, but it does not tolerate racism, sexism, bullying, social exclusion or denigration. A Men's Shed respects and supports women in all their roles.

A Men's Shed is open and welcoming to men of all ages.

A Men's Shed may choose to have only male members or it may have female participants in some or all situations; each Shed has the right to make these decisions individually and Mensheds Australia will support them in that decision.

Preliminary

1. Name of the company

The name of the **company** is Mensheds Australia Ltd (the **company**).

2. Type of company

The **company** is a not-for-profit public **company** limited by guarantee which is established to be, and to continue as, a charity.

3. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 4.

4. The guarantee

Each member must contribute an amount not more than \$10 (the guarantee) to the property of the **company** if the **company** is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

- a) debts and liabilities of the **company** incurred before the member stopped being a member, or
- b) costs of winding up.

5. Definitions

In this constitution, words and phrases have the meaning set out under *Definitions and interpretation* on page 38.

Charitable purposes and powers

6. Object

The objects of Mensheds Australia are:

6.1 Principal Purpose

The principal purpose of the Mensheds Australia is to promote the prevention and control of diseases in men.

In furtherance of the principal purpose, the objects of the company are:

6.2 Peak Body

- (a) To support the operation and development of Men's Sheds in Australia so that every man may have the opportunity to participate in and benefit from Shed activities.
- (b) To be representative of Sheds and Shedders.
- (c) To support Sheds and Shedders, in particular in delivering benefits that individual Sheds may not be able to achieve alone.
- (d) To champion the independence of individual Sheds as self-managed groups, which is fundamental to the benefits Sheds deliver.
- (e) To promote a sustainable Men's Shed movement in Australia.

6.3 Men's Health and Wellbeing

- (a) To promote the benefits of the Men's Sheds movement in the prevention of all forms of disease and mental illness in men to all stakeholders.
- (b) To provide advice to Men's Sheds on the most appropriate ways of promoting the early intervention and prevention of all forms of disease and mental illness in men.
- (c) To raise awareness of men's health and wellbeing issues in a holistic sense covering physical, mental, emotional and social components.
- (d) To promote the value of Men's Sheds to various groups of men, including the elderly, men with a disability, young men, veterans, indigenous and others and to specifically address any issues of loneliness, isolation and depression.
- (e) To promote the social interaction of men in transitional periods (e.g. separation, redundancy, bereavement, retirement, ill health, relocation and respite care).
- (f) To promote a culture in Men's Sheds where all men are welcome and where mutual respect and trust are paramount.
- (g) To facilitate links between men and health-related agencies, family organisations and specialist health professionals within the community.

6.4 Community Development

- (a) To advocate the benefits of partnerships between men's sheds and the broader community.
- (b) To promote the sharing, dissemination and preservation of skills, abilities and interests that are relevant to the community.

6.5 Overall

- (a) To support the operation and development of Men's Sheds in Australia so that every man may have the opportunity to participate in and benefit from Shed activities.
- (b) To be representative of Sheds and Shedders.
- (c) To support Sheds and Shedders, in particular in delivering benefits that individual Sheds may not be able to achieve alone.
- (d) To champion the independence of individual Sheds as self-managed groups, which is fundamental to the benefits Sheds deliver.
- (e) To promote all aspects of men's health including social, emotional, mental and spiritual.

7. Powers

- 7.1 Subject to clause 8, the company has the following powers, which may only be used to carry out its objects set out in clause 6:
- (a) the powers of an individual, and
 - (b) all the powers of a **company** limited by guarantee under the **Corporations Act**.
- 7.2 MSA is not an administrative authority. It may require certain actions as a condition of membership and may discipline non-compliance with those conditions as set out in the constitution, but it is not empowered to direct members or Sheds on their operations; it exists to help and support them.

8. Not-for-profit

- 8.1 The **company** must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 8.2 and 82.
- 8.2 Clause 8.1 does not stop the **company** from doing the following things, provided they are done in good faith:
- (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**,
 - (b) making a payment to a member in carrying out the **company's** purposes, or
 - (c) administering grants and donations for the benefit of Sheds.

9. Amending the constitution

- 9.1 Subject to clause 9.2, the members may amend this constitution by passing a **special resolution**, the subject of which is notified to members at least a month in advance, which must be voted for by at least 75% of members whether present or not. This requirement for notification allows for the wording of the special resolution to be modified at the meeting.
- 9.2 The members must not pass a **special resolution** that amends this constitution if passing it causes the **company** to no longer be a charity.

Transitional Rules

TR1 These transitional rules apply from the time this constitution is adopted by Mensheds Australia Ltd (MSA) until such time as:

- they are cancelled by a meeting of members,
- four state associations in total have joined, or
- one year has passed,

whichever occurs first.

The board at that time may consider that a further transitional arrangement is required and may use a scheduled general meeting or call a special general meeting to consider extended and/or varied transitional arrangements to be approved in place of these rules.

In particular the board may wish to extend Transitional Rule 4 (election for the President by the board rather than by members) if there is no suitable election procedure in place.

- TR2** While these transitional rules are in place, the people appointed to the board shall also act as the members at any general or special meeting, so that the board and a meeting of members are functionally the same.
- TR3** Each state association which subsequently joins MSA shall be entitled to appoint one director to the board and three representatives to act for it at general meetings of the members. When the first association joins, one of the current directors who is not the president will resign and their place will be filled by the representative of the new member. When the second association joins, the other current director who is not the president will resign and their place will be filled by the representative of the new member. When further associations join, new board positions will be created for them.
- TR4** The President under transitional rules shall be elected by the board and may be changed by the board via a board meeting majority vote. The president once elected is deemed to represent the interests of all Sheddors and so can no longer represent a state. The state they originally represented may nominate a new board representative. The president has no deliberative vote but has a casting vote in the event of a tie. If a president is removed they leave the board; the representative of their state continues. A state may however replace their representative with a former president.
- TR5** While these transitional rules are in force they override other provisions of this constitution where any conflict occurs. In particular clauses in this constitution specifying the numbers needed for quorums and to pass motions including constitutional changes will be suspended under these transitional rules and in all cases a simple majority of those present is all that will be required. The rule against a director also being a representative is also suspended under these transitional rules. Any conflict between the transitional rules and the full constitution shall be resolved in favour of the transitional rules while they are in force.

Members and Sheddors/Sheds/Life Sheddors

10. Membership and register of members

- 10.1 The only members of MSA are the State and Territory Associations of Men's Sheds: they alone are its guarantors and thus its owners. They include:
- (a) initial State members, and
 - (b) any other State or Territory Associations that the Members allow to be members, in accordance with this constitution.
- 10.2 The board may appoint individuals to the honorary title of Life Shedder. This is a non-voting, non-guarantor position. Life Sheddors are exempt from any MSA registration fees. Life Sheddors may not also be directors of MSA. Whether they can be representatives is a matter for their respective State or Territory association.
- 10.3 Individual Sheddors are invited to register with MSA and become "Registered Sheddors". This is a non-guarantor status. Once a Shedder has been registered for six continuous months they are entitled to vote in elections for the position of President only. They may cast one vote per ballot and this right is not transferable. Registered Sheddors will receive direct

electronic copies of news, information and resources approved by MSA, including access to resources restricted to members, from the date of acceptance of their registration.

