



Strengthening the Governance of Australian Rugby

The Hon Mark Arbib
August 2012

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This report presents the findings and recommendations of my review into the governance of Australian Rugby Union (ARU).

I was tasked by the Board of ARU with undertaking a review of the current governance structure of ARU and of assessing its strengths and weaknesses with a view to recommending possible improvements.

In commissioning this report, the Governance and Policy Committee, Chaired by Peter Cosgrove AC MC, asked me to undertake this work independently of ARU. As a result, I have outlined recommendations to the ARU that I believe will provide the optimal governance arrangements for Rugby in Australia.

I reached these recommendations following consultations with stakeholders from across the Rugby community; from senior leadership positions, to elders of the Game to representatives of community and grassroots Rugby. They include leaders of the Member Unions and Super Rugby Teams; as well as representatives of ARU's affiliates, Board of Directors and management; school and club Rugby officials; coaches; players; and sponsors. As part of the Review I also sought the advice of industry analysts, corporate governance and legal experts, leaders from other sporting organisations and representatives of State and Federal governments including sports ministers and senior officials.

In addition, Rugby's stakeholders and supporters were encouraged to make submissions to the review, thereby ensuring that the full spectrum of the Rugby community could contribute to the review process.

I have reviewed the role and composition of the ARU Board of Directors and the shareholder arrangements of the Member and Affiliated Unions. While the ambit of my work was focused largely on ARU, I have also made recommendations regarding the Rugby community more broadly – from the ARU down to local club level.

Collectively, I believe the recommendations outlined in this report, if adopted, will place Rugby on a firm footing for the future.

I have arranged my report into the following sections:

- Historical and strategic context
- A governance framework for all Australian Rugby
- Implementation
- Future opportunities for Rugby

I would like to thank all those who gave of their time and contributed to this review in good faith through the consultation process or via submissions. It became abundantly clear that Rugby has no shortage of passionate, well-meaning and committed advocates and supporters. Most of these people do recognise the need for change but remain very optimistic about the future of Rugby. The views and insights provided during consultation were critical when reaching my recommendations.

I would also like to acknowledge the significant support I received in compiling this report. ARU was extremely accommodating in providing information as required and I would particularly like to thank Nick Weeks, David Sykes and Nadine Kliskey for their assistance. I would also like to thank the Minister for Sport, Kate Lundy, for the support and advice that was provided by the Office for Sport and the Australian Sports Commission – in particular through Jaye Smith and Geoff Howes and their teams. The expertise of these two organisations is well-known to me and without their assistance this review would not have been possible.

Finally, I would like to thank Accenture and Allens Linklaters for providing valuable and expert advice and assistance.

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Executive summary

Given its relatively brief professional history, the list of Australian Rugby Union's achievements is considerable. In an intensely competitive environment, Rugby's ability to establish itself so successfully, in such a short period of time, is admirable. That Rugby has managed to secure a place as one of Australia's premium professional sporting codes is even more impressive given the long professional history that many of its sporting rivals enjoy.

At the community level, grassroots support for Rugby is greater than ever. Since 1997 the number of people playing Rugby around Australia each year has increased from 98,000 to 260,000. Continued growth in the Game at the junior level has underpinned this expansion and Rugby continues to benefit from a network of school competitions that is the envy of any sport.

Club Rugby remains the heart of Australian Rugby, and the sense of community that Rugby fosters through local club competitions around Australia is stronger than ever. It is still the code's greatest asset.

At the professional level, the Wallabies, one of Australia's most iconic and successful sporting teams, has made Australia a leading Rugby nation – currently ranked number two in the world. And, while it pales in comparison to the dominance of New Zealand over the past decade, the Wallabies' have a relatively strong record including two World Cups, five Bledisloe Cups (since the professional era) and three Tri-Nations.

Australia's Super Rugby teams have also proven their ability to be successful in an increasingly competitive Super Rugby Competition. This was demonstrated recently by the success of the Queensland Reds. As important though, the Australian Super Rugby Conference continues to produce on a consistent basis, not just great Rugby players, but athletes that are the equal of any elite sporting competition in the world.

Perhaps the most reassuring aspect of these successes has been the emphatic response from fans. Sell-outs at Suncorp Stadium for the Tri-Nations decider and Super Rugby final, and at the Sydney Football Stadium for the Wallabies' third test against Wales, clearly demonstrate the strong grassroots support the Game has. In 2011, Rugby recorded the top four most watched programs in Australian paid television history – again an example of the underlying support for Rugby in this country.

Despite Rugby's achievements, it is clear that the Game needs to redefine itself to meet new challenges. The Australian sporting landscape is arguably the fiercest and most competitive in the world and the major professional sports now find themselves in the mass entertainment business. The billion dollar broadcast deals recently completed by the AFL and Rugby League are an example of just how high the stakes have become for sport in this country.

Australian Rugby finds itself vying for elite athletes and grassroots participants, members and viewers, sponsors and broadcast revenue, volunteers and administrators and government funding for programs, events and infrastructure

with the AFL, Football, Rugby League and Cricket in what remains a relatively small domestic market. Internationally, the competition to be a leading Rugby nation has never been tougher, with ARU required to pit itself against other national Unions that enjoy bigger budgets, have more participants and face less domestic competition.

More challenging still, the current environment is continuing to rapidly evolve and the pace of this change is only increasing. The challenges sports face from convergence and the growth in online media are a clear example of just how quickly things are moving for sporting administrators.

To remain competitive, Rugby must change too, or risk being left behind.

The most recent evolution in Australian sporting organisations has been the need to adopt modern forms of governance and administration to reflect modern business practices. In part, this has been driven by the desire of governments to encourage greater levels of accountability and transparency in sporting organisations. This was certainly the case with the Crawford Review of the FFA and with a number of Olympic sports. Primarily though, the push for reform has been driven by the boards and management of sporting organisations who recognise that the need to be able to act decisively and effectively, unhindered by constituent or personal interests, is a prerequisite for success in today's competitive environment.

Australian Rugby Union's constitution was *first drafted in 1949* and even the original authors recognised that over time there would need to be changes to the structure of ARU. While important amendments to the constitution have taken place, they haven't kept pace with the dramatic changes that Rugby has undergone since becoming a professional sport.

Crafted in the amateur era and designed for an amateur Game, the current governance structure of ARU is simply not up to the task of conducting the 'business' of Rugby in these challenging times. Currently only two of ARU's Directors are appointed independently. Five Directors are appointed by their respective Member Unions, and the players' association appoints another. Having Directors appointed by constituent groups in this manner embeds and promotes conflicts of interests. At the shareholder level, one Member Union holds a power of veto over constitutional and other major organisational change within ARU. Considered as a whole, this is not a structure conducive to change.

That challenges exist and that change is required are points agreed by all.

There was strong agreement during the consultation process that ARU has benefitted from a long list of prominent, highly capable Directors. These Directors have consistently sought to act in the broad interests of ARU, despite the potential conflicts that currently exist.

In turn, the Board has always been supported by an extremely competent and professional management team.

However, an unavoidable point raised by many during the consultations was the fact that the current Board is more a product of good fortune and good people, than a good system.

The same is true of the current shareholdings of ARU. While the existing system made sense during the amateur era, the formula – if there is one – for determining who should be a Member and what rights they should enjoy, no longer meets the requirements of ARU in the professional era.

To establish and maintain an edge over its rivals in such a highly competitive environment, Australian Rugby faces hard choices that will test the mettle of ARU's leaders, administrators and stakeholders. In reaching these decisions, ARU cannot continue to rely solely on the goodwill of those involved to defy the disincentives to effective decision making that are rife in the current structure. Systems must be more robust than the personalities involved, and ARU is currently too exposed to having its agenda hijacked by vested interests or compromised decision making.

Improving ARU's governance will have positive implications for all of Australian Rugby, including the community Game. The importance of a healthy community Game cannot be overestimated and the current structure could be said to be delivering mixed results at best. It is at the local community level that most players, parents and volunteers interact with Rugby and a reformed governance structure will enable the leaders and administrators of Australian Rugby to provide these individuals with the support they deserve.

In this context, the recommendations in this report should come as no surprise.

Australian Rugby Union has several objectives that span the Game from the grassroots to the elite level. Australian Rugby Union is the National Sporting Organisation recognised by the Australian Sports Commission (ASC), the Australian Olympic Committee (AOC) and the International Rugby Board (IRB) responsible for the governance, management and development of Rugby Union in Australia. This involves a number of duties including fielding multiple competitive national teams, ensuring that Australia meets its commitments to the Super Rugby competition (and supports Australia's Teams to be successful) and overseeing programs to grow, promote and manage the Game more broadly.

Form follows function. So, understanding what ARU hopes to achieve – to perform these duties more successfully than their competitors on a sustained basis – and the environment Rugby operates in, what governance structure will best serve ARU in meeting its challenges now and into the future?

In addressing this question I found that the experiences of other sports, and the broader business community, was instructive, and many of my recommendations are based on what is now widely viewed as 'best practice' governance. I have also borrowed extensively from influential work undertaken by the likes of David Crawford AO and Colin Carter OAM (two of Australia's leading corporate governance experts) and the best practice guidelines for governance produced by the ASX and ASC.

In short, my primary recommendations for ARU are as follows:

- Establish an independent Board of Directors whose mix of skills and experience are well suited to meet the needs of the business by breaking the nexus between Directors and their constituent groups.
- Ensure the Board and management are accountable to shareholders and transparent in their dealings.
- Reform the shareholdings of ARU to fully and fairly reflect the Members of the ARU by including the Super Rugby teams and the Rugby Union Players' Association (RUPA) as Members and rebalancing the voting entitlements of Member Unions.
- Ensure the Board, Members and management all clearly understand their respective roles within the organisation and are involved in overcoming the future challenges Rugby faces.

None of these recommendations should be viewed as controversial. Indeed, they are arguably the bare minimum required to promote timely, responsive and, above all, highly effective decision making at every level.

Along with the recommendations concerning ARU's governance structure, this report briefly outlines other observations that became apparent through the consultation process.

While all sports have their peculiarities, Australian Rugby has a structure that is probably unique in two major respects.

The first is that the professional and community arms have traditionally sat side-by-side in the Member Unions. While on the surface this is a small matter, it has led to tension between the commercial and community sides of the Game over the allocation of the scarce resources, both financial and administrative, at the disposal of Australian Rugby.

The second is the significant extent to which the two incarnations of the professional game – the Wallabies and the Super Rugby teams – are interrelated and reliant on each other for success.

