

**Memorandum to:** Board of Directors of the American Australian Association, Inc.  
**From:** Governance Committee  
**Regarding:** Explanatory Note to Proposed Revised By-Laws  
**Date:** March 30, 2015

---

Set forth below is a description of material changes to the AAA's existing by-laws:

## **ARTICLE I - MEMBERS**

### **Section 1.1 (Members)**

Changes were made to establish the Board of Directors as a separate class of AAA members and, in this section and the rest of Article I, to make the Board the only class of members with voting rights. A majority of the entire Board can create additional classes of AAA members with voting rights by Board resolution or by amending the by-laws.

### **Sections 1.4 (Annual Meeting) to 1.11 (Vote of Voting Members)**

Under New York law, all members (whether or not voting members) of the AAA have the right to meet at least once per year. Accordingly, the provisions for all members were retained where appropriate, and additional provisions were added to these Sections to provide for meetings and votes by voting members (*i.e.*, the members of the Board).

### **Section 1.7 (Notice of Meetings)**

E-mail has been added as an acceptable form of notice. Also, the notice time period has been changed from 10 days to five business days to conform with the time period for Board meeting notices.

### **Section 1.9 (Quorum of Members)**

Given that the Board is the only class of voting members, the quorum for a meeting of voting members was changed to be consistent with the quorum for the Board. No quorum is required for a meeting of non-voting members.

### **Section 1.11 (Voting of Voting Members)**

Flexibility was given to the Board to vary voting rights by class in the event the Board decides to establish other classes of voting members.

### **Section 1.12 (Action Without a Meeting)**

We have added this provision to permit voting members, like the Board, to take action by unanimous written consent rather than at a duly called meeting.

### **Section 1.13 (Meeting by Conference Telephone)**

We have added this provision to permit voting members, like the Board, to meet by conference telephone or similar means.

### **Section 1.15 (Patrons)**

We have deleted reference to specific names and left the appointment and termination of Patron status to the vote of the Board, which is consistent with current practice.

As discussed in this Committee's proposals to the Board, we have deleted reference to the advisory councils established in 2004. Members of those councils, to the extent still relevant, can be appointed by the Board to the new "Advisory Council".

## **ARTICLE II – BOARD OF DIRECTORS**

### **Section 2.1 (Power and Duties)**

We have changed the wording to be more consistent with current practice. The age requirement of 18 years of age has been moved to Section 2.2.

### **Section 2.2 (Number, Election, etc)**

We have not made any substantive changes to this section except as described above, although our proposal is that the Board's target size should be 21 members. Given the current number of persons in director positions (23 at large directors, one Chairman, two Deputy Chairman, two Vice Chairman and one President), and the concurrent Chairman selection process, we felt that it was appropriate as part of the AAA's governance reorganization to retain 30 to give the Board flexibility during this transition to appoint new directors. The proposed by-laws do provide, like the current by-laws, that a majority of the entire Board can increase or decrease the number of directors.

### **Section 2.5 (Removal)**

This is a standard provision in by-laws today. It allows for the removal of directors by a majority of the entire Board "for cause", which as set forth involves various types of inappropriate conduct that could negatively impact the AAA.

### **Section 2.6 (Compensation of Directors)**

While this is effectively a recitation of New York law, it is customary to include a provision like this in New York not-for-profit by-laws to ensure those who govern organizations like the AAA are aware of these restrictions.

### **Section 2.7 (Quorum of Directors)**

This provision has been changed to make this a flat one-third quorum, which is more consistent with an active Board. Historically, the AAA's Board attendance has been far in excess of one-third.

### **Section 2.9 (Action Without a Meeting)**

This has been expanded to include electronic as well as written evidence of consents.

### **Section 2.10 (Meeting by Conference Telephone)**

This has been expanded to include electronic video conference meetings.

### **Section 2.11 (Meetings of the Board of Directors)**

The one-fifth of the Board requirement for calling a special meeting has been changed to one-third to be consistent with the quorum for the meeting (one-third).