- 10.4 Individual Sheds are invited to register with MSA and become “Registered Sheds”. This is a non-voting, non-guarantor status. Registered Sheds will receive direct electronic copies of news, information and resources approved by MSA, including access to resources restricted to members, from the date of acceptance of their membership.
- 10.5 In summary then there are:
- (a) **Members**, who are the state and territory associations who alone guarantee and own the company. When the word “member(s)” is used in this constitution, unless otherwise indicated, it means exclusively the state and territory associations who alone guarantee and own the company.
 - (b) **Life Shedders**, which is an honorary, non-guarantor and non-voting title.
 - (c) **Registered Sheds**, which is a non-guarantor and non-voting status.
 - (d) **Registered Shedders**, which is a non-guarantor status with the right to vote in elections for the President.
- 10.6 MSA shall establish and maintain a register of members, registered Sheds and Registered Shedders. The register must be kept by the secretary and must contain:
- (a) for each current organisational member:
 - i. name of the organisation
 - ii. both an email and a physical/mail address
 - iii. any alternative address nominated by the member for the service of notices,
 - iv. names of office bearers,
 - v. name of representative nominated for the Board of the Men’s Shed National Body, and
 - vi. date the member was entered on to the register.
 - (b) For each individual Shedder member:
 - vii. name
 - viii. both an email and a physical/mail address
 - ix. Shed(s) they are a member of, or notation of an exemption approved by the Board or the President that they do not have reasonable access to an existing Shed, having regard to their location, personal mobility and capabilities.
 - (c) For each member who stopped being a member in the last 7 years:
 - x. name of the organisation or person
 - xi. address
 - xii. any alternative address nominated by the member for the service of notices, and
 - xiii. dates the membership started and ended.
- 10.7 MSA will use the list of Registered Shedders as the roll for election of the President. Only those who have been on the roll continuously for at least 6 months prior to the date of the commencement of voting will be entitled to vote.
- 10.8 MSA must give current guarantor members access to the register. This does not apply to registered Sheds or Shedders except in the President’s discretion. In the context of an election for President, MSA will send material from candidates to all registered Sheds and Shedders in a format to be decided by the board, but will not disclose individual details.

10.9 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of Members, Sheds or Shedders.

11. Who can be a member

- 11.1 Only Australian State or Territory Associations of Men's Sheds approved by a general meeting of MSA may be guarantor /owner members of MSA.
- 11.2 There can be only one State or territory association admitted for each State or Territory.
- 11.3 Individual Shedders are invited to register with MSA and become registered Shedders. For their registration to be accepted, Shedders must declare their support for the objectives of MSA as set out in this Constitution and that they are a current member of a Men's Shed (regardless of whether or not that Shed is a member of an association that is a member of MSA), or that they wish to join a Shed but do not have practical access to an existing Shed.
- 11.4 Individual Sheds are invited to register with MSA. For their registration to be accepted, Sheds must declare their support for the objectives of MSA as set out in this Constitution.
- 11.5 All members, Registered Sheds and Registered Shedders must support the purposes of MSA.

12. How to apply to become a member

- 12.1 An association (as defined in clause 11.1) may apply to become a member of MSA by writing to the secretary stating that they:
 - (a) want to become a member
 - (b) support the purpose(s) of MSA, and
 - (c) agree to comply with the MSA's constitution, including paying the guarantee under clause 4 if required.
- 12.2 The board by majority vote may invite an association to apply for membership.
- 12.3 Sheds and Shedders may apply for registration with MSA either in writing or using an online form to be provided on the MSA website.
- 12.4 A proposal to confer Life Shedder status may be initiated by any director at a board meeting or by a motion at any general meeting.

13. Procedures for accepting, declining and appealing membership or registration applications

- 13.1 The directors must consider an application for membership or registration or a motion for conferring life membership within a reasonable time after the secretary receives the application.
- 13.2 If the directors decide to recommend to the members that an Association's application for membership be approved, the Association shall be granted provisional membership.
 - (a) The secretary shall enter the new member on the register of members.
 - (b) The secretary shall write to the applicant to tell them that they have been granted provisional membership, the date that their membership and the process for ratification.
 - (c) Provisional membership entitles the member to all the rights and privileges of membership as provided in this constitution except the right to vote on a motion to ratify their membership.

- (d) Provisional membership must be ratified at the next meeting of members by at least 75% of all possible representative votes whether present or not. The 75% calculation excludes representatives of the member being voted on. At a meeting of members the ratification of provisional memberships should be the first item of business requiring a vote, other than confirmation of previous minutes, to avoid the confusion of an unratified member casting votes and then later being disqualified from voting.
 - (e) If a provisional membership is not approved at the next general meeting then the provisional membership is cancelled.
 - (f) Membership applicants who are not ratified by a general meeting and thus declined may apply again not less than three months after the meeting of members following their approval by the Board.
 - (g) Decisions of the Board in which a provisional member has voted shall stand even if the membership is not subsequently ratified.
- 13.3 For the avoidance of doubt, the directors may recommend an application for approval even if the application does not state the matters listed in clauses 12.1 (a), 12.1 (b) or 12.1 (c). In that case, by applying to be a member, the applicant agrees to those three matters.
- 13.4 If the directors reject an application for membership, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.
- 13.5 The decision of the directors to reject an application must be notified to the next meeting of members.
- 13.6 The subject of a declined application to become a member may within 30 days of notification of the failure of their application being notified request a review of the decision by a meeting of members. Such review will be made at a properly constituted meeting of members at least four weeks after the date of the application for review. The applicant may submit material which must be distributed to members in advance and the applicant may address the meeting for up to 15 minutes in person or by phone/teleconference or a chat facility like Skype. The meeting must vote on the review. The decision to decline an application for membership may be reversed and the application accepted only by a vote of at least 75% of all possible representative votes whether present or not. If there is no such vote then the decision to decline the application stands. This outcome is final, however it applies only for 12 months from the date of the meeting, after which time the applicant may apply again.
- 13.7 The subject of a declined application may request the President or person authorised by the President to give them a verbal briefing on the reasons for their application being rejected, but must first sign a written undertaking to the satisfaction of MSA's lawyers not to initiate any legal action against MSA or its office bearers based on or including material from that briefing.
- 13.8 Any meeting of members may by a motion approved by a majority of representatives present reverse a board decision to decline a membership application, without receiving a request for an appeal from the subject party, but this motion must be advised to the MSA secretary sufficiently in advance for it to be included in the notice of agenda when it is sent out.

14. Procedures for accepting, declining and appealing Shed and Shedder registration applications

- 14.1 All Shed and Shedder applications for registration can be approved by the Board on a majority vote of those present, including granting of an exemption from the Shed membership requirement as applicable. Applications may be declined by the Board if the board judges the application to not to be in the best interests of the Sheds movement. The board does not have to publish formal reasons for a decision on a registration application but the decision will be included in publicly posted minutes of the meeting.
- 14.2 Any Shedder or Shed whose application for registration is declined may request that the board review the decision to not admit them. Such review will be made at a board meeting at least four weeks after the date of the application for review. The applicant may submit material which the board must consider and the applicant may address the board for up to 15 minutes in person or by phone/teleconference or a chat facility like Skype. The decision of this review is final except as allowed for in clause 14.4. A decision to decline an application applies only for 12 months from the date of final decision, after which time the applicant may apply again.
- 14.3 The subject of a declined application may request the President or person authorised by the President to give them a verbal briefing on the reasons for their application being rejected, but must first sign a written undertaking to the satisfaction of MSA's lawyers not to initiate any legal action against MSA or its office bearers based on or including material from that briefing.
- 14.4 Any representative may at a general meeting move that consideration be given to reversing a board decision to approve or decline a registration, but this must be done no later than the next general meeting after the meeting which receives notification of the board's decision.
- 14.5 If a motion to consider reversing a registration decision is carried by a simple majority of those present then a date and time at a future general meeting shall be set for discussion and voting on the motion. The subject of the motion shall be promptly advised in writing at least three weeks in advance of the vote and shall have the right to submit material and to address the meeting for up to 15 minutes either in person or via electronic means.
- 14.6 A motion to reverse a registration decision requires a 75% vote of all representatives whether present or not.
- 14.7 A motion to reverse a registration decision that has been voted on and lost cannot be reconsidered within 12 months of the date of decision.