This second observation is a particularly pressing issue. There is currently a worrying divide between the business models of the Super Rugby teams and ARU. The primary objectives of the two sides of the professional game – the Wallabies and Super Rugby teams – while not at odds, lack the degree of alignment required for sustained success in such a competitive sporting environment.

As a result, the very structure of Australian Rugby has become a factor inhibiting the success of both the national and the Super Rugby teams. This isn't the fault of either the ARU or the Super Rugby teams. Rather it is a consequence of the rapid development of Rugby into a professional game and has been exacerbated by the federated structure of Australian Rugby.

Developing mechanisms to overcome this is beyond the scope of this report but it must become a priority for the ARU Board, along with all of Rugby's stakeholders, if Rugby is to succeed.

It is through the Wallabies that the overwhelming majority of Australian Rugby is funded. A successful national team is vital to the success of Rugby as a whole. It is also the easiest way of securing funding for the community Game – something that is vitally needed if Rugby is going to compete with AFL and Rugby League at the local level.

However, so long as Rugby persists with a system that serves neither the national nor Super Rugby teams well, then irrespective of change to ARU, Rugby as a whole will find itself at a continual and distinct disadvantage to its domestic and international competitors.

In the face of this and other significant challenges, and while operating in an intensely competitive environment, the fact that Rugby has been so successful is a testament to those involved in the sport at every level, from the volunteers at the local clubs to the leaders and administrators of the ARU, Super Rugby teams and Member Unions.

Indeed, the overwhelming impression I have from completing this Review is that Australian Rugby has a great deal to be optimistic about. In particular, the inclusion of Sevens Rugby in the Olympic Games; and the increased focus on this form of the Game around the world is a significant opportunity for Australian Rugby. Sevens Rugby is an exciting, dynamic and easy to pick-up game, with potential to be a great asset for developing new markets – particularly among women and multicultural and Indigenous communities who may not have traditionally played Rugby.

While there is no question Rugby faces some very serious challenges in the future, with leadership and determination these are surmountable. Change is never easy and rarely welcome, but the fact that ARU's Board has recognised the need to evolve is testament to their collective leadership and determination. But this commitment to pursue necessary reform in the interests of the future of the Game now needs to be replicated across the whole Rugby community.

Rugby has an iconic place in the Australian sporting landscape and a reformed governance structure will enable the Board and management of ARU to seize all the opportunities and to cement Rugby's place in the future.

Historical and strategic context

Emergence of the Professional Era

Compared to many of the codes, AFL and Rugby League in particular, Rugby's time as a professional sport has been brief.

In 1995 the IRB declared rugby union an 'open' Game, removing the existing restrictions on payments or benefits to those in the Game, bringing the sport into the professional era.

Rugby in the southern hemisphere was comprehensively restructured through the establishment of SANZAR (the unincorporated joint venture between Australian Rugby Union, New Zealand Rugby Union and the South African Rugby Union) and new competitions were created to take the Game into the 21st century.

The international provincial championship, the Rugby Super 12 series, began the following year with 12 provincial sides from Australia, New Zealand and South Africa.

The first broadcasting deal with News Corp for \$555 million provided SANZAR with the resources to operate the Super Rugby Competition and the Rugby Championship. The deal also provided a significant increase in revenue for the three member unions.

The constitution of the ARU was restructured and its Memorandum and Articles were partly rewritten. The most important change was to devolve to the Board of the ARU the authority to manage the business, whereas previously this was vested in a 14-person council.

This sudden shift into the professional era has had lasting implications for the way Australian Rugby has developed as a professional sport.

One of the significant outcomes of this watershed moment for Rugby was that in the scramble to establish professional Super Rugby teams in Australia, the largest Member Unions – NSW, Queensland and the ACT – developed their own professional clubs alongside the community Game.

I make note of the brief professional history of the Game because the current state of Australian Rugby – including its many idiosyncrasies – can only be fully understood in the context of the sport's rapid professionalisation.

Many of the current leaders and administrators of the Game played or worked in Rugby during the amateur era and many within the Rugby community still look back on this time as Rugby's halcyon days. And, in many respects, Rugby is still in the early part of its evolution into a mature professional sport.

Competitive nature of sport in Australia

One of the most frequent comments made during the consultation process was the description of Australia having ‘the most competitive winter sports market in the world’.

The challenging competitive environment that all sports in Australia face is no secret. While it goes without saying that Australians love their sport, the question for all sports, including Rugby, is whether there is enough love to go around.

While the aspiration for sports to run elite national competitions is understandable, there is real doubt that Australia’s comparatively small market has the capacity to sustain the more than 70 professional and semi-professional teams that currently exist.

And of course, the competition will only become more intense in the future.

In this environment, the challenges for Rugby are significant.

Over the past decade the AFL has raised the bar for all Australian professional sports. Their ventures into the Gold Coast and Western Sydney are evidence of a code willing to make a long-term strategic investment in growing their sport in new markets. And, backed by a record broadcast deal, they have the resources to be successful.

While all sports, Olympic and professional, complain that the AFL juggernaut is siphoning off the best of Australia’s future athletes, it is not hard to identify the two sports that have the most to lose from the AFL’s NSW and Queensland ventures.

Rugby League, alive to this threat and having taken the first steps to a new, more cohesive and strategic governance framework, is, in my view, the sleeping giant of Australian sport. If the considerable resources of Rugby League, now under a single Commission, can be strategically harnessed and directed towards a common purpose, I believe they can challenge the AFL commercially over the next decade for the mantle of Australia’s dominant football code.

In such an environment Rugby finds itself vying for players, spectators and supporters as well as broadcast and sponsor revenue with two sports – significantly larger in all respects – with each enjoying a longer professional history and armed with a billion dollar war chest. And this is without mentioning Rugby’s other sporting rivals, including the Football Federation Australia (FFA).

To add further complexity, each of these sports is competing for eyeballs while also attempting to work through the implications of the digital age and the changing behaviour of sports lovers as a result of convergence.

Rugby’s defining point of difference and attraction, its internationality, is both a great strength and a great weakness. Rugby in Australia is comparatively small. In the corporate world, a small organisation in such a competitive environment should be nimble and responsive to change. For Rugby, however, the opposite is true.

The international nature of Rugby brings with it a considerable level of complexity. ARU does not exercise exclusive ownership or control over Rugby's professional competitions, unlike the AFL and Australian Rugby League Commission (ARLC).

Both Super Rugby and the Rugby Championship (formerly Tri-Nations) are owned and managed by SANZAR, a joint venture of which ARU is a one-third partner with the Rugby Unions of South Africa and New Zealand. This structure means that ARU is not free to modify and adapt key components of its business without the support of its joint venture partners.

Similar restrictions apply to ARU's inability to modify the Laws of the Game without the consent of the Dublin-based IRB. What this means on a practical level is that the ARU cannot easily adapt its business to counter the moves of its domestic competitors. When you compare this with the AFL and ARLC's ability to tinker and experiment with the laws of their games to create a contest that is as entertaining as possible and crafted specifically with Australian sports fans in mind, it's clear that Rugby is at a competitive disadvantage.

Despite some recent successes, it is fair to say that there is a strong sentiment, within the Rugby community and without, that the professional side of the Game has underperformed over the past decade – at least in comparison to the very high expectations that were set in the golden period of Australian professional Rugby from 1998 to 2003.

Australia's third place finish in last year's World Cup was a disappointment to many and this year Australia's Super Rugby teams have not lived up to expectations with three Australian teams in the bottom five of the Competition.

One of the difficulties Australian Rugby has had in emulating the run of success it enjoyed in the late 1990s and early 2000s is due to the fact that the sport itself is now more competitive internationally than ever. The resources available to ARU are exceeded by the national unions of France, Wales, New Zealand and Ireland and dwarfed by the revenue streams available to England. Along with the intense competition between sports for athletes within Australia, Rugby players now also have the option of pursuing lucrative contracts to play Rugby in Europe, the UK and Japan.

Against this backdrop of intense domestic and international competition, Rugby faces some serious financial challenges. Australian Rugby Union's capital reserves have been in decline over the last decade and most of the Super Rugby teams are in a weak financial position. Indeed there is little financial resilience throughout Australian Rugby, which only reinforces the need to reform the governance of the Game.

Importance of good governance

In this competitive context the importance of effective governance could not be more evident. Indeed, these challenges should be seen as the catalyst for implementing necessary change.

Australian Rugby does not enjoy the luxuries of some other Australian sports, such as a monopoly in their major market, a huge broadcast deal or the iconic status of being Australia's national game.

Other sports have shown that team success on the field and financial success off the field can help to paper over deficiencies in governance and administration. With Australian Rugby, the structural and governance issues at the national and provincial level are prominent even when the Game is travelling well.

If Rugby is to secure its position as a profitable, mass entertainment professional sport – let alone thrive – it is essential that it has in place the best possible structures to promote the best possible decision making.

In short, Australian Rugby cannot afford to be making the wrong calls.

The Board's resolution to commission this Review follows the decisions of ARU's main rivals – the AFL, ARLC, FFA and now Cricket Australia – to carry out governance reform. Each of these sports has embraced change for similarly obvious reasons.

As a result of the professionalisation of sport, the complexities involved in running a sporting organisation – and associated levels of commercial risk – have increased dramatically over the past 20 years. That 'sport is now big business' was a point repeatedly made throughout many of the consultations. To keep pace with this change, sporting organisations everywhere must evolve.

Governance models that worked for amateur sports, during an amateur era, are largely incompatible with the needs of a major professional sport. They are also often incompatible with the basic obligations of any modern organisation to be transparent and accountable to their stakeholders.

Sports, even professional sports, are the beneficiaries of millions of dollars of government support through high performance and participation funding, stadium infrastructure and event deals. Governments expect that certain fundamentals of good governance are adhered to by the recipients of taxpayer funds.

The current Minister for Sport, Kate Lundy, has made it clear that the onus is on sporting organisations to get their governance 'right' if they want to continue to enjoy the benefits of government support – and rightly so. The sports ministers and government officials I met with echoed this sentiment.

Good governance structures are just as important for sporting or not-for-profit organisations as they are for today's corporate entities. This is because good governance is the foundation on which so much else is built, such as sound strategy, effective communication and responsible decision making.

It is worth noting that in response to this claim of the importance of good governance, the point was made during some of the consultations that a structure is only as sound as the people working within it.

This is true, to an extent. In any organisation, people are the key to its success.

A good governance system will enable the best people to perform to the best of their ability. In contrast, a poor governance structure that, for example, impedes communication, entrenches conflicts of interest and breeds distrust, can hinder even the best administrators from performing their tasks effectively.

