

QandA Chapter 9 of the new SGLMG Constitution

QUESTION	Existing Const Reference	Proposed Const Reference	ANSWER
<p>Accountability to members            9.1(B) the directors may decide the manner in which the company will be accountable is vague. At least 1 annual meeting should be enshrined within the constitution for elections, annual report review, results etc...</p>	6.17	9.1	<p>Accountability to members is important, and required by law. ACNC Governance Standard 2 provides for a minimum level of accountability to members. The language in the ACNC standard caters for small to large charities. As a large charity, SGLMG will still hold at least one general meeting annually. This has in the past been referred to the AGM. The accountability includes annual reporting to members about the finances, activities and future activities at least once a year, and providing adequate opportunities for members to raise matters and ask questions. Members have the opportunity to request other matters and the General Meeting provisions allow for this. There must be at least one General Meeting per year to comply with this standard. All of these legislative requirements apply, but there is no need, and it is not appropriate to have all of this repeated in the constitution.</p>
<p>The chapter should explain the purpose of the general meeting with reference to Corp law. It should explain that the meeting is not to bind the Board.</p>	NA	9	<p>Corp Law doesn't apply. Governance Standard 2 applies. This does not remove an AGM. It clearly states that the Board must inform members in relation to finances, activities and plans.</p>
<p>I am not in favour of removing the ability of 2 members to raise a motion to the meeting. This is a core mechanism for members to start discussion and help direct the organisation on change.</p>	6.15	9.2b	<p>The CRC considered that having two members (out of a total membership of 3000+) is too small a percentage at 0.06% to demonstrate importance of an issue to members. The issue tabled should be an interest to many members not just two.            The committee suggests changing 5% (n=125) to 1% (n=25) so it can shift with changing membership. A policy/process to facilitate accessibility for all members can be developed and implemented.</p>
<p>Define proper purpose and Valid resolution. (maybe in a interpretation appendix)</p>	NA	9.2b	<p>'Proper purpose' means in the interests of members and the organisation, not for a dishonest purpose. Similarly, 'valid resolution' is a resolution in accordance with rules, ACNC and laws.</p>
<p>What does 'A person may waive notice of a general meeting or consent to shorter notice by giving notice to the company' mean?</p>	NA	9.3	<p>A company must give 21 days notice. If for a valid reason the company wanted to give 14 days notice or less, they can request members to waive notice. This is a standard clause rarely used.</p>
<p>An independent Chair has been beneficial to the smooth operation of general meetings. Consider providing both options (Chair of Board or Independent Chair). Another consideration for this is the sizeable number of votes sometimes given to the Chair.</p>	7.4	9.7	<p>Agreed. It is critically important that the Chair is capable of running a meeting. Will amend to include Board Chair <b>OR</b> independent Chair.</p>
<p>What memberships are classified as incorporated bodies or body corporates if in the membership section members are defined as people?</p>	IV	9.8	<p>This refers to a set of membership rules for individuals or bodies. For example, SGLMG is a member of Sydney World Pride. This is a standard clause with the model constitution.</p>
<p>(b)The written appointment of a proxy or representative may direct the manner in which the proxy or representative is to vote in respect of a particular resolution and, where this is provided, the proxy or representative is not entitled to vote on the proposed resolution except as directed in the appointment.            - refers to a written appointment, but the manner of appointment is not prescribed.</p>	NA	9.10	<p>The member directs the proxy to vote yes, no, abstain.            Prior to meetings, the company prescribes how the proxy is to be completed.</p>

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I do not agree on the proposed rule 9.11 enabling directors to decide whether written votes may be permitted in addition to proxy votes.	NA	9.11	This provides for a member to lodge a direct vote without appointing a proxy when they cannot attend a meeting.
The issue of proxy harvesting, which has been an issue for most members at recent AGMs is not adequately addressed. While it was explained that online voting reduces proxy harvesting, there should be a limit of five proxys per member. I support the requirement for 5% of votes to propose a resolution, but note that this will be virtually impossible for any regular member outside those who are part of voting tickets, which are also the main abusers of the proxy system.	III	9.10	The capping of proxies has been an ongoing discussion amongst members, and members hold different views. Proxy voting enables a member to vote if they can't attend the meeting, by asking a representative to vote on their behalf. It is a vote cast by one person as a representative of the member.  The Constitution Review Committee (CRC) proposes a cap on proxy votes of a maximum of 50 held by any one person.
9.6 My only question is how do you verify the identity of someone attending a General Meeting by telephone?	NA	9.6	They would register their number beforehand along with member details.
Decisions of the Members: are resolutions passed in general/special or annual general meetings still recommendations to board (and not necessarily binding on Board)? Conscious that motions passed may not have full regard for regulatory, policy, contractual or other organisational requirements.	NA	9.8	Correct, resolutions at meetings are not binding on the board. The directors are legally responsible for the consequences of decisions. If a decision is made and the company goes bankrupt as a result, or a breach in law, directors are personally liable.
Which provisions has the act "turned off"? Are they still useful to SGLMG although no longer required? Please be clear and specific.	NA	NA	The following provisions of the Corporations Act have been 'turned off' for companies registered with the ACNC: Sections 180 to 183 (civil obligations of directors and other officers to exercise due care and diligence, act in good faith and not to improperly use their position or company information) Section 188, to the extent it relates to other provisions that have been 'turned off' (responsibilities of secretaries and directors for certain contraventions), and Sections 191 to 194 (obligation of director to disclose material personal interest). Instead, registered charities are required to take reasonable steps to ensure that any responsible persons comply with governance standard 5. For a registered charity that is also a company under the Corporations Act 2001, its responsible persons are each of the directors of the company and the duties contained in governance standard 5 apply to each director. Chapter 2N; Part 2G.2; Paarts 2M.1 to 2M.3. In addition there are numerous provisions relating to corporate reporting.
Was consideration given to the event that propositions once voted down at an AGM are then re-proposed at the next meeting, can there be a limit to this?	NA	NA	There is currently no proposal to limit the number of times a motion can be brought in front of a meeting. In practical terms, any such limit would be difficult to enforce. A motion would only have to be amended slightly in order to circumvent the limit.
I DO NOT AGREE that a proxy does not need to be a member of the company. Voting rights should only be given to members, if you are not a member you do not have a right to vote or caste votes	7.10b	9.10b	This has not changed. Voting rights are only given to members of SGLMG. The way a proxy works, is that a proxy holds the voting rights of other people. So the proxy themselves doesn't have any voting rights. They are carrying out the voting rights for a member.
Do the proposed changes open General meetings up to 1978ers and members to attend?	NA	NA	General Meetings are open to ALL members.