15. When an organisation becomes a member

- 15.1 Other than **initial members**, an applicant will become a member when they are entered on the register of members.

16. When membership stops

- 16.1 A state or territory association immediately stops being a member if it is:
- (a) Wound up or otherwise dissolved or deregistered,
 - (b) Resigns, by writing to the secretary, such action having been properly executed according to the rules of the resigning association,
 - (c) Is expelled under section 23, 24 or 22, or 25, or

- (d) Is declared by the board to be moribund, having not responded over three months to multiple and persistent requests via more than one channel (eg, email and phone), amounting to a determined effort at contact, and 30 days have passed since that declaration.

16.2 A Shedder ceases to be registered if they:

- (a) Die,
- (b) Resign, in writing to the secretary,
- (c) Remove their details/unsubscribe from the registration list via the MSA website
- (d) Have their registration approval reversed under Section 14,
- (e) Are declared by the board to be uncontactable, having not responded over six months to multiple and persistent efforts at contact, and 30 days have passed since that declaration.

16.3 A Shed ceases to be registered if they:

- (a) Become insolvent or are wound up,
- (b) Resign, in writing to the secretary,
- (c) Remove their details/unsubscribe from the registration list via the MSA website
- (d) Have their registration approval reversed under Section 14,
- (e) Are declared by the board to be uncontactable, having not responded over six months to multiple and persistent efforts at contact, and 30 days have passed since that declaration.

17. Membership fees

17.1 The board may set annual fees for members, Registered Sheds and Registered Sheddors and may vary fees in relation to population or number of Sheds or number of Sheddors or any other factor it considers pertinent. Annual fees may be charged pro-tatas to a fixed renewal date if the board so chooses. The board may elect to set a zero fee for Registered Sheds and/or Sheddors.

17.2 Fee structures and changes to fee structures must be ratified at the next meeting of members and may be changed at such a meeting or by any meeting of members where a fee change motion has been duly notified sufficiently in advance to allow inclusion on the agenda, but such changes are not retrospective.

18. Right to be heard

18.1 Sheddors and Sheds have a right to their opinions and to be heard and respected. It is not the intent of this constitution that Sheds or Sheddors be denied a voice simply on procedural grounds. As a safeguard, registered Sheds and Sheddors which are not represented on MSA via a State or Territory association or member thereof may ask the President to present their viewpoints to the board and general meetings and the President will act on such requests according to their best judgement, having regard to the right of all Sheds and Sheddors to have their legitimate views and issues heard. This does not include the promotion of views that do not support or are not relevant to MSA's goals.

Governance and representation

19. Overview

19.1 There are three decision making entities in MSA:

- (a) The board, comprised of elected and appointed directors and the President, which manages the day to day affairs of MSA via formal meetings, and
- (b) Meetings of members (general, annual special and ordinary meetings), comprised of representatives of the State and Territory associations which are members of MSA.
- (c) The President, who has a casting vote in the event of a tied vote at a board or general meeting, and has various other operational powers as described in this constitution, including waving Shed membership requirements and presenting the viewpoints of Sheds which are not represented on MSA through a state or territory body.

20. Appointment of directors to the board by members

20.1 Members may appoint people to act as directors of MSA and sit on the MSA board:

- (a) A member which is a state association may appoint one person to act as a director of MSA and sit on the board.
- (b) Members which are Territory associations may collectively appoint one person to act as a director of MSA and sit on the board.
- (c) A director appointed by a member(s) holds their position at the pleasure of the appointing member(s). The appointing member(s) may cancel that position by notification in writing to both the person and the MSA secretary and such cancellation will have effect immediately on receipt by MSA.
- (d) Member(s) who cancel their appointment of a person to be a director may immediately replace that person with another person, by written notification to MSA.
- (e) The maximum term of an MSA director is subject to limits set in clause 49.
- (f) The Association which appoints a director may set a shorter term for that director.
- (g) Directors may not also be representatives.
- (h) A director may proxy their vote in accordance with clauses 43 and 44.
- (i) If no director is currently in office then the member(s) entitled to appoint to that position may proxy that vote in accordance with clauses 43 and 44.

20.2 The appointment of a representative by a member must:

- (a) be in writing
- (b) include the name of the representative
- (c) be signed on behalf of the member, and
- (d) be given to MSA or, for representation at a meeting, be given to the chairperson before the meeting starts.

21. Appointment of representatives of members to act at general meetings

21.1 A member may appoint as a representative:

- (a) For members which are State associations, three individuals to be its representatives at meetings of members and vote on behalf of the member at meetings of members and to sign circular resolutions,

- (b) For members which are Territory associations, one individual to be its representative at meetings of members and vote on behalf of the member at meetings of members and to sign circular resolutions,
 - (c) Providing that these people are not also Directors of MSA.
- 21.2 The appointment of a representative by a member must:
- (a) be in writing
 - (b) include the name of the representative
 - (c) be signed on behalf of the member, and
 - (d) be given to MSA or, for representation at a meeting, be given to the chairperson before the meeting starts.
- 21.3 A representative has all the rights of a member relevant to the purposes of the appointment as a representative.
- 21.4 The appointment may be once-only or standing (ongoing).
- 21.5 All appointments are subject to the support of the member which made them and may be withdrawn or changed by decision of the member, such decision made in accordance with its own constitution or rules.
- 21.6 State associations may proxy their three voting entitlements to named individuals, who may but do not have to be representatives. The three votes may be exercised by one, two or three individuals.
- 21.7 Clauses 43 and 44 of this constitution govern the process of appoint proxies and apply in all situations including this.
- 21.8 For the avoidance of doubt, this section is intended to ensure that each State association can have three votes at general meetings and each Territory association one vote, but that State associations which choose not to or cannot send three members to a meeting may still exercise three votes, whether via one representative with three votes or two representatives, one with two votes and one with one vote.
- 21.9 For the avoidance of doubt, the constitutional settings on appointment of representatives is intended to allow for diversity of opinion.
- 21.10 There is no requirement under this constitution for the representatives of a member to all vote the same way. A member may via their own constitution and rules bind the votes of their representatives but enforcement of their rulings is up to them. MSA will accept votes as they are cast. A vote cannot be over-turned on the basis of a duly authorised representative(s) not voting in accordance with the directives of the member they represent.
- 21.11 A representative has all the rights of a member relevant to the purposes of the appointment as a representative.

Dispute resolution and disciplinary procedures

22. Dispute resolution

22.1 The dispute resolution procedure in this section applies to disputes (disagreements) under this constitution between a member or director and:

- (a) one or more members
- (b) one or more directors, or
- (c) the **company**.

It does not apply to Registered Sheds or Registered Shedders.

22.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under this constitution until the disciplinary procedure is completed.

22.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.

22.4 If those involved in the dispute do not resolve it under clause 22.3, they must within a further 10 days:

- (a) tell the directors about the dispute in writing
- (b) agree or request that a mediator be appointed, and
- (c) attempt in good faith to settle the dispute by mediation.