Good governance doesn't just provide for effective decision making, it encourages it. As a result, good governance structures don't make tough decisions any easier, but they certainly make the taking of them more likely.

In this respect, good governance is about both removing the handbrake and boosting the horse power.

Future opportunities

While there is no denying that Rugby faces real challenges, it also has a great deal to be optimistic about.

In 2013, Australia will host the British and Irish Lions tour. This once-in-a-12-year event will provide a financial windfall for ARU as well as focus the global Rugby community on the Wallabies and Australia for the first time since the 2003 Rugby World Cup.

The inclusion of Sevens Rugby in the Olympic Games has the potential to transform the sport by creating a point of difference and by making it more attractive to a much broader audience, in particular through Women's Sevens.

Sevens Rugby is a sport tailor-made for inclusion in school competitions. It has the potential to help Rugby develop new markets, particularly among those who did not grow up playing Rugby and who aren't steeped in the tradition of the Wallabies. Developing opportunities to engage Australia's migrant and Indigenous communities, for example, is something all sports are trying to achieve and Sevens Rugby is the perfect vehicle for this.

One of Rugby's greatest strengths, and one that is often underestimated, is that unlike other international professional sports, Rugby is the one sport where Australia can genuinely profess to be one of the world's best through the Wallabies, one of our most iconic national sporting teams.

What is clear is that there is certainly no shortage of potential. The question is whether the current governance structures of ARU, the Member Unions and the Super Rugby teams are such that Rugby's administrators are well placed to seize these opportunities for the benefit of the Game in all its forms.

A governance framework for Australian Rugby

Australian Rugby Union

David Crawford AO and Colin Carter OAM summed up better than I can the current thinking on 'best practice' governance in their review of Cricket Australia:

While we are not doctrinaire on governance design and do not believe that 'one size fits all', there has been an extraordinary convergence around the world over the past two decades about what structures work best in most situations. This convergence has been reinforced by government regulators and stock exchanges who have enshrined new governance standards that modern day organizations are expected to uphold.

Crawford and Carter go on to say that this system of best practice is characterised by "an 'independent and well-skilled' Board that is clearly accountable to the owners and which doesn't confuse its role with management".

One person I met with highlighted this broad acceptance of what now constitutes best practice in another way by stating, 'this is not rocket science'.

In respect to governance reform, it's fair to say that this is now well-trodden ground.

Crawford and Carter found – as did I – that inevitably people in sport will refer to this as the AFL model. This is understandable as they were the first professional sport to move to a modern corporate governance system and the success of the AFL over the past decade has often been attributed to the guidance, foresight and prominent role of the AFL Commissioners, past and present.

However, there was nothing revolutionary in this model then and there is even less so now.

It is the model of governance adopted by Rio Tinto and Wesfarmers along with the overwhelming majority of the world's public companies. It is also, increasingly, the model of choice for sporting organisations at home and around the world.

Indeed, so established is this 'best practice' model, that the real question is why wouldn't a professional sporting organisation embrace this structure which has, at its heart, three simple principles:

- appoint the best people for the job
- remove conflicts of interest
- promote transparency and accountability.

Of course, cascading down from these three principles are many other considerations, and I'm not advocating a cookie-cutter approach to governance. However, these principles do underpin the governance of most successful organisations.

The ASX's Corporate Governance Principles and Recommendations provide a succinct overview of those aspects that typically define 'best practice' corporate governance; foremost of which are:

- a clear division of the roles and responsibilities of management and the board,
- a board composed of a majority of independent directors that add value to the organisation through an appropriate mix of skills and experience and of a size that promotes effective decision making and open discussion,
- promoting ethical and responsible decision making,
- integrity and transparency in financial reporting,
- the need to respect, empower and ultimately be accountable to shareholders, and
- encouraging processes and a culture that effectively identifies, assesses and monitors risk.

These same principles underpin the guidance the ASC provides to sporting organisations, large and small, through its Sports Governance Principles.

Australian Rugby Union's current structure meets many of the above criteria. Australian Rugby Union made some significant constitutional reforms, implemented in 1999 and 2005, that saw the introduction of two Board-appointed Directors and a prohibition on ARU Directors concurrently holding a position of office in a Member Union.

As a result, in some respects ARU has avoided the same level of dysfunction that characterised the governance structures of some other sports. However, it is also clear that Australian Rugby has confronted significant challenges, including financial bailouts of its two largest Member Unions, NSW (in the late 1980s and in 2000), and Queensland in 2010.

ARU's constitution was first drafted in 1949 and the modern Game has evolved dramatically over the past 15 years – let alone the past 50. Those reforms, while important, haven't kept pace with the enormous leap that occurred in 1995 when Rugby entered the professional era, and other sports are now stealing a march on ARU.

Perversely, these piecemeal changes have probably helped to disguise the need for comprehensive reform by removing some of the worst excesses of poor governance.

Despite the work on improving governance, there still exists inside the ARU structures potential conflicts and inadequacies. Many of these issues have been overcome with the goodwill and commitment of stakeholders, Directors and management. Nevertheless, these issues still exist and may become more acute with differing external or internal circumstances. By its very nature, best practice governance seeks to ensure these conflicts are managed or avoided.

Moving to a better governance structure that is more reflective of 'best' or 'good' practice, will assist the ARU to pinpoint and execute decisions that will give it a

sustainable competitive edge over its rivals. Such a structure will also go a long way towards addressing some of the serious inadequacies the Rugby system has in promoting trust and facilitating effective communication.

An important and noteworthy point was made during the consultation process – that the problems Australian Rugby faces, some of which are outlined above, won't be completely fixed by a new governance structure.

This goes without saying.

The Board would be the first to acknowledge that no one expects a new governance structure to be a panacea for all of Rugby's ills.

The real question is what system of governance, what structure and framework, will best serve Australian Rugby as it meets future challenges?

ARU's Members

Any consideration of ARU's governance structure must necessarily start with identifying the Members of the ARU (or shareholders), what their powers are, or should be, and the extent to which individual Members enjoy different rights.

As a starting point, ARU's Members are clearly the State and Territory Member Unions. However, it's important to differentiate, at least in principle, this shareholding from that of a typical corporate entity. The Member Unions' investment in ARU is not financial and the aims and objectives of ARU are more nuanced and diverse than simply the creation of shareholder wealth.

I make this point to highlight the fact that the Members are not the 'owners' of ARU in the same way as the shareholders or institutional investors are of Westpac or Woodside, for example.

Instead, as with many federated sports, the Member Unions are 'shareholders' of ARU by virtue of the fact that they are responsible for growing and administering the Game in their respective State or Territory, and the rights they enjoy are chiefly the result of historical circumstance. And, while they are the representatives of the wider Rugby community, they are also the chief beneficiaries of the ARU's financial success.

It is to these Members that ARU's Board of Directors is currently accountable.

An issue raised throughout the consultation process was whether the current shareholdings continue to adequately reflect the Members of ARU. One often cited example is the significant investment in Rugby made by the Melbourne Rebels Super Rugby Team and their lack of representation in decision-making bodies. It was noted during a number of consultations that the Rebels arguably have more at stake in the Game than some of the State and Territory Member Unions, for example, and yet they don't have a seat at the decision-making table.

Of course, financial investment, on its own, should not be the overriding consideration in determining Membership of an organisation such as ARU. However,

it would also be wrong to characterise the investment that the Super Rugby teams make in the Game as merely financial.

The Super Rugby teams play a crucial role in growing participation levels, developing future players and promoting the Game.

This issue is further complicated by the unusual historical precedent within Rugby that sees Member Unions responsible for administering both the community Game and the Super Rugby professional teams. For example, Queensland Rugby Union not only owns the licence for the Queensland Reds but runs the professional team alongside community Rugby.

With the exception of Cricket's recently introduced Big Bash League, it is difficult to find another example of this model in Australia or internationally, where the community and professional sides of a sport are side by side.

Although ARU has State and Territory Member Unions as Members it is not a truly national sport in the same way Cricket is. There is a huge variance between the size of the different Member Unions and the number of Rugby participants in each province. At present, NSW and Queensland account for over 70 per cent of player participation. In contrast, the Northern Territory, South Australia and Tasmania collectively account for less than four per cent. Include Victoria and this figure increases to just over eight per cent.

As a result, neither the federated shareholder model of Cricket nor the professional club model of the AFL sits comfortably with ARU. Instead, I recommend that a hybrid of both models is the most effective option for ARU in the future.

The State and Territory Unions should remain Members of ARU and continue to be responsible for growing the Game in their own jurisdictions. It is my firm belief that the Australian Super Rugby teams should also be recognised as having a key role in the Game, with each current Super Rugby team (and any future Team) acknowledged as a Member (and shareholder) of ARU in their own right.

Importantly, this should not simply be another vote for those provinces that play home to a Super Rugby team. To reflect the different role they play, the voting right should attach to the Super Rugby licence, exercisable by the owners of the licence, whether that is a Member Union or private owner.

With respect to the Membership of ARU, I recommend that:

- The State and Territory Unions continue to be acknowledged as Members of ARU and remain responsible for growing the Game in their own jurisdictions.
- The Australian Super Rugby teams are recognised as having a key role in the Game, with each current Team (and any future Teams) acknowledged as Members of ARU in their own right.

The Super Rugby teams are the face of Australian professional Rugby for six months of the year, and they are the breeding ground for the Wallabies. Perhaps more than any other stakeholder, the future of the Super Rugby teams is dependent on the

success or failure of Australian Rugby. In turn, Australian Rugby cannot thrive without a strong Australian Super Rugby Conference.

Success in one breeds success in the other; it is no coincidence that when Australia's Super Rugby teams are performing well, so are the Wallabies.

This reform, if adopted, would ensure a more equitable and accurate representation of ARU's Members.

Providing the Super Rugby teams with a seat at the decision-making table would also reflect the important role they have in promoting and developing the Game.

Another issue raised was whether or not the Rugby Union Players' Association (RUPA) should be considered a Member. Crawford and Carter faced this decision too with Cricket Australia and determined that it was not preferable. I believe that RUPA deserves a prominent role in the Game but, like Carter and Crawford, recognise the potential for the players' interests to conflict with, or be divergent from, ARU's and its other Members from time to time. As a result, they should no longer enjoy special dispensation in regards to representation on the Board. This issue is discussed further in the report.

However, the Membership model proposed in this report is broader and more diverse than that of Cricket Australia and given RUPA's close historical relationship with ARU and its standing in Rugby generally, they can and should be regarded as a Member with voting entitlements.