E-mail has been added as an acceptable form of notice.

## **ARTICLE III – COMMITTEES**

### **Section 3.1 (Standing Committees of the Board of Directors)**

Given the nature of the Standing Committees, the Chairman, one or more Vice Chairmen and the President would no longer be a member of all Standing Committees by virtue of their office, but would have to be appointed by the Board.

As discussed in this Committee's proposals to the Board, this Section has been changed to reflect that the Standing Committees of the Board would include the Executive Committee, the Investment Committee, the Audit and Risk Committee, the Nominating and Governance Committee, the Compensation Committee and the Development Committee.

The Independent Director requirement applies to the Audit and Risk Committee, the Nominating and Governance Committee and the Compensation Committee and would preclude, among others, the President from being on those Committees (although those committees could and presumably would where appropriate consult with the President).

Note that the Nominating Committee's tasks are slightly broader than as set forth in our proposals to the Board, which were drafted to focus on material matters. These tasks are customary in organizations with nominating committees. Note that, unless otherwise determined by the Board, the default would be that the Chairman would make all nominations where the nominating committee is not charged with doing so. The specific text is as follows:

“The Nominating and Governance Committee shall recommend nominees for election to the Board of Directors and for the positions of Chairman, Vice Chairman and President,

and such other positions as may be required to be nominated or elected by the Board of Directors.”

### **Section 3.2.1 (Special Fund Committee)**

As discussed in this Committee’s proposals to the Board, the Special Fund Committee would be eliminated and its role assumed by the Investment Committee. This change will require the vote of two-thirds of the entire Board.

### **Section 3.3 (Committees Other than Standing or Special Committees of the Board of Directors)**

As discussed in this Committee’s proposals to the Board, the other committees of the Association, which could contain non-Board members, would now include the Advisory Council, the Business Council, the Social and Cultural Committee, the Australian Women in New York Committee, the Education Committee, the New England Committee and the California Committee.

While this Committee recommended that each of these committees be chaired by a director, we have not required that in the by-laws but rather left that as a Board decision (after Nominating and Governance Committee recommendation) as there may be cases where a member of the Association that is not a Board member would be better suited for that role.

## **ARTICLE IV – OFFICERS**

### **Section 4.1 (Officers)**

Changes were made to specify that the officers would include a Chairman, one or more Vice Chairmen as well as the President, Secretary and Treasurer and other offices determined and elected by the Board from time to time. It also specifies that, other than the Chairman and any Vice Chairman, and the President who is ex-officio a director, no officer needs to be a director.

### **Section 4.2 (Terms of Office)**

The only material change is that no person may serve as Chairman for longer than six years.

### **Sections 4.3 (Resignations), 4.4 (Removal) and 4.5 (Vacancies)**

These sections essentially break-out and clarify former Section 4.3, but we would not regard these as substantive changes.

### **Section 4.6 (Powers and Duties of Officers)**

This provision was amended to clarify that no person can act as both Chairman and President. As a New York not-for-profit corporation, the AAA is prevented from paying the Chairman

compensation for filling that office, so this is merely a clarification of what has always been the case for the AAA.

#### **Section 4.7 (Salaries of Officers)**

This was amended to clarify that the Compensation Committee recommends salaries and the Board fixes them. The Board, of course, can resolve to delegate the right to fix salaries to the Compensation Committee, the Executive Committee or any other duly authorized committee of the Board.

#### **Section 4.8 (Policy Group-Deleted)**

This was deleted as something never employed in the past and superfluous under the revised by-laws given the new Board and committee formulations. The Board, of course, can establish such a committee in the future.

#### **Section 4.9 (Conflicts of Interest Policy)**

This and Appendix A were added by the Board at its 2014 Annual Meeting. It replaced the language formerly in Section 4.6 (Interested Directors and Officers).

### **ARTICLE V - MISCELLANEOUS**

The changes in this Article are largely fixing clerical errors and making changes to reflect changes made in the earlier by-laws.