22.5 The mediator must:

- (a) be chosen by agreement of those involved, or
- (b) where those involved do not agree:
 - i. for disputes between members, a person chosen by the directors, or
 - ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the President of the law institute or society in the state or territory in which MSA has its registered office.

22.6 A mediator chosen by the directors under clause 22.5 (b):

- (a) may be a current or former MSA director or representative,
- (b) must not have a personal interest in the dispute, and
- (c) must not be biased towards or against anyone involved in the dispute.

22.7 When conducting the mediation, the mediator must:

- (a) allow those involved a reasonable chance to be heard
- (b) allow those involved a reasonable chance to review any written statements
- (c) ensure that those involved are given natural justice, and not make a decision on the dispute.

23. Disciplining of members by the board

23.1 In accordance with this clause, when the directors consider that:

- (a) a member has breached this constitution, or
- (b) a member's behaviour is causing, has caused, or is likely to cause harm to MSA or its objective

then the directors may subject to the procedures outlined here resolve to:

- (c) warn the member of MSA, or
- (d) recommend to a meeting of members that the member be disciplined, suspended or expelled.

23.2 At least 21 days before the directors' meeting at which a resolution under clause 23.1 will be considered, the secretary must notify the member in writing:

- (a) that the directors are considering a resolution to warn, suspend or expel the member
- (b) that this resolution will be considered at a directors' meeting and the date of that meeting
- (c) what the member is said to have done or not done
- (d) the nature of the resolution that has been proposed, and
- (e) that the member may provide an explanation to the directors, and details of how to do so.

23.3 Before the directors pass any resolution under clause 23.1, the member must be given a chance to explain or defend themselves by:

- (a) sending the directors a written explanation before that directors' meeting, and/or
- (b) speaking at the meeting.

23.4 After considering any explanation under clause 23.3, the directors may:

- (a) take no further action
- (b) warn the member of MSA
- (c) recommend to a meeting of members that the member be disciplined, suspended or expelled, or
- (d) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, that person can only make a decision that the directors could have made under this clause).

23.5 The directors cannot fine a member.

23.6 The secretary must give written notice to the member of the decision as soon as possible.

23.7 Disciplinary procedures must be completed as soon as reasonably practical.

23.8 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

24. Disciplining of members by the members in response to a recommendation by the board

24.1 A duly constituted meeting of members may act on disciplinary matters based on receipt of a recommendation from the board or on its own initiative or the initiative of members.

- 24.2 The procedure for discipline by the members shall follow as far as practical the same procedure as for disciplinary action by the board as set out above, especially provisions for due notice and right to present a defence.
- 24.3 For the avoidance of doubt, this duplication of process is intentional and aims to ensure that the disciplining of members is treated as a serious process which must involve the passage of time and a reconsideration of the situation.
- 24.4 A meeting of members may, acting in accordance with this constitution, consider that:
- (a) a member has breached this constitution, or
 - (b) a member's behaviour is causing, has caused, or is likely to cause harm to MSA or its objective

and may then subject to the procedures outlined here resolve to:

- (c) take no further action
 - (d) warn the member of MSA
 - (e) discipline the member in a way to be decided by a meeting of members, which could be a subsequent meeting
 - (f) suspended the member for a period of time which must be defined as part of the resolution, or
 - (g) expel the member effective immediately.
- 24.5 Disciplinary actions taken by a meeting of members including warning, disciplining and suspending a member will require the vote at least 75% of members excluding the representatives of the member being disciplined, whether present or not.
- 24.6 A decision to expel a member shall require the vote of at least 75% of members excluding representatives of the member being disciplined, whether present or not.
- 24.7 A member which has been expelled may within 30 days lodge an appeal against suspension and then will be entitled to address the next meeting of members for up to 20 minutes, plus time to answer any questions posed by members. The meeting must then vote on a resolution to confirm the expulsion, which must be passed by at least 75% of members excluding representatives of the expelled member, whether present or not.
- 24.8 At a meeting of members, representatives of a member which is the subject of disciplinary proceedings shall not be entitled to vote on a resolution to expel them.
- 24.9 For the avoidance of doubt, for a member to be expelled on the initiative of the board will require a minimum of two and up to three resolutions for expulsion to be duly passed.

25. Disciplining of members by the members when there is no recommendation by the board

- 25.1 A duly constituted meeting of members may act on disciplinary matters on its own initiative in the absence of a recommendation from the board.
- 25.2 Clause 24.7 still applies, giving the expelled member a right of appeal.
- 25.3 When a motion to expel is passed the secretary shall notify the subject member in writing within seven days of the decision, and advise of the right of final appeal.

26. De-registration of Sheds and Shedders

- 26.1 A motion to deregister a Shed or Shedder may be put to a board meeting without notice, either at the request of a member made via their director or on the initiative of a director.
- 26.2 The motion must state reasonable grounds for deregistration.

- 26.3 The chair shall defer discussion of the motion until the President has made reasonable attempts to contact the Shedder or Shed and resolve the issue.
- 26.4 When the President notifies that no resolution seems reasonably possible, the motion to deregister may be voted on and will require a simple majority of those present.
- 26.5 Shed and Sheddors have rights of appeal against deregistration as set out in clauses 14.2 to 14.7 inclusive.

Calling and running meetings

27. General meetings called by directors

- 27.1 The directors may call a **general meeting**.
- 27.2 Any two members (state or territory associations) may make a written request to MSA for a **general meeting** to be held, and the directors must:
- (a) within 21 days of the members' request, give all members notice of a **general meeting**, and
 - (b) hold the **general meeting** within 2 months of the members' request.

28. General meetings called by members

- 28.1 If the directors do not call the meeting within 21 days of being requested under clause 27.2, any of the members who made the request may call and arrange to hold a **general meeting**.
- 28.2 To call and hold a meeting under clause 28.1 the members must:
- (a) as far as possible, follow the procedures for **general meetings** set out in this constitution
 - (b) call the meeting using the list of members on MSA's member register, which MSA must provide to the members making the request at no cost, and
 - (c) hold the **general meeting** within three months after the request was given to MSA.

29. Annual general meeting

- 29.1 A general meeting, called the annual general meeting, must be held:
- (a) within 18 months after registration of the **company**, and
 - (b) after the first annual **general meeting**, at least once in every calendar year.
- 29.2 Even if these items are not set out in the notice of meeting, the business of an annual general meeting may include:
- (a) a review of the **company's** activities
 - (b) a review of the **company's** finances
 - (c) any auditor's report, and
 - (d) the appointment and payment of auditors, if any.
- 29.3 Before or at the annual **general meeting**, the directors must give information to the members on MSA's activities and finances during the period since the last annual **general meeting**.

29.4 The chairperson of the annual **general meeting** must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of MSA.

30. Notice of general meetings

30.1 Notice of a **general meeting** must be given to:

- (a) each member (state and territory associations) entitled to vote at the meeting
- (b) each member representative currently appointed by each member and advised in writing with contact details
- (c) each director, and
- (d) the auditor (if any).

30.2 Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.

30.3 Subject to clause 30.4, notice of a meeting may be provided less than 21 days before the meeting if:

- (a) for an annual **general meeting**, all the representatives entitled to attend and vote at the annual **general meeting** agree beforehand, or
- (b) for any other **general meeting**, representatives or with at least 90% of the votes that may be cast at the meeting agree beforehand.

30.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:

- (a) remove a director
- (b) remove an auditor.