To overcome the challenges ahead Rugby's stakeholders need to begin to work together more cohesively and, as a start, ARU's Members should accurately reflect those who contribute the most to the Game. The Member Unions represent the countless volunteers, officials, coaches and amateur players that make up the community Game. The contribution these individuals make to the Game on a weekly basis goes without saying. It is off the back of their hard work that Rugby has been built over many decades. However, in the professional era, the contribution from the professional players and Super Rugby teams is considerable and bringing the community and professional sides of the Game together is an important step if Rugby is going to get everyone working toward the same goals.

Finally, I gave consideration to the current non-voting Affiliated Members of ARU. The reality is that there is no formula or rhyme or reason as to why these bodies are affiliates of ARU. Their contribution and relevance to ARU varies substantially and, more often than not, their connection as an affiliate is a reflection of Rugby's long amateur history. However, I cannot see that ARU, or Rugby more broadly, would be the richer for their removal. Instead, I recommend that as part of the development of a National Charter (discussed later in the report) their respective roles should be clarified and, where necessary, more adequately resourced.

Members' rights

Having determined who the Members are, it is important to outline the rights and responsibilities that are their sole preserve and the matters that should occupy a great deal of their attention.

Australian Rugby Union Member engagement and participation occurs within a framework of delegated authority. It is Directors who are responsible for approving the strategic direction of the company and for appointing and overseeing management. They are held accountable for their decisions by Members.

Ultimately, this accountability lies in the ability of Members to dismiss an individual Director, or the entire Board if enough of them see fit to do so.

With respect to the Members of ARU, the Member Unions and Super Rugby teams, these core duties should be:

- the right to dismiss a Director, or the whole Board, and appoint a majority of the Board
- the right to approve or reject amendments to the Constitution
- the right to approve or reject changes to ARU's core business.

While Members have other duties, such as receiving annual reports and accounts and ensuring compliance with corporations laws and the articles of association, these three core duties are the most important of the shareholders' rights and responsibilities.

In all other matters, the Board and management of ARU should have the freedom to act in the best interests of the business and, by virtue of this, the Members.

One factor complicating the relationship between the Board of a national sporting organisation and its Members, whether they are clubs or state bodies, is the potential for decisions of the national body to affect strategic and operational aspects of their Members' businesses. For example, a decision made by the Board and management of ARU to invest more in Sevens Rugby, with the best interests of the organisation and Australian Rugby in mind, may come at the cost of reduced funding for Super Rugby teams. Such a decision may have an adverse impact on a Team's ability to compete effectively in the Super Rugby competition.

In some respects this is no different to a company making dividend policy that impacts in a negative way on a particular shareholder like a major institutional investor. I note this potential for conflict because it has been a source of frustration from time to time for both ARU's Board and management, and its Members.

As a result, I believe it's important to spell out the rights of the Members for two reasons. First, it is clear that in an effective organisation, the central task of the shareholders is to see to the appointment of a highly capable Board. Once this is done, shareholders need to let the Board and management get on with doing their job – even when they disagree with the decisions being made. Second, it's necessary to explicitly outline the powers of the Members to remind the Board and management that ultimately this is the group they are accountable to and the group who will judge their performance.

It is incumbent on both parties to remember that this is a two-way street and goodwill is vital. An organisation that ignores its shareholders or takes them for granted, except on the handful of occasions where it has no choice but to seek their endorsement, should not be surprised when it meets a cold reception. On the other hand, if shareholders use those few opportunities that exist to flex their constitutional muscle as a matter of pride, not principle, they shouldn't be surprised when the Board and management are reluctant to consult in good faith.

A partnership model is required and central to this is, first and foremost, for the Board, management and the Members to all clearly understand their respective roles within the organisation. The Members' core duties outlined above should be spelt out in a redrafted constitution – in addition to those elements that are required by corporations law or that reflect modern best practice.

Voting rights

During the consultation process, the matter of members' voting rights was a particularly contentious issue. Currently, of the total 14 votes exercisable at an AGM, NSW enjoys five and Queensland three. Each of the other State and Territory Member Unions makes do with one. The inequality in voting rights has been a source of frustration for some Member Unions. It was also a matter that the original drafters of ARU's constitution envisaged would be rectified at some later stage, although, 50 years on, the situation remains unchanged.

On the issue of voting rights, fairness and transparency are important. However, with respect to ARU's shareholdings, fairness and equality aren't two sides of the same coin.

The arguments for some form of differentiated voting structure are sound. The difference in size and scale of Rugby's Member Unions cannot simply be put down to the varying population sizes of the states and territories. The point was made earlier that Rugby is not a truly national sport, such as, for example, Cricket. Neither are its Members alike in the manner of the AFL clubs, each enjoying equal standing in the competition and each with as much at stake.

It is an unavoidable reality that Rugby is highly skewed towards its traditional markets of NSW and Queensland in both penetration and popularity. The difference in standing between NSW and South Australia, or Queensland and the ACT – on every possible indicator – is simply too significant to be ignored.

So while it should be the aspiration of ARU for Rugby to be a national sport, not just in the support the Wallabies enjoy but in the number of kids running onto paddocks each week around the country, an equal voting entitlement for Member Unions simply would not fairly reflect the current picture on the ground.

That said, the formula – if there was one – for determining the differentiated voting rights is out-dated and no longer serves Rugby well.

While the current voting entitlements recognise the significant contribution of NSW and Queensland, it provides no recognition of the differences between the other Member Unions nor does it provide a sound foundation for making decisions in the interest of the Game nationally.

The starkest example of this is the fact that NSW holds a veto power over the other Members, enabling it to defeat special resolutions, such as the removal of a Director or constitutional changes. It is my strong belief that one Member wielding this level of potential power is a very poor outcome in the governance of the ARU.

Australian Rugby Union also runs the risk if they maintain a governance framework dominated by just two jurisdictions of perpetuating an insular focus that undermines the Game's ability to effectively exploit its unique strength to leverage off the international opportunities that exist, like the inclusion of Sevens Rugby in Olympics.

It will be a careful balance of growing the domestic Game and taking advantage of the international opportunities that arise, including the enormous opportunities in Asia and through the growth of Sevens that will be crucial to future success.

Governance must be such that these opportunities can be identified and harnessed.

The current system needs to be replaced by a simpler, more transparent formula for determining voting entitlements; one that promotes a partnership model and effective decision making.

The recommendation below removes the inherent veto right NSW currently enjoys, yet reflects the significant contribution that both NSW and Queensland make to the Game. This formula also provides other Unions with a reward for growing their participation levels.

I recommend that Members agree to new voting rights determined on the following basis:

- one vote for each Member Union
- one vote for each Super Rugby team as a condition of their licence
- one additional vote for each Member Union with more than 50,000 registered players (for a maximum of one additional vote)
- one vote for the Rugby Union Players' Association.

Ensuring that voting rights reflect in some manner the significant contribution of the larger states to Rugby is the only suitable arrangement for ARU at present. It is a similar process to that undertaken by a number of other sports, both professional and amateur. Fifty thousand is an achievable (and substantive) number of participants – at least for the States – and the long term aspiration should be for each State and Territory to settle on a common shareholding of two votes.

Creating a voting structure that reflects the values that Rugby aspires to, such as a collaborative approach between equal partners, defined by respect, goodwill and a common purpose, is important. In particular, removing the capacity for one Member to determine whether major changes to the Game should or can occur, is vital to promoting a partnership approach.

The Board

The Board of ARU is currently comprised of eight non-executive Directors and the Managing Director. Of the eight non-executive Directors, two each are nominated by NSW and Queensland, one by the other Member Unions and one by RUPA. A further two independent Directors are appointed by the Board.

The obvious concern with the current structure lies in the fact that the majority of Directors are dependent on the support of their constituent groups for their continued reappointment. If an issue arose where the interests of ARU were divergent from a Director's constituency there is a very clear incentive for that Director to act in conflict with the interests of the ARU.

In the context of the ever-increasing competitive nature of sport in Australia, removing this potential for conflict is critical. There is an impending need for ARU to make some tough calls regarding the future of the Game (discussed further in the report). Removing any potential conflicts of interest will ensure that Directors are unequivocally supported in making decisions in the best interests of ARU.

In identifying recommendations for reform, the size, composition and process for selecting Directors are all central considerations when putting together a Board well-equipped to meet the challenges Rugby faces.

As a starting point, the number of Directors is right for an organisation of ARU's size and I recommend the Board continue to comprise of between six to eight independent Directors.

Indeed, in this and many other respects, ARU is much further ahead of the curve than some of the other major codes when they embarked on their reforms.

It was mentioned throughout the consultation process that ARU has benefitted from a well-functioning Board made up of highly capable Directors. The current process, to its credit, has revealed strong candidates who would not be out of place in any boardroom around the country. Importantly, only a few instances were raised where sectional or constituent considerations were seen to have influenced the decisions of Directors. Both the players' representatives and Directors appointed by the Member Unions were all viewed as trying their best to act in the broad interests of ARU – consistent with their fiduciary duties.

However, the point was raised, and I agree, that the current Board is more a product of good fortune and good people than a good system.

Despite the best efforts of both the players' representatives and the Directors appointed by the Member Unions to act in the best interests of the ARU, the fact remains that they are in a conflicted position.

There was near universal agreement during the consultation process that the Board should be comprised of independent Directors. While the current Board might act independently – and this was unequivocally the view of those around the boardroom table – it is just as important that it be *seen* to be independent.

It is important to note that ARU cannot simply rely on a governance structure that is dependent on the goodwill of those acting within it to do the right thing and make decisions in the broader interests of ARU. A robust system is designed to work regardless of the personalities involved.

Currently all the incentives in the governance structure of ARU actually drive Directors *towards* making conflicted decisions. It is the Directors themselves who have traditionally defied the natural incentive to act in the interests of their respective constituency in favour of Members collectively.

It goes without saying that this is a tenuous basis on which to promote ongoing effective, transparent and accountable decision making.

I am not advocating a highly prescriptive approach with regard to what constitutes 'independence'. The critical point is the removal of material conflicts of interest to ensure that Directors are exercising their judgement independently of sectional or constituent considerations or their personal interests.

Removing conflicts of interest is at the heart of 'best practice' governance. The current practice of having Member Unions put forward their own candidates hardwires distrust and suspicion throughout the Rugby system and actually undermines the role of the Board. And it does this irrespective of whether or not the decisions that are being made are done so in good faith and in the best interests of ARU.

Removing the link between individual Directors and the Member Unions will enhance the integrity of the Board and empower it to make the tough decisions that Rugby will face. So long as individual Directors can be viewed as the 'NSW Director' or the 'other Member Unions Director', the decisions they make, particularly the controversial ones, will always be second-guessed.

With regard to the players' representatives, it was the genuinely held belief of all the people I interviewed that those who had served in this role had distinguished themselves well and acted in the broader interests of the ARU. This of course raises the issue of why have a players' representative at all, given that they are bound to act in the best interests of ARU as a whole?

The welfare of the Game's professional players should always be at the forefront of ARU's considerations. However, the current Board already has four former Wallabies, including the players' representative.

Breaking this nexus between specific Directors and their constituent groups is key to rebuilding trust within the Rugby system. All Members deserve to have confidence in the Board; that it is acting in their collective interests. I believe this is only achievable with an independent Board.

A skills-based Board

Another major benefit of moving to an independent Board is that it promotes the appointment of Directors whose skills and experience compliment the requirements of the Board and the business.

While having the Member Unions appoint Directors has thrown up highly accomplished candidates, no coordinated consideration has been given to the question of whether they are the 'right' candidates for the needs of the Board. This isn't a reflection on the capabilities of any of the current or former Directors; it is simply a statement of fact that the overarching requirements of the Board are currently not a consideration when Member Unions are selecting candidates.

Effective Boards showcase a broad range of skills and expertise relevant to the requirements of the business. With respect to ARU, this might be experience in media and broadcasting rights, mass entertainment, government relations or high performance sport. In addition to these specific skills it is important to ensure there are Directors familiar with running large businesses who possess a high degree of financial and legal acumen.

Diversity

Effective Boards should also reflect a level of cultural, geographic, gender and age diversity; something previously missing from ARU's Board.

The issue of cultural and gender diversity, in particular, is one that ARU needs to consider as a priority. Australia's population is increasingly diverse and ARU can no longer rely on the fact that children will have grown up immersed in the culture of the Wallabies and with an innate love of Rugby – or any iconic Australian sport for that matter. All sports are struggling with this challenge and if ARU cannot find a way of appealing to a more culturally diverse population it will fall behind other sports, as well as deprive a large segment of our community from the enjoyment that comes from participating in Rugby.

Similarly, engaging women meaningfully as participants and supporters is something that all the male-dominated major professional sports have attempted with limited success. Rugby is no different and encouraging more women to become involved in the Game as players, volunteers, officials, coaches and administrators is an area where the sport could clearly improve. The inclusion of Sevens Rugby in the Olympic Games provides a unique opportunity for Rugby to broaden its market and encourage a diverse range of new participants and supporters.

For ARU to unlock this potential and open new markets, it is crucial that the composition of the Board, and the areas of experience and expertise of the Directors, evolves with the times. The ARU has recently taken great strides in this respect with the appointment of the first woman to their Board.

I have no doubt that the Member Unions and RUPA seek to appoint qualified candidates who will bring something to the table. However, the only opportunity to seriously strategically assess what skills the Board needs is when a vacancy arises for one of the Independent or 'Board nominated' Directors' positions. This opportunity arises infrequently.

All Directors, however qualified, should be appointed first and foremost with regard to the skills and experience they bring to the overall mix.

In short, the question needs to be asked, 'what value will he or she add?'

I recommend that ARU adopt a skills-based Board comprised of up to eight Independent (non-executive) Directors.

Nominations Committee

The most effective way of appointing a skills-based Board is to establish a nominations committee that can critically assess the skills gaps missing in the current Board and suggest qualified candidates to fill those gaps. This process already happens on ARU's Board when appointing the two Board-appointed Directors.

I am not wedded to any one form for the nominations process, so long as the process:

- ensures that both the Board and Members are involved in identifying and appointing Directors
- considers the skill requirements of the Board
- avoids conflicts of interest
- includes a nominations committee to help find the best candidates.

I recommend the appointment of a single nominations committee, comprised of both representatives of the Board and Members, to elect the majority of the Board. This is similar to the process recommended for Cricket Australia and in use by the AFL. I do not have a strong view as to who specifically comprises the committee, so long as they represent the views of both groups – Directors and Members. Directors need to be involved because they are best placed to determine what skills are absent from the Board (and because they deserve to have input into who their future colleagues may be). However, current and future Directors are ultimately accountable to the Members of ARU. As a result, it's important that Members' views are also considered, particularly so that incoming Directors know they enjoy the support of the Members.

This nominations committee would likely be comprised of the Chair of the Board and another nominee of the Board (either a Director, experienced professional or company director appointed by the Board) along with two nominees elected or appointed by the Members – likely Chairs of the Member Unions or Super Rugby Teams.

The nominations committee will select new Directors following a consideration of the necessary skills the Board requires, preferably on a unanimous basis. The Board would then be required to endorse these candidates, as is the current practice with the two Board-appointed Directors. This would only require a simple majority of Directors but, again, I expect in practice this would happen unanimously. In the end though, the Members have the final say and candidates would be put to the Members at an AGM for approval on a two-thirds vote.

I recommend that the Board maintain its current capacity to appoint up to two Directors, which provides a level of flexibility to fill skills gaps on the Board, promotes diversity and makes appointments of Directors possible between AGMs. This is consistent with the practice of a number of sports and the ASC's Governance Principles.

I recommend that the following process be adopted for electing and appointing new Directors:

- a four-person nomination committee to be formed each year comprising the ARU Chair, another representative selected by the Board and two representatives selected by the Members
- the committee assesses candidates based on their skills and experience and the Board's requirements and makes recommendations on a unanimous basis to Members at the AGM for the election of six Directors
- the nominees are put to the Members of ARU at an AGM for approval on a two-thirds vote
- in addition to the elected Directors, the Directors may appoint up to two other Directors to the Board.

I believe the easiest way of securing confidence in this new process is for Members and Directors to witness it in action.

The ultimate check and balance, though, is the ability of Members to dismiss individual Directors, or the entire Board.

I also recommend that all Directors be appointed for three years and be eligible to serve a maximum of three terms in line with the current terms for the Directors appointed by the Member Unions.

Finally, the current practice is to elect the Chair each year at the first Board meeting. This is not a constitutional requirement but over time has become the established convention. I can see no reason for this practice to continue.

While having the appointment of the Chair formally reconsidered on occasion has merit, I don't believe it makes sense for this to occur annually.

As a result, I recommend that the Chair of ARU be appointed by the Board with the position to be formally reconsidered every three years.

The CEO on the Board

One issue raised during the consultation process was whether or not the CEO should sit on the Board as a Director, as is the case with the current Managing Director. While the overwhelming practice in the business world is to have the CEO on the Board as an Executive Director, the situation in Australian sport is more mixed. Of the larger professional sports, the AFL has the CEO as an Executive Director, while Cricket Australia, the ARLC and FFA do not (although the FFA's constitution allows for the appointment of a managing director).

While having the CEO – not to mention a number of other Executive Directors – on the Board of a company is common practice, for some reason there is far more controversy around the issue in not-for-profit organisations.

During the consultation process, the advocates for and against on this issue were evenly balanced.

Interestingly, many of those who advocated that the CEO should not be on the Board were themselves Directors or in senior management roles of companies or organisations where the CEO was a Director. And most agreed, with respect to their own organisations, that having Executive Directors on the Board was both useful and appropriate.

When asked why the situation was different with regard to ARU, the inevitable response was simply that ‘sport is different’.

In the end I was unpersuaded by this argument. I come back to the statement made so frequently during the consultation process that ‘sport is now big business’. I find myself in full agreement with Crawford and Carter in that in a good governance structure, the CEO is an *equal partner*. This holds no less true for ARU than it does for BHP.

The arguments to include the CEO on the Board are compelling. The CEO *will* and *should* drive the agenda for the organisation. The CEO is also the person best-placed to provide the Board with the information it requires to make effective and informed decisions. And, once those decisions are made, it will be the CEO who is tasked with implementing them.

He or she clearly deserves to be at the table – a point agreed by all. It is important to recognise that the CEO deserves to be there as an equal; this is, unequivocally, best practice.

I recommend that the CEO sit on the Board as an Executive Director. This is the current practice at ARU and it is the practice at the two largest Member Unions of NSW and Queensland. I can see no convincing argument to suggest why this shouldn’t be the case.

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| I recommend that the CEO sit on the Board as an Executive Director while retaining his or her position as CEO on an <i>ex officio</i> basis. |
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It is vital that the Board and management enjoy a close partnership (as they currently do) and the likelihood of achieving this is enhanced by having the CEO as a Director.

Not having the CEO on the Board is simply bad business sense. It will make it more difficult for ARU to attract quality candidates for the CEO’s role in the future and it has the very real likelihood of detracting from the quality of information and advice that the Board has at its disposal.

In part, the confusion around this issue lies with the ASC’s Sports Governance Principles for sporting organisations. The ASC’s Principles were given to me by more than one person as the reason why they felt the CEO shouldn’t be on the Board. In particular, there was a sense that if the ARU continued with the CEO as a Director, it would be seen as non-compliant with the Principles, thereby attracting the ire of the ASC.

What this fails to appreciate though is that the Principles were developed as a guide for the large spectrum of Australian sporting organisations – from local Little

Athletics clubs to the country's largest professional sports – and are not intended as a one-size fits all. The most recent edition of the Principles does in fact contemplate the CEO being on the Board when this is the best structure for the sport, and provides guidance to help manage this situation.

To avoid confusion, I raised this issue with the ASC and received their assurance that they were comfortable with a governance structure for ARU that includes the CEO on the Board.

For the ARU, having the CEO on the Board is best practice and should continue under the new structure.

Other considerations

While not a substantive issue, I believe improvements could be made to the current positions of President and Vice-President.

The President and Vice-President are important ceremonial roles. They are eminent members of the Rugby fraternity and they act as ambassadors for ARU and all aspects of Australian Rugby. They also reduce some of the burden on the CEO and Chair in terms of attending the numerous events, domestically and internationally, that require a senior representative of ARU.

Currently, the President is elected for a maximum of two, two-year terms and his or her primary formal role, in a governance sense, lies in chairing the AGM. The President is also entitled to receive notice of and attend meetings of Directors. In my view, it is not ideal to have the President undertake these two roles.

The Presidency is a ceremonial role, above the politics of Rugby. By Chairing the AGM there is the real, albeit unlikely, potential for the President to have to rule on matters that are divisive or controversial. In the case of a tied vote, the Chair of the AGM also has the casting vote. This situation is best avoided.

Only Directors should have an automatic entitlement to attend and participate in meetings of the Board. Directors are responsible for overseeing the management of the business with all the attendant fiduciary responsibilities. It should be left to the sole discretion of the Board as to who is invited to attend meetings of Directors and under which circumstances.