30.5 Notice of a **general meeting** must include:

- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this)
- (b) the general nature of the meeting's business
- (c) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution
- (d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
 - i. the proxy does not need to be a member of MSA
 - ii. the proxy form must be delivered to MSA at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
 - iii. the proxy form must be delivered to MSA at least 48 hours before the meeting.

30.6 If a **general meeting** is adjourned (put off) for one month or more, the members must be given new notice of the resumed meeting.

31. Quorum at general meetings

- 31.1 For a **general meeting** to be held, there must be a quorum including at least four people present and the people present must represent at least four state associations. These conditions must be met for the entire meeting; if they cease to be met the meeting must be called to a halt. If the board has approved the use of remote technology at general meetings then persons connecting this way can be included as present.
- 31.2 For the avoidance of doubt, this clause requires both that four people be present and that four state association members be represented. One person could represent two members, for example by being appointed as representative for one association and holding a proxy from another, so they would count as two of the four required members, but they would still count as only one of the four required persons.
- 31.3 No business may be conducted at a **general meeting** if a quorum is not present.
- 31.4 If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
- (a) if the date is not specified – the same day in the next week
 - (b) if the time is not specified – the same time, and
 - (c) if the place is not specified – the same place.
- 31.5 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

32. Auditor's right to attend meetings

- 32.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 32.2 MSA must give the auditor (if any) any communications relating to the **general meeting** that a member of the **company** is entitled to receive.

33. Using technology to hold meetings

- 33.1 MSA may hold a **general meeting** at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard, that has been approved by the board.
- 33.2 Anyone using this technology is taken to be present in person at the meeting.

34. Chairperson for general meetings

- 34.1 The **President** is entitled to chair **general meetings**.
- 34.2 The members present and entitled to vote at a **general meeting** may choose a director or member to be the chairperson for that meeting if:
- (a) there is no elected chairperson, or
 - (b) the elected chairperson is not present within 30 minutes after the starting time set for the meeting, or
 - (c) the elected chairperson is present but says they do not wish to act as chairperson of the meeting.

- (d) The meeting carries a motion of no confidence in the President acting as chair, such motion requiring a proposer and seconder. The President will vacate the chair and the secretary shall put the motion to the vote immediately and without debate. The motion may be carried by a simple majority of votes cast.

35. Role of the chairperson

- 35.1 The chairperson is responsible for the conduct of the **general meeting**, and for this purpose must give members a reasonable opportunity to make comments and ask questions including to the auditor (if any).
- 35.2 The chairperson may give directors permission to address the meeting and to respond to questions as the chairperson sees fit.
- 35.3 The chairperson does not have a casting vote. When a vote is tied the motion is considered lost (a motion requires a majority to be carried).

36. Adjournment of meetings

- 36.1 If a quorum is present, a **general meeting** must be adjourned if a majority of **members present** direct the chairperson to adjourn it.
- 36.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

37. Members' resolutions and statements

- 37.1 Any member (state or territory association) may give:
 - (a) written notice to MSA of a resolution they propose to move at a **general meeting** (members' resolution), and/or
 - (b) a written request to MSA that MSA give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (members' statement).
- 37.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- 37.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.
- 37.4 Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.
- 37.5 This clause does not limit any other right that a member has to propose a resolution at a **general meeting**.

38. Company must give notice of proposed resolution or distribute statement

- 38.1 If MSA has been given a notice or request as set out above:
 - (a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at MSA's cost,or

- (b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by MSA in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a **general meeting**, the members may pass a resolution that MSA will pay these expenses.

38.2 MSA does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:

- (a) it is more than 1 000 words long
- (b) the directors consider it may be defamatory
- (c) clause 328.1 (b) applies, and the members who proposed the resolution or made the request have not paid MSA enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members, or
- (d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the members.

39. Circular resolutions of members

39.1 Subject to clause 39.3 the directors may put a resolution to the members to pass a resolution without a **general meeting** being held (a circular resolution).

39.2 The directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to members, and set out the wording of the resolution.

39.3 Circular resolutions cannot be used:

- (a) for a resolution to remove an auditor, appoint a director or remove a director
- (b) for passing a **special resolution**, or
- (c) where the **Corporations Act** or this constitution requires a meeting to be held.

39.4 A circular resolution is passed if all the members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 39.5 and 39.6.

39.5 Members may sign:

- (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
- (b) separate copies of that document, as long as the wording is the same in each copy.

39.6 MSA may send a circular resolution by email to members and members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

Voting at general meetings

40. Representatives and votes

- 40.1 Each member which is a State association is entitled to send up to three representatives and cast up to three votes at a general meeting. These votes may be proxied as allowed for Section 26 of this constitution.
- 40.2 Each member which is a Territory association is entitled to send one representative who will have one vote at a general meeting. Territory associations may proxy their votes as allowed for Section 26 of this constitution.
- 40.3 Members shall notify the secretary in writing who their representatives are and when they change. Notifications must be received at least 48 hours before any general meeting at which they will apply; failing this, the existing arrangements will continue.
- 40.4 It is the right of the members to choose who their representatives will be and to change them when they wish, in accordance with their own rules and processes.
- 40.5 Representatives must be members of the association they represent. Proxies do not have to be members.

41. Challenge to member's right to vote

- 41.1 A member or the chairperson may only challenge a person's right to vote at a **general meeting** at that meeting.
- 41.2 If a challenge is made the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

42. How voting is carried out

- 42.1 Voting must be conducted and decided by:
- (a) a show of hands
 - i. Where remote attendance is permitted then people not in the room must vote by verbal statement given to the Chair on the Chair's request
 - (b) a vote in writing,
 - (c) an electronic vote using one of the established electronic voting platforms, as approved by the board, or
 - (d) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- 42.2 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 42.3 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 42.4 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

43. When and how a vote in writing must be held

- 43.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) at least four **representatives present** or represented by proxy, or

- (b) the chairperson.
- 43.2 A vote in writing must be taken when and how the chairperson directs, unless otherwise allowed for in this constitution.
- 43.3 A vote in writing must be held immediately if it is to decide whether to adjourn the meeting.
- 43.4 A demand for a vote in writing may be withdrawn.

44. Appointment of proxy

- 44.1 A member (a state or territory association) may appoint a proxy or proxies to attend and vote at a **general meeting** in place of one or more of its appointed representatives.
- 44.2 A proxy does not need to be a member of the member state or territory association appointing them.
- 44.3 A proxy appointed to attend and vote for a representative has the same rights as the representative to:
 - (a) speak at the meeting
 - (b) vote by show of hands or, and
 - (c) join in to demand a vote in.
- 44.4 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
 - (a) the member's name and address
 - (b) the organisation's name
 - (c) the appointed representative who the proxy is substituting for
 - (d) the proxy's name or the name of the office held by the proxy, and
 - (e) the meeting(s) at which the appointment may be used.
- 44.5 An individual proxy document can only assign one voting entitlement as substitute for one representative. If two voting entitlements are to be assigned, two proxies will be required. Voting entitlements cannot be divided into less than one vote.
- 44.6 A proxy appointment may be standing (ongoing) or for a designated date or event only or for a specified date range.
- 44.7 All proxies are subject to the support of the member which made them and may be withdrawn or changed by decision of the member, such decision made in accordance with its own constitution or rules
- 44.8 Proxy forms must be received by MSA at the address stated in the notice under clause or at the MSA's registered address at least 48 hours before a meeting.
- 44.9 Unless MSA receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
 - (a) ceases to exist
 - (b) is suspended or expelled
 - (c) revokes the proxy's appointment, or
 - (d) revokes the authority of a representative or agent who appointed the proxy.

- 44.10 A proxy appointment may not specify the way the proxy must vote on a particular resolution, unless the proxy is to the chair of the meeting, in which case the chair will cast proxy votes issue by issue as indicated on each proxy form.
- 44.11 For the avoidance of doubt, MSA considers all representatives and proxies to be free to vote according to their judgement and conscience. A member may in accordance with its own constitution and rules bind a representative or proxy to vote a certain way on certain matters, but this is a matter between the member and its representative or proxy and will not be enforced by the chair. Votes will be counted as cast at the meeting.

45. Voting by proxy

- 45.1 When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment is the chair and the proxy specifies the way they must vote,
 - (b) if the way the chair must vote is specified on the proxy form, the chair must vote that way, and
 - (c) if the person holds more than one vote (they are a representative entitled to vote and they hold a proxy or proxies, or they hold more than one proxy), they may cast the votes held in different ways.

Directors

46. Number of directors

- 46.1 The company must have at least four and no more than eleven directors.
- 46.2 If the number of directors is reduced to fewer than four or is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of as required for a quorum or calling a **general meeting**, but for no other purpose.

47. Classes of directors

- 47.1 There are three classes of directors;
- (a) Directors appointed by the member state and territory associations.
 - (b) Independent directors appointed by the board based on their expertise, and ratified by the members representatives.
 - (c) The President elected by Sheddors

48. Appointment of directors

- 48.1 Each director is appointed by one member which is a State association. Each state association can appoint only one director. In addition, if there are two members which are Territory associations, they may appoint one director between them.
- 48.2 Directors serve at the pleasure of the State or Territory associations which appoint them and may at any time be immediately recalled and replaced by the member(s) that appointed them, in accordance with that member's own constitution and rules.

- 48.3 For the avoidance of doubt, no one shall be a director of the company who is not at that time endorsed for that position by the State or Territory association they represent, except for board-appointed directors as allowed in this section.
- 48.4 Up to three independent directors may be appointed by the board based on their expertise.
- 48.5 Independent directors may not make up more than one third of board positions. If there are eight or fewer board position then no more than two of them can be independent directors.
- 48.6 An independent director may not be President or act as President.
- 48.7 The appointment of an independent director must be ratified by the members at the next general meeting and will require a simple majority of votes cast.
- 48.8 A transitional President will be elected under the transitional rule (clause TR4). The inaugural President on implementation of this constitution will be chosen by the initial directors and does not have to be a director at that time but must be a member of a Shed which in turn is a member of an association which is a member of the company. If the inaugural President is also a state or territory appointed director then the inaugural President is deemed to have vacated that role and their appointing member(s) may appoint a further person to be their director.
- 48.9 Subsequent Presidents shall be elected biennially by a direct vote of Registered Shedders (as described in clause 10.3), providing that a workable electronic voting system has been approved by the board and implemented.
- 48.10 If at the time a President's term is expiring a workable electronic voting system has not been approved by the board and implemented, then the directors at the time shall appoint the next President in accordance with the procedures set out for the inaugural President (clause TR4) and subject to the length of tenure restrictions set out in this constitution.
- 48.11 MSA shall immediately commence a project to implement direct voting using one of the existing electronic voting platforms, based on unique email addresses, and work with members to provide computer access for registered Shedders. Sheds will be encouraged to appoint returning officers who can assist less computer literate Shedders.
- 48.12 The company shall also institute fair and equitable procedures to convey information from Presidential candidates to Shedders electronically, at no cost to the candidates. The board may set limits to the volume and frequency of communications. The board may counsel candidates on material it considers inappropriate and may decline or edit material it considers puts the **company** at risk.
- 48.13 A retiring President may be appointed as a director by their state or territory association and may then serve a maximum consecutive time as allowed for directors.
- 48.14 The board may appoint a retiring President as an independent director.
- 48.15 The board may not appoint a retiring director as an independent director.

49. Terms of directors

- 49.1 For the avoidance of doubt, clauses in this section are intended to create a system of annual one-third board rotations. The ideal is for each director to serve a three year term, with one third of directors coming up for renewal each year. Practicalities may mean this is not always exactly achieved but the board shall apply the rules with this goal in mind.
- 49.2 Directors are appointed for a term of three years, except for the initial directors appointed under transitional rule TR4, whose terms of appointment are described following, and except for independent directors, whose terms will be set by the board as one, two or three years, having regard to the goal of annual partial board rotations.

- 49.3 Initial member appointed directors shall be appointed for a mix of one, two and three years terms in as near as practical equal numbers. The board when it meets shall decide how to distribute terms and may choose a negotiated outcome, to draw lots or some mix of these.
- 49.4 When a new member joins the **company** and appoints a representative director the initial term of that director will be decided by the board, having regard to the objective of having one third annual rotations.
- 49.5 Directors appointed to replace a previous director assume the balance of that previous director's term.
- 49.6 Directors may serve no more than two consecutive full terms. If however a director's first term is less than three years, for example if they fill the balance of a term for a position that has been vacated or if they are an initial director with a reduced term, then they may serve consecutively up to two full terms plus the initial reduced term.
- 49.7 Individuals who have served their maximum term as directors may be reappointed as directors after an absence of at least three years and may then again serve as allowed for in this constitution.
- 49.8 The inaugural President shall serve a term of one year.
- 49.9 Subsequent Presidents will be elected for terms of two years.
- 49.10 No President shall serve more than two consecutive terms, except that the inaugural President may if elected serve two full terms in addition to the inaugural year.
- 49.11 A President who has served the maximum consecutive terms may stand for election as President again after an absence of two years and may then again serve two consecutive terms.

50. When a director stops being a director

- 50.1 A director stops being a director if they:
- (a) give written notice of resignation as a director to the company,
 - (b) die,
 - (c) are removed as a representative director by the member association which appointed them, in accordance with the constitution and rules of that association, such removal to be confirmed in writing to the secretary,
 - (d) are a representative of a member, and that member stops being a member,
 - (e) are absent for three consecutive directors' meetings without approval from the President,
 - (f) become ineligible to be a director of the company under the Corporations Act or the ACNC Act,
 - (g) are removed by resolution at a general meeting, such resolution having been advised in writing to all members and directors at least 21 days in advance and having been carried by at least 75% of all members eligible to vote whether present or not.
 - (h) being an independent director, are removed by vote of the board, such action requiring a majority vote of directors whether present or not, but excluding from the total number the director who is the subject of the motion.

- 50.2 For the avoidance of doubt, the board does not have the power to remove or suspend a member-appointed director or a President, except that if direct election of the President has not yet been implemented and the President is appointed by the board, then the board shall have the power to remove the President from the office of President, but not from the office of director.
- 50.3 The board may by majority vote of directors whether present or not recommend to a general meeting that a director be removed. That general meeting may remove a director via a resolution in accordance with 50.1 (g).
- 50.4 The board may by majority vote recommend to a general meeting that a President be removed. The proposed resolution must be advised in writing to all members and representatives at least 21 days in advance. The meeting may by resolution, such resolution having been carried by a 75% or greater vote of all representatives eligible to vote whether present or not:
- (a) take no action, in which case the President remains in office, or
 - (b) order the holding of an extra-ordinary Presidential election for the balance of the current term, or
 - (c) if the board has not approved and implemented a workable electronic voting system, direct the board to appoint a new President.
 - (d) If a 75% majority vote cannot be achieved, the issue lapses and the status quo stands.
- 50.5 In the event that a general meeting order an extraordinary Presidential election, then:
- (a) The existing President will continue in care-taker mode until the result of the election is known and will act only as necessary to the day to day operation of the **company**, deferring all major decisions where practical.
 - (b) The existing President will be eligible to stand for re-election.