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| <p>I recommend that the Chair of the Board preside as Chair at AGMs and exercise a casting vote and that the President have no automatic entitlement to attend meetings of Directors.</p> |
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Regarding the issue of the terms for which the President and Vice-President are appointed, one year would be preferable. The current length of the terms restricts the involvement of many worthy individuals from having a formal role within ARU.

One of ARU's great strengths lies in the incredible alumni and support networks the Game can call upon. The challenge ARU faces, though, is how to better involve these supporters in a meaningful way. The point was made during the consultation process that the politics of Rugby has acted as a disincentive for many potential contributors to become involved.

Expanding the opportunities for these individuals to play an active role, in a depoliticised environment, is crucial for ARU if it is going to tap into this important resource.

I recommend that the positions of President and Vice-President be amended so each serves for a single term of one year.

Finally, while it was not raised during the consultation process, there is the potential for confusion between the roles of the Chair and President, particularly with international organisations like the International Olympic Committee (IOC). In a redrafted constitution, the President's role should be clearly articulated. The President should remain an ambassador for Rugby but there is the capacity for the President, as someone who is intimately involved in Rugby, to also act as an Independent adviser for the CEO and Chairman. The important point though is for the purpose and scope of the role to be readily understood by all stakeholders. For example, to avoid confusion, with Sevens Rugby, the Chair should be the relevant official dealing with the IOC and other international sporting bodies.

Australian Rugby

My focus while undertaking this Review was to identify the best governance structure for ARU to meet current and future challenges with. In summary, ARU requires an independent Board of Directors whose mix of skills and experience are well suited to meet the needs of the business. The Board should be accountable and transparent to the Members of ARU, a group that should fully and fairly reflect those with the most skin in the Game. It is essential that the Board, Members and management should all clearly understand their respective roles within the organisation.

None of these principles are controversial. However, ARU is only one half of the equation.

Rugby in Australia faces significant challenges and reforming the governance structure of ARU alone is insufficient to overcome these hurdles. It is only by building the capacity of the system as a whole, that the position of Rugby as a prosperous and successful competitive professional code can be assured.

In short, while reform of ARU is essential, it is simply one part of the Rugby system – albeit the most important part.

I feel it is important to outline some of my observations with respect to Rugby in general, even though much of this lies outside the ambit of this Review.

The overwhelming impression I gained is that Australian Rugby lacks the sense of shared purpose that defines successful systems and organisations.

One of the major underlying reasons for this is the contradiction that lies at the heart of Australian Rugby between the fundamental business objectives of ARU and those of its Member Unions with a Super Rugby licence.

The federated structure of Australian Rugby only serves to exacerbate this contradiction.

The ARU's primary focus is to ensure that the Wallabies are the number one team in the world. Of course, this is just one objective among many, including, for example, fielding multiple men's and women's Australian teams, seizing the Sevens opportunity, growing the participation base of Rugby, promoting the sport, identifying and developing talented young players and supporting the Super Rugby teams. However, it is from the Wallabies that ARU derives the resources to finance most of Australian Rugby and support these numerous other objectives. The Wallabies are the shopfront of the ARU and Australian Rugby cannot succeed, ultimately, if the Wallabies are unsuccessful.

In contrast, the primary focus of the majority of the Member Unions that own Super Rugby licences is, first and foremost, the success of their own Super Rugby team; second, the success of the Super Rugby Competition as a whole; and third, the development of amateur Rugby in their jurisdiction.

All Australian sports have some level of tension between the national body and the clubs or state competitions. This is because they find themselves vying for the sport's most valuable asset – elite national players. National sporting organisations are also required to make decisions that impact on their members' businesses, often in a negative way. In professional sports, with significant commercial interests on the line, this tension is heightened. However, I don't believe in any other sport is it as pronounced as Rugby.

For example, the national teams of Cricket Australia and FFA are just as vital to the survival of both codes. However Cricket Australia's domestic competitions are clearly the sideshow to the main act – the Australian Cricket team. And, unlike Rugby, the large majority of Australia's Socceroos play for international clubs, meaning FFA is less likely to find itself in conflict with A-League clubs over elite players.

The implications for Rugby of these conflicting objectives are significant. Consider how when the AFL Commission makes a strategically bold call to invest millions of dollars in a Western Sydney team, the individual clubs can comfortably be assured that the clear intent of the AFL is to grow the AFL competition – this is their primary aim. Clubs may question the strategy but not the goal.

In Rugby, however, the ARU's decisions are often viewed by some of the Member Unions as designed to enhance the prospects of the Wallabies at the expense of the Super Rugby teams. This is further exacerbated when other national teams, such as the Men's Sevens and Under 20s, are also seen to take precedence over the Super Rugby Teams. This is true of both operational and strategic priorities.

The inevitable impression left with some Members is that their own objectives and priorities, through their Super Rugby teams, are subordinate to the success of the national teams and other ARU strategic priorities.

This fundamental lack of alignment in the business models of the ARU and Super Rugby teams is an ongoing source of resentment and frustration on both sides. It is further heightened by the fact that the Member Unions control both sides of the Game – the community and professional – meaning that this often acrimonious relationship can spill over into Community Rugby.

If Australian Rugby is to be successful, it must ensure greater alignment between the ARU, its Member Unions and Super Rugby teams. This is certainly Rugby's most pressing objective.

The sharp end of this tension in Rugby frequently arises in the management of player workloads and injuries across the Super Rugby and Test season. The Wallabies play 14 Tests each year and the decisions the Super Rugby teams make during the other six months are crucial determinants to the Wallabies success or failure. A Super Rugby team's decision to not rest a player carrying a minor injury, or the failure to effectively develop players, or manage conditioning, are all elements that impact fundamentally on the Wallabies likelihood of success.

This, of course, cuts both ways in respect to ARU's management of the Wallabies and the potential impact on the Super Rugby teams.

In short, Australian Rugby is hampered by distrust and internal competitive forces that greatly diminish the prospects of success for both the Wallabies and the Super Rugby teams. I think this is caused in large part by the current disconnect between the two arms of the professional Game.

That this tension exists in Australian Rugby is unsurprising.

A federated structure is not a sound basis for running the 'business' of Rugby, or indeed, any business – a point also made by Crawford and Carter. While geographic boundaries make sense for determining representative teams and organising competitions, there is no rationale for dividing the business of Rugby along such lines.

Australia need look no further than New Zealand, where the merits of an effective centralised system of Rugby have been so clearly demonstrated. Indeed, a task that ARU should undertake as a priority is an assessment of New Zealand Rugby Union's national coordination of the top professional players and coaches to determine if these measures should be adopted.

It is difficult to see how Australia will ever be able to emulate the same degree of success our closest (and fiercest) rivals enjoy, so long as Australian Rugby perseveres with a framework that, by its very nature, diminishes the prospects of success at the elite level.

Developing mechanisms to overcome this problem is beyond the scope of this Review but must be a priority for the ARU Board if Rugby is to succeed.

My strong view, though, is that the time for half-measures is over.

Although not addressing the fundamental conflict I've outlined, or the problems inherent in the federated model, I have made some recommendations below that I believe could aid in improving communication – upwards and down – and create a better sense of shared purpose within Rugby.

These recommendations are largely in respect to ARU; not because I believe they are the source of the problem but because they are the focus of this Review. Also, I believe the ARU must play the leadership role in turning the current situation around. However, I would make the point that all the goodwill in the world from ARU won't make a difference unless it is reciprocated.

Again, none of these ideas are revolutionary and the values they seek to promote are universal. Respect, communication and a sense of teamwork and common purpose are values that are just as essential to a successful Rugby team as they are to any successful organisation or system.

Improving communication

In an effort to further promote both communication and a greater level of transparency and accountability, I recommend that ARU adopt the practice currently employed by the AOC of reporting like a public company. Transparency and accountability are important concerns for any organisation, but they are essential for member-based organisations.

I recommend that ARU adopt the practice of reporting against ASX Best Practice Recommendations.

This form of reporting entails a higher onus of transparency and accountability than is currently required of ARU under law, but I think adopting this approach to their corporate governance reporting is something that could be implemented with minimal additional expense by ARU. Reporting on things such as avoidance of conflicts of interest by the executive, succession planning, and the controlling and management of risk and gender diversity is one step ARU can easily take to further provide both Members and stakeholders with a high degree of confidence in the administration of the organisation.

Australian Rugby Union already undertakes more comprehensive disclosure than many of its peer organisations. However, there is nothing lost and much to be gained in being more transparent. I see this as a way of ARU creating some goodwill with many of its stakeholders.

Australian Rugby Union could also do more to communicate with its stakeholders and there are always opportunities to improve current communication channels.

I recommend that ARU form a joint Board and management stakeholder committee to help manage communications and interactions with key stakeholders including Member Unions, Super Rugby Franchises, sponsors and government.

This need not be a formal subcommittee of the Board. Its primary task would be to ensure that regular and meaningful contact with stakeholders occurs in a systematic and strategic way throughout the organisation. It's an effective way of harnessing the skills and experiences of ARU's Directors and sharing the workload more effectively between management and the Board.

This is a similar process to that adopted by the Geelong Football Club and it is something I believe would benefit Rugby greatly.

Greater alignment: the Professional Game

Achieving greater alignment throughout Australian Rugby is beyond the scope of this Review and will always be a significant challenge within the federated structure that currently exists. Most other professional sports have sought to move away from the federated model due to the obvious complications it creates for businesses operating nationally.

The most pressing concern facing Australian Rugby is ensuring that the Rugby community is working more cohesively and strategically in pursuit of common goals. In particular, the businesses of the ARU and the Super Rugby teams must work more

effectively together. Otherwise it is difficult to see how Australian Rugby can continue to compete with its Rugby rivals internationally, or other football codes domestically.

Even for a highly effective organisation, the challenges that Australian Rugby faces would be daunting. For several separate organisations, working at cross-purposes, the prospects of sustained success are greatly diminished. Remedying this is a task easier said than done in an environment that is subject to the structural deficiencies described earlier.

One of the chief concerns of the Super Rugby teams during the consultation process was what they saw as their lack of opportunities to actively participate in strategic decisions that affected the Super Rugby competition. Given the structure of SANZAR, I think it's important that the ultimate decision-making capacity stays with ARU. However, it goes without saying that the Super Rugby teams have a great deal at stake and providing additional avenues for them to contribute to the decision-making process is important.