Powers of directors

51. Powers of directors

- 51.1 The directors are responsible for managing and directing the activities of the **company** to achieve the purposes set out in this constitution.
- 51.2 The directors may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by members.
- 51.3 The directors must decide on the responsible financial management of the **company** including:
- (a) any suitable written delegations of power, and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 51.4 The directors cannot remove an auditor. Auditors may only be removed by a members' resolution at a **general meeting**.

52. Delegation of directors' powers

- 52.1 The directors may delegate any of their powers and functions to a committee, a director, an employee of the **company** (such as a chief executive officer) or any other person, as they consider appropriate.
- 52.2 The delegation must be recorded in the **company's** minute book.

53. Payments to directors

- 53.1 The **company** must not pay fees to a director for acting as a director.
- 53.2 The **company** may:
- (a) pay a director for work they do for the **company**, other than as a director, if the amount is no more than a reasonable fee for the work done, or
 - (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the **company**.
- 53.3 Any payment made to directors must be approved by the directors.
- 53.4 The **company** may pay premiums for insurance indemnifying directors, as allowed for by law (including the **Corporations Act**) and this constitution.

54. Execution of documents

- 54.1 The **company** may execute a document without using a common seal if the document is signed by:
- (a) two directors of the **company**, or
 - (b) a director and the secretary.

Duties of directors

55. Duties of directors

- 55.1 The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the **ACNC Act** which are:
- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the **company**
 - (b) to act in good faith in the best interests of the **company** and to further the purpose(s) of the **company**
 - (c) not to misuse their position as a director
 - (d) not to misuse information they gain in their role as a director
 - (e) to disclose any perceived or actual material conflicts of interest to the President as soon as apparent and at any board meeting where relevant matters are discussed.
 - (f) to ensure that the financial affairs of the **company** are managed responsibly, and
 - (g) not to allow the **company** to operate while it is insolvent.

56. Conflicts of interest

- 56.1 A director 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 directors (or that is proposed in a circular resolution):
- (a) to the other directors, or
 - (b) if all of the directors have a common conflict of interest, to the members at the next **general meeting**, or at an earlier time if reasonable to do so.
- 56.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- 56.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided for following:
- (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.
- 56.4 A director may still be present and vote if:
- (a) their interest arises because they are a member of the **company**, and the other members have the same interest,
 - (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the **company**,
 - (c) their interest relates to a payment by the **company** under clause 78 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**,
 - (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
 - (e) the directors who do not have a material personal interest in the matter pass a resolution that:
 - i. identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the **company**, and
 - ii. says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

57. When the directors meet

- 57.1 The directors may decide how often, where and when they meet.

58. Calling directors' meetings

- 58.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors.
- 58.2 A director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.

59. Chairperson for directors' meetings

- 59.1 The **elected President** is entitled to chair directors' meetings.

59.2 The directors at a directors' meeting may choose a director to be the chairperson for that meeting if the **elected chairperson** is:

- (a) not present within 20 minutes after the starting time set for the meeting, or
- (b) present but does not want to act as chairperson of the meeting.

60. Quorum at directors' meetings

60.1 The quorum for a meeting of directors is four persons including at least three representative directors. Where the board has approved remote attendance technology then directors attending remotely will be included in the quorum. A meeting of directors may not conduct business without four directors present and must cease if the number of directors present falls below four.

60.2 A director may appoint a proxy to act on their behalf only by leave of the board, for serious reason and for no longer than four consecutive months. If the director is member-appointed then this action and the proxy appointed will require the approval of the relevant member organisation.

61. Using technology to hold directors' meetings

61.1 The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.

61.2 The directors' agreement may be a standing (ongoing) one.

61.3 A director may only withdraw their consent within a reasonable period before the meeting.

62. Passing directors' resolutions

62.1 All directors except the President shall have one equal vote. The President does not have a deliberative vote.

62.2 Only directors present at a meeting may vote.

62.3 Unless otherwise provided in this constitution, a directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution. In the event of a tied vote the President has a casting vote.

62.4 The President shall be considered to be a director representing all Sheddors. As chair the President's primary role is the effective management of the meeting. The President does not have a deliberative vote. The President does have a casting vote.

62.5 For the avoidance of doubt, this means the President cannot vote on any resolution before the board unless the vote cast is tied, in which case the President has a deciding vote. Some Presidents favour a status quo policy, which means they always vote against a motion which has not reached a majority: it is up to individual Presidents whether or not they follow such a policy.

63. Circular resolutions of directors

63.1 The directors may pass a circular resolution without a directors' meeting being held.

63.2 A circular resolution is passed if a majority of the directors entitled to vote on the resolution sign or otherwise agree to the resolution as set out in this constitution.

63.3 Each director may sign:

- (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or

- (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 63.4 The **company** may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 63.5 A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in this constitution.

Open governance

64. Openness and transparency are essential to good governance

- 64.1 The company pursues openness and transparency as essential to good governance.
- 64.2 With the exception noted in clause 59:
 - (a) All board meetings will be open to anyone authorised by a member to attend as an observer.
 - (b) All general meetings of members will be open to observation by any Shedder regardless of whether their Shed is affiliated with a member or not.
 - (c) When there are observers the President or chair of the meeting shall at a convenient time ask the observers if they wish to comment or ask questions.
 - (d) The **company** will seek to implement technology allowing remote observers and questions at board and general meetings.
 - (e) Full minutes of all board and general meetings (excluding any confidential items as permitted in this constitution) will be posted to a public area of the company's website as soon as practical and no later than one month after the meeting.

65. Permitted non-disclosure

- 65.1 Observers may be asked to leave a meeting where:
 - (a) a personnel matter is to be discussed (eg, staff payments)
 - (b) the President or chair rules that public disclosure will place the company at significant risk (eg of legal action)
 - (c) the President or chair rules that public disclosure would be significantly and unfairly detrimental to persons or organisations that may be discussed.
- 65.2 In such circumstances the President or chair must give a broad, non-identifying description of the subject to be discussed and explain to the audience why the matter is to be dealt with in confidence.
- 65.3 The minutes of any meeting partially held in private must disclose that a subject was discussed in private, broadly describe the subject and explain why the board insisted on discussing the matter in confidence.
- 65.4 The **company** will seek ways to enhance openness and transparency and work against any tendency to reduce disclosure.

Other office bearers

66. Appointment and role of secretary

- 66.1 The **company** must have at least one secretary, who may also be a director.
- 66.2 A secretary must be appointed by the board (after giving the **company** their signed consent to act as secretary of the **company**) and may be removed by the board.
- 66.3 The board must decide the terms and conditions under which the secretary is appointed, including any remuneration.
- 66.4 The role of the secretary includes:
- (a) maintaining a register of the **company's** members, and
 - (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings and circular resolutions.

67. Appointment and role of treasurer

- 67.1 The **company** must have at least one treasurer, who must be a director.
- 67.2 A treasurer must be appointed by the board (after giving the **company** their signed consent to act as treasurer of the **company**) and may be removed by the board.
- 67.3 The board must decide the terms and conditions under which the treasurer is appointed.
- 67.4 The role of the treasurer includes:
- (a) maintaining the **company's** accounts and facilitating authorised access to them
 - (b) ensuring financial probity including proper authorisation of all transactions
 - (c) preparing, ensuring the accuracy of and presenting to the board such financial reports as are needful to the proper operation of the **company** or specifically requested by the board
 - (d) providing information as need to support grant and other funding applications and acquittals
 - (e) advising the board on the **company's** ongoing financial position especially in regard to solvency
 - (f) recommending financial actions as appropriate.
- 67.5 The board may decide to appoint a professional accountant or bookkeeper to assist in the financial management of the **company**.