I recommend that ARU continue to pursue the initiative of the current Chair to bring the Chairs of the Super Rugby teams together with CEOs and members of the ARU Board, to provide strategic as well as operational focus to the Super Rugby Commission.

The Super Rugby teams should be involved in determining the strategic and operational direction of the Super Rugby Competition. But with regard to the Super Rugby Competition, the structure of SANZAR is such that Australian Rugby must only ever speak with one voice and that must be ARU's.

Greater alignment: community Rugby

One of the big challenges facing Rugby as a whole, from the grassroots to the elite level, is the lack of understanding or awareness throughout the Rugby community of the vision and purpose of Australian Rugby. As a result, individuals that I met with were uncertain of where their organisation sat within the Rugby system and what their role should be, let alone how they related to the other bodies.

This absence of clarity impacts negatively on many aspects of Rugby; from player development and pathways, talent identification, increasing community participation, communication with stakeholders, and developing revenue sources, including government funding and corporate sponsorship.

The configuration of community Rugby is complicated and fragmented, and this was a point raised throughout the consultation process. Ensuring that everyone, at all levels, has a clear understanding of where they sit, what their role is and how they relate to others is a simple and effective way of making sure the whole show runs more smoothly.

The structure of Community Rugby, while varying significantly between Member Unions, more often than not includes numerous organisations at different levels, many with their own boards and management.

The multiple layers of administration have led in some areas to duplication and inefficiencies of programs and resources between Member Unions and the ARU. There was also a degree of confusion about who is responsible for many aspects of community Rugby, including developing and implementing strategies to grow participation.

In short, the current structure could be said to be delivering mixed results at best. And yet the importance of a healthy community Game cannot be overestimated.

Community Rugby fulfils all those tasks that any parent whose kids take part in weekend sport is familiar with, including organising competitions and representative teams, undertaking programs to recruit and train players and engaging and supporting coaches, match officials and other volunteers.

However, the extent to which community Rugby undertakes these tasks successfully reverberates across all levels of the Game. While the Wallabies might be the financial engine of Australian Rugby, the community Game is its beating heart.

A point agreed by everyone throughout the consultation process was that a strong, sustainable community Game was a prerequisite for the long-term success of Australian Rugby.

Players and their friends and families at the local level are the most compelling advocates for Rugby throughout the broader community. Indeed, developing junior Rugby is more about ensuring the next crop of fans and supporters than it is about identifying future Wallabies. Without this loyal and committed base of support the professional teams are ultimately playing to empty stadiums.

As with the professional Game though, the competition for the hearts, minds and weekends of the Australian public is fierce and it will only get tougher.

While the ARU currently provides significant financial resources for community Rugby to the Member Unions, community Rugby has essentially been left to conduct their own operations.

Promoting greater accountability and clarity throughout the current system is required to increase the successful coordination and delivery of programs and services.

The benefits of increased coordination are clear, including greater leadership and direction, removing layers of duplication and inefficiency, better targeting of resources and improved communication with participants and volunteers.

This will not just ensure that finite resources are utilised more effectively, it will also open up greater opportunities to realise other revenue sources, such as sponsorship, membership fees and government funding. Similarly, it will enable ARU and the Member Unions to more successfully exploit opportunities, for example, by utilising Sevens Rugby to expand into new markets.

This doesn't necessarily mean centralising community Rugby. Rather, it will ensure that all levels of Rugby are working to a clearly understood and agreed strategy, with common goals and objectives.

In order to achieve this I recommend that ARU work in collaboration with Member Unions and Super Rugby teams to develop a National Charter for Australian Rugby which outlines the roles and responsibilities of organisations at all levels of Rugby.

Australian Rugby Union should also link the payment of financial Grants to the Member Unions to specific and measureable outcomes under the National Charter.

Creating clarity of purpose and a sense of shared strategic vision from the grassroots up is an important first step in achieving greater alignment across Rugby. This needn't be a difficult or onerous process and Queensland Rugby Union has already made great strides within their own State toward this goal.

Importantly, a National Charter should also provide for flexibility between Member Unions, and support, rather than seek to override, approaches that have been shown to work successfully at the local level.

Tying funding to Member Union's performance against a set of agreed outcomes will increase the transparency and accountability of ARU's funds and ensure that the resources of Australian Rugby are being utilised as effectively as possible.

Further to this goal, I recommend that ARU be acknowledged as the 'keeper of the code' for Rugby in Australia from the grassroots to the elite level and that this role is reflected in a newly drawn up ARU constitution.

In practice, this is a role ARU has always undertaken. However, during the consultation process it became clear that there was a lack of understanding about who was responsible for this role or even what it entailed.

Formally acknowledging ARU in this respect is partly symbolic. But for Australian Rugby to thrive I do believe that ARU must be the custodian and ultimate arbiter for Rugby in Australia similar to the role the AFL Commissioners play. Furthermore, this needs to be understood across the Rugby community and should be highlighted through a National Charter for Rugby.

Finally, one of the most important 'next steps' is for the Member Unions and Super Rugby teams to undertake their own process of Governance reform. In the end, unless the Member Unions and Super Rugby teams match ARU's efforts, the prospects of success are limited.

I recommend that Member Unions also adopt 'best practice' governance structures, including an independent skills-based Board.

In adopting 'best practice' governance structures, the Member Unions should also be required to ensure that their constitutions are consistent with ARU's.

Implementation

In the event that my recommendations are adopted in full or in part, I am suggesting the following transitional arrangements be adopted in order to implement the reform.

I envisage that Peter Cosgrove and the Governance and Policy Committee, having considered my report, will make their own recommendations to the Board. Once the Board has agreed on those elements, if any, it wishes to adopt, the task will then be for the Board – most likely through a delegation – to meet with the Member Unions and other stakeholders as required to explain the merits of change and address any concerns.

It should be noted that I have proposed a relatively short timetable for implementation. While I recognise that the experiences of other sports have shown that implementing change can take time, this does not need to be the case for ARU. So long as there is broad agreement and goodwill between stakeholders, change can be achieved relatively quickly.

Assuming there is broad acknowledgment of the need for reform, my recommendations on process and timing are as follows.

- The current Board remain in place with all future Directors (following the introduction of a new constitution) appointed or elected in accordance with the arrangements outlined in these recommendations.
 - To avoid confusion, I don't believe that current Directors should be excluded from reappointment under the new arrangements. Indeed, I believe that it is important to promote some level of continuity on the Board.
 - I do believe that the existing maximum term limits should continue to apply with one exception. The terms of the current Board-appointed Directors should be extended to match those of the Member-appointed Directors for determining when individual Directors' retirements fall due.
- The RUPA Director is to retire from the Board at the end of his current term.
- The following process be adopted for electing and appointing new Directors:
 - a four person nomination committee to be formed each year comprising the ARU Chair and another representative selected by the Board and two representatives selected by the Members,
 - the committee assesses candidates based on their skills and experience and the Board's requirements and makes recommendations on a unanimous basis to Members at the AGM for the election of six directors, and
 - the nominees are put to the Members of ARU at an AGM for approval on a two-thirds vote
 - in addition to the elected directors, the Directors may appoint up to two other Directors to the Board.

- The following process be adopted for voting arrangements at AGMs:
 - With Member Unions, their voting entitlements should be exercised by a sole delegate of the Member Union, even when they have two votes as a result of having 50,000 registered players or more.
 - With the Super Rugby teams, when a Member Union owns the licence to the Team, the right to vote should be exercised independently of the Member Union. In this circumstance, a separate delegate should be appointed to vote on behalf of the Super Rugby team.
- I recommend that the Board adopt the following timetable for implementing the new governance framework:
 - August: Report presented to the Governance and Policy Committee of the Board.
 - October: Board's response to the Report.
 - November: a delegation of the Board to meet with Member Unions, Affiliated Unions and Super Rugby teams to discuss the Board's recommendations.
 - December: an Extraordinary General Meeting of ARU called to endorse the Board's Recommendations.
 - April 2013: AGM runs under the new arrangements.
- ARU's Memorandum of Association and Constitution will be amended to give effect to these recommendations. In doing so, ARU should take this opportunity to draft a new constitution and adopt modern, best practice governance conventions.

Future opportunities

Sevens Rugby and the Olympic Games

I was asked to consider as part of the Review the extent to which the current governance structures are appropriate to ensure ARU is in a position to make effective decisions for the development and success of Sevens Rugby as an Olympic sport.

The inclusion of Sevens in the Olympic Games has changed both the position of Sevens in international Rugby and the resources committed to national Sevens teams around the world. There are a large number of Rugby countries that, in the near future, have no realistic chance of reaching the top five, or even the top ten, in the 15-a-side form of the Game but have a genuine chance of making the top ten or top five in Sevens. The introduction of Sevens to the Olympic Games is dramatically expanding the number of Rugby nations around the world.

The IRB is in the process of reviewing the international Sevens strategy to ensure success and growth around the Olympic Games. The IRB is committed to rapidly developing the sport internationally and recognises that it has two opportunities in 2016 and 2020 to secure a long-term place in the Olympic Games. Fortunately, given the broad appeal of the Game, the lack of attractive alternatives and the significant investment the IRB is making to grow the game internationally, it's likely that Sevens will remain an Olympic sport into the future.

As the Terms of Reference for this Review make clear, Sevens Rugby becoming an Olympic sport is a unique opportunity for the Game, both internationally and in Australia. It provides another point of difference and attraction from AFL and Rugby League and Australia has the genuine potential to also be a world leader in this form of the Game.

Australia is one of a small handful of nations sitting in the box seat ready to capitalise on the inclusion of Sevens Rugby at the Olympic Games. The achievements of our Men's and Women's teams at the 2010 Delhi Commonwealth Games and 2009 Dubai World Championships demonstrates the ability of Sevens Rugby to produce results for Australia on the world stage.

At the elite level, Sevens is a sport where power, speed and general athletic ability are of central importance. Sevens is also a far less technical sport than Fifteens Rugby. As a result, the opportunity to promote talent transfer from Australia's other football codes and non-professional sports is significant. The possibility of representing Australia at the Olympic Games is a strong incentive for elite athletes from a range of disciplines to join the sport.

At the Community level though, Sevens Rugby is simply a fast-paced, exciting Olympic sport that is easy to pick-up, coach and referee and that only requires small teams. It is a particularly attractive sport for school-based competitions and is a great introduction to the Fifteens form of the Game.

There is also the obvious potential to engage women and girls in a sport that has typically been heavily male-orientated. This simpler form of the Game will hopefully also be an attractive introduction to the Game for people from migrant backgrounds, who may not have grown up immersed in Rugby culture.

This is in addition to the strong success the sport has already had in engaging Indigenous Australians. Four Ella Sevens tournaments are currently run in northern and southern Queensland and northern and southern NSW and each of these events sees a minimum of 12 men's and 4 women's teams compete. At the northern NSW tournament in Coffs Harbour, as many as 24 men's teams and 12 women's teams take part. This is a fantastic outcome for the Game and something that should be expanded upon.

The Olympic Games is, unequivocally, the pinnacle of world sports, a point reinforced again in London in 2012. Competing in the Olympic Games is something that Rugby League and AFL simply cannot aspire to due to their lack of strong international competitions. Along with the increased international attention the sport will achieve over the coming years, Rugby Sevens as an Olympic sport has the potential to be a powerful advertisement for both forms of the Game and should be seen as an opportunity for ARU to unlock new markets and attract new participants and supporters.

The opportunities associated with emergence of Sevens as an Olympic sport should not be underestimated. More nations will join the Rugby family and will be looking to ARU for guidance and direction. ARU has a chance to set the benchmark.

There is a genuine opportunity for ARU to carve out a leadership role internationally and particularly in the Asian region to help nurture and grow women's Sevens.

However, ARU's ability to effectively take advantage of this will be yet another test for its governance structures and the cohesion of Australian Rugby as a whole. Success will not come cheaply, nor is it possible without the full support of the Member Unions.

The Recommendations I've made above, if adopted, will promote effective decision making in both forms of the Game – Fifteens and Sevens Rugby.

As I've argued earlier, the Recommendations reflect the basic principles that underpin and support sound decision making in most organisations, whether that be for the sale of aircraft engines or the business of mass entertainment sports.

An independent skills-based Board, reflecting the diversity of our population – working in partnership with a highly capable management team – is best placed to make a determination about the relative importance of Sevens Rugby and to develop a strategy, backed by the appropriate resourcing, to be successful in this form of the Game.

However, one area I do believe the ARU needs to focus on is its relationship with government at the State and Federal level. By any reckoning, ARU has fared poorly in comparison to almost every other professional sport in Australia with regards to its ability to access government funding, particularly Federal funding.

With Sevens Rugby now an Olympic sport and with a reformed ARU governance structure, there is a real opportunity for ARU to engage more closely with government in areas where the objectives of Rugby align with the goals of government. For example, promoting healthier lifestyles, encouraging participation in sport, engaging our Indigenous communities and pursuing success at the Olympic Games.

A key concern that came up during the consultation process was the need for a high performance centre for Australian Rugby to develop the potential of Sevens Rugby.

A high performance centre for Australia's national teams needs to be an operational and strategic priority for ARU. Yet with ARU's current capital reserves it is clear that this is only achievable with a substantial commitment from governments at the State and Federal level.

A reformed ARU deserves this type of support and the current imbalance in infrastructure funding between Australian sports is clearly inequitable. The simple truth is that Rugby battles not with the perception that it is a rich sport – it's obviously not – but rather that it is a sport for rich people. I think this view shows a lack of appreciation for the depth of support that Rugby enjoys across the community, but it is a perception Rugby has to live with nonetheless.

Ensuring that Australia's Men's and Women's teams are competitive with the best Sevens Rugby nations in the world will require significantly increased investment from ARU – a contribution ARU has said it is determined to make.

However, without the support and funding of the ASC, commensurate with what other professional sports such as Football receives for its high performance program, it is clear that it will be far more challenging, if not impossible, for Australia to maintain its position as a leading Sevens nation.

In particular, our Women's Sevens team are currently World Champions and are a genuine chance for securing a gold medal in Rio de Janeiro in 2016 if they receive the level of government support that other women's teams in both professional and semi-professional sports enjoy.

Australian Rugby Union needs to take a leadership role with respect to working with governments at all levels. This should involve more active engagement with political leaders and government departments and agencies along with a more strategic consideration of where Rugby's objectives align with government policy. The immediate priority is working with the Australian Government on opportunities to develop Sevens Rugby, in particular, on a proposal to jointly develop and fund a High Performance centre and a High Performance Olympic Games program. This is a task that should be undertaken by the newly formed joint Board and management stakeholder committee.

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| <p>I recommend that ARU, through the joint Board and management stakeholder committee, actively identify and pursue those opportunities where the objectives of Rugby align with the goals of government, starting with Sevens Rugby.</p> |
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Conclusion

Throughout the consultation process one overriding message was made clear. While individuals might disagree on the specifics of what change is required, no one I spoke to believes Australian Rugby is living up to its potential.

The changes I've recommended are not controversial. Instead, they are probably the minimum required if ARU wants to remain competitive given the reforms undertaken by other sports.

To truly thrive and be successful, ARU, in partnership with its stakeholders, needs to seriously assess the current framework of Australian Rugby in its entirety with a view to making significant changes.

This concept of 'success' though, needs to be understood in the context of just how high expectations are for Rugby in this country. As I've mentioned already, the Wallabies are currently the number two ranked team in the world. They are also the current Tri-Nations Champions and finished in third place at last year's World Cup. More recently, they achieved a series clean sweep against Wales, the undefeated European Champions.

Australia's Women's Sevens team are the current World Champions and our Men's team won silver at the 2010 Delhi Commonwealth Games, and both teams will be gold medal aspirants at the Rio de Janeiro Olympic Games in 2016.

Indeed, Australian Rugby's international competitiveness would rival or exceed that of almost any other Australian sport.

In addition to these recent successes, Australian Rugby has enjoyed increased player participation, Super Rugby success through the Queensland Reds, increased attendances and ratings, and extended its influence at the IRB. Considered together, the achievements of Australian Rugby are many.

And yet, despite these feats, the Rugby community in Australia clearly expect more from our professional teams. At the local level, there is also a strong feeling that the community Game isn't receiving the support it requires.

In many respects, ARU has no one but themselves to blame for having set the bar so high. By 2003, Australian Rugby was universally acknowledged as the bolter of Australian sport but was then seen by many to take its foot off the pedal. As recent successes have shown, over the past few years Rugby has begun to regain pace but this takes time and the sporting world is now tougher than ever.

As a result, the sense of underachievement that does exist is due in large part to the fact that people know precisely how much Rugby *is* capable of achieving and set their expectations accordingly.

In my view though, the most important point to take from this is that these achievements have all been accomplished *despite* the significant structural constraints outlined in this report.

Imagine then, what could be achieved if Australian Rugby removed many of these impediments and really did pin its ears back?

A better governance structure for ARU is clearly the first step. Articulating and implementing steps two and three – whatever they might be – should be the major priority for the ARU Board as it works in collaboration with the Member Unions and Super Rugby teams.

In my view, those next steps will involve solving the following problem.

The current structure of Australian Rugby no longer serves the Game well. The federated structure is an unwieldy beast at the best of times – a fact well known to me. But professional sport is now a business and persisting with the federated structure of Rugby, in its current manifestation, will place Rugby at a significant and continual disadvantage compared to its competitors.

So long as Australian Rugby persists with this structure, the capacity for either the Wallabies *or* Super Rugby teams to achieve the kind of success the Rugby community desires and deserves is greatly diminished. Ultimately though, the big loser is the community Game – the heart of Australian Rugby – through reduced funding, resources and attention.

Australian Rugby needs to find better ways to build a sense of shared purpose and direction throughout the Game. If it can do this, then the goal of a reformed ARU, at the head of a more cohesive and strategically aligned Rugby system, can legitimately be to not just emulate past achievements but to exceed them.

Summary of Recommendations

- **Recommendation 1:** That the State and Territory Unions continue to be acknowledged as Members of ARU and remain responsible for growing the Game in their own jurisdiction.

- **Recommendation 2:** That the Australian Super Rugby teams be recognised as also having a key role in the Game, with each current Team (and any future Teams) acknowledged as Members of ARU in their own right.

- **Recommendation 3:** That Members agree to new voting rights determined on the following basis:
 - one vote for each Member Union
 - one vote for each Super Rugby team as a condition of their licence
 - one additional vote for each Member Union with more than 50,000 registered players (for a maximum of one additional vote)
 - one vote for the Rugby Union Players' Association.

- **Recommendation 4:** That ARU adopt a skills-based Board comprised of up to eight Independent (non-executive) Directors.

- **Recommendation 5:** That the following process be adopted for electing and appointing new Directors:
 - a four person nomination committee to be formed each year comprising the ARU Chair and another representative selected by the Board and two representatives selected by the Members
 - the committee assesses candidates based on their skills and experience and the Board's requirements and makes recommendations on a unanimous basis to Members at the AGM for the election of up to six Directors
 - the nominees are put to the Members of ARU at an AGM for approval on a two-thirds vote
 - in addition to the elected directors, the Directors may appoint up to two other Directors to the Board
 - that all Directors be appointed for three years and be eligible to serve a maximum of three terms in line with the current terms for the Directors appointed by the Member Unions
 - that the Chair of ARU be appointed by the Board with the position to be formally reconsidered every three years.

- **Recommendation 6:** That the CEO sit on the Board as an Executive Director while retaining his or her position as CEO on an *ex officio* basis.
- **Recommendation 7:** That the Chair of the Board preside as Chair at AGMs and exercise a casting vote and that the President have no automatic entitlement to attend meetings of Directors.
- **Recommendation 8:** That the positions of President and Vice-President be amended so each serves for a single term of one year.
- **Recommendation 9:** That ARU adopt the practice of reporting against ASX Best Practice Recommendations.
- **Recommendation 10:** That ARU form a joint Board and management stakeholder committee to help manage communications and interactions with key stakeholders including Member Unions, Super Rugby Franchises, sponsors and government.
- **Recommendation 11:** That ARU continue to pursue the initiative of the current Chair to bring the Chairs of the Super Rugby teams together with CEOs and members of the ARU Board, to provide strategic as well as operational focus to the Super Rugby Commission.
- **Recommendation 12:** That ARU work in collaboration with Member Unions and Super Rugby teams to develop a National Charter for Australian Rugby which outlines the roles and responsibilities of all organisations at all levels of Rugby.
Australian Rugby Union should also link the payment of financial Grants to the Member Unions to specific and measureable outcomes under the National Charter.
- **Recommendation 13:** That ARU be acknowledged as the 'keeper of the code' for Rugby in Australia from the grassroots to the elite level and that this role is reflected in a newly drawn up ARU constitution.
- **Recommendations 14:** That Member Unions also adopt 'best practice' governance structures, including an independent skills-based Board.
- **Recommendation 15:** That ARU, through the joint Board and management stakeholder committee, actively identify and pursue those opportunities where the objectives of Rugby align with the goals of government.