68. Appointment and role of vice President(s) and other office bearers

- 68.1 The board may create such other offices as it sees fit, which may include vice President(s) charged with specific responsibilities.
- 68.2 Such office bearers must be appointed by the board (after giving the **company** their signed consent to act as office bearers of the **company**) and may be removed by the board.
- 68.3 The board must spell out the duties and responsibilities of each of these office bearers.

Minutes and records

69. Minutes and records

- 69.1 The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of **general meetings**
 - (b) minutes of circular resolutions of members
 - (c) a copy of a notice of each **general meeting**, and
 - (d) a copy of a members' statement distributed to members.
- 69.2 The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
 - (b) minutes of circular resolutions of directors.
- 69.3 To allow members to inspect the **company's** records:
- (a) the **company** must give a member reasonable access to the records, and
 - (b) the directors may authorise a member to inspect other records of the **company**.
- 69.4 The directors must ensure that minutes of a **general meeting** or a directors' meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of the meeting, or
 - (b) the chairperson of the next meeting.
- 69.5 The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

70. Financial and related records

- 70.1 The **company** must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance, and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 70.2 The **company** must at the AGM present to the members a financial report which is true, accurate and transparent, that provides adequate information to describe the **company's** activities. This may include notes to accompany the audited financial report.
- 70.3 The **company** must also keep written records that correctly record its operations.
- 70.4 The **company** must retain its records for at least 7 years.
- 70.5 The directors must take reasonable steps to ensure that the **company's** records are kept safe.

By-laws

71. By-laws

- 71.1 The directors may pass a resolution to make by-laws to give effect to this constitution, where such action is urgent and important to the effective operation of the company.

- 71.2 Where the matter is not urgent the board should recommend to the next meeting of members that it either amend the constitution or pass a bylaw to deal with the matter.
- 71.3 By-laws passed by the board shall have immediate effect but shall be subject to ratification at the next general meeting.
- 71.4 By-laws which are not ratified at the next general meeting lapse at the close of that meeting, but actions taken under the by-laws prior to them lapsing will still stand. No decision or action may be undone solely on the grounds that the relevant by-law subsequently lapsed.
- 71.5 To be clear, bylaws require the approval of a meeting of members and can only be temporarily implemented by authority of the board alone, when the matter is urgent. The principle is that the members make the rules and the board implements them.
- 71.6 Members and directors must comply with by-laws as if they were part of this constitution.

Gift fund

72. Separate gift fund to be maintained.

- 72.1 The company shall maintain a separate Gift Fund to be used for the principal purpose of the company and to which Gifts of money or property for that purpose are to be made and this fund does not receive other money or property.

Notice

73. What is notice

- 73.1 Anything written to or from MSA under any clause in this constitution is written notice and is subject to this constitution, unless specified otherwise.

74. Notice to the company

- 74.1 Written notice or any communication under this constitution may be given to MSA, the directors or the secretary by:
- (a) delivering it to MSA's registered office
 - (b) posting it to the MSA's registered office or to another address chosen by MSA for notice to be provided
 - (c) sending it to an email address or other electronic address notified by MSA to the members as MSA's email address or other electronic address.

75. Notice to members

- 75.1 Written notice or any communication under this constitution may be given to a member:
- (a) in person
 - (b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices
 - (c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any)

- (d) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).

75.2 If the **company** does not have an address for the member, the **company** is not required to give notice in person.

76. When notice is taken to be given

76.1 A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and
- (d) given under clause 66.1 (d) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

77. Company's financial year

77.1 The **company's** financial year is from 1 July to 30 June unless the directors pass a resolution to change the financial year.

Indemnity, insurance and access

78. Indemnity

78.1 The **company** indemnifies each officer of the **company** out of the assets of the **company**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **company**.

78.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.

78.3 In this clause, 'to the relevant extent' means:

- (a) to the extent that the **company** is not precluded by law (including the **Corporations Act**) from doing so, and
- (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).

78.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **company**.

79. Insurance

79.1 To the extent permitted by law (including the **Corporations Act**), and if the directors consider it appropriate, the **company** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **company** against any liability incurred by the person as an officer of the **company**.

80. Directors' access to documents

80.1 A director has a right of access to the financial records of the **company** at all reasonable times.

80.2 If the directors agree, the **company** must give a director or former director access to:

- (a) certain documents, including documents provided for or available to the directors, and
- (b) any other documents referred to in those documents.

Winding up

81. Surplus assets not to be distributed to members

81.1 If the **company** is wound up, any **surplus assets** must not be distributed to a member or a former member of the **company**, unless that member or former member is a charity.

82. Distribution of surplus assets

82.1 Subject to the **Corporations Act** and any other applicable Act, clause 78.1 and any court order, any **surplus assets** that remain after the **company** is wound up shall be distributed to the members (state and territory associations) in proportion to their representation rights as set out in this constitution.

82.2 A meeting of members at or before the time of winding up may decide by special resolution that instead of the assets being distributed to the members as allowed in clause 79.1 the assets be distributed to one or more charities:

- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6, and
- (b) which also prohibit the distribution of any **surplus assets** to its members to at least the same extent as the **company**.

82.3 Any decision as to the charity or charities to be given the **surplus assets** must be made by a **special resolution** of members at or before the time of winding up. If the members do not make this decision, the **company** may apply to the Supreme Court to make this decision.

Definitions and interpretation

Definitions

In this constitution:

ACNC Act means the Australian Charities and Not-for-profits Commission Act 2012 (Cth)

company means the **company** referred to in clause 1

Corporations Act means the Corporations Act 2001 (Cth)

director means a person appointed by a state or territory association as a representative on the board, or appointed by the board as an independent director, or elected by registered Shedders as President.

elected chairperson means a person elected by the directors or members to chair a specific meeting as allowed under clauses 34 and 59.

The term “**member**” unless specifically qualified means a state or territory association of Men’s Sheds which is a guarantor and owner of the company.

Life Shedder means a holder of the honorary, non-guarantor and non-voting title Life Shedder.

Registered Shed means a Shed which is registered with MSA. This is a non-guarantor and non-voting position.

Registered Shedder means an individual Shedder who is registered with MSA. This is a non-guarantor position that entitles the holder to vote in direct elections for the President only.

general meeting means a meeting of members and includes the annual **general meeting**, under clause 29.1

initial member means a state or territory association which was or became a guarantor member in 2018.

member present means, in connection with a **general meeting**, a **member present** in person, by representative or by proxy at the venue or venues for the meeting

proxy means a person authorised to act at a general meeting in place of a representative, with all the powers of that representative

registered charity means a charity that is registered under the **ACNC Act**

representative means a person nominated by a state or territory association to represent that association at a general meeting of the members of the company.

special resolution means a resolution:

- (a) of which notice has been given as set out in this constitution, and
- (b) that has been passed by at least 75% of the votes cast by **members present** and entitled to vote on the resolution, and

Shedder means a financial member of a Shed which is a financial member of a state or territory association that is a member of the **company**.

surplus assets means any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up.

Reading this constitution with the Corporations Act

The replaceable rules set out in the **Corporations Act** do not apply to the **company**.

While the **company** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.

If the **company** is not a **registered charity** (even if it remains a charity), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.

A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).