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## **SENATE COMMUNITY AFFAIRS REFERENCE COMMITTEE - INQUIRY INTO THE FUTURE OF RUGBY UNION**

### **SUBMISSION BY THE NEW SOUTH WALES RUGBY UNION LTD**

The New South Wales Rugby Union (NSWRU) is grateful to the Senate for the opportunity to provide this submission. At the outset, NSWRU notes that it has no intention of addressing those matters within the Senate Committee's terms of reference over which it has no purview (and in particular the deliberations and decision by the Australian Rugby Union (ARU) to reduce the number of Australian teams in the national competition from five to four). NSWRU's concerns lie solely in ensuring that Australian rugby union has the appropriate corporate governance arrangements to ensure the future growth and success of the game.

### **THE FEDERAL STRUCTURE OF AUSTRALIAN RUGBY UNION**

As Mark Arbib recognised in his 2012 report '*Strengthening the Governance of Australian Rugby*', the structure of national, state and regional rugby in Australia is akin to Australia's federal system of government. In NSWRU's view, this necessitates a clear delineation between those powers which vest exclusively in the ARU, and the balance which fall within the State Members' 'plenary' powers to effectively maintain their own affairs.

The Arbib report also acknowledged that further clarity was required to identify the respective roles and responsibilities of Australian rugby union's governing body and its State Members in what the CEO of the ARU has referred to in the course of this inquiry (somewhat aspirationally) as a 'cooperative federalism' model.<sup>1</sup>

Despite the best intentions from the ARU and its affiliates as articulated in the Australian Rugby National Charter, the existing model continues to lack the requisite division of responsibility to foster the long term viability and growth of the sport. When compounded by the absence of direct State Member representation on the ARU and SANZAAR boards of directors and the inherent limitations of SANZAAR

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<sup>1</sup> Commonwealth, *Community Affairs Reference Committee*, Senate, 20 September 2017, 6 (Bill Pulver).



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(which often issues directives that fail to consider the individual needs of the Australian Super Rugby clubs that are ultimately subject to those decisions), the success of Australian rugby union remains conflicted by governance ambiguity.

In order to achieve the levels of transparency, efficiency and collaboration between the ARU and its State Members necessary to advance the co-operative union envisaged by the Strategic Plan, the existing structure requires reform. NSWRU recommends that the key parties collaborate and develop certain fundamental governance principles with the matters that require immediate consideration as follows.

### **1. THE RIGHTS AND OBLIGATIONS OF THE PARTIES**

#### **1.1 The ARU**

NSWRU recognises that certain powers appropriately fall within the ambit of the ARU, for example, the selection and management of the Wallabies and the Wallabies' media and sponsorship rights. Conversely, responsibility for district, club and junior rugby (collectively 'State Rugby'), coaching and development initiatives and community projects should fall definitively within the accountability of the State Members within effective, best practice governance structures. The current absence of any 'bright line' to the demarcation of the respective parties' responsibilities creates unnecessary uncertainty and tension and hinders the achievement of a co-operative union with each state, territory and affiliate working both in their own interests and collectively with a mutually agreed purpose for the greater good of the game.

While NSWRU also recognises the advantages of independent members of the board, in the current circumstances the absence of relevant office bearers for State Members results in a lack of consideration for the individual needs and circumstances of those members. This has led to a perceived wide disconnect between the community game and the ARU.



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Under the status quo, the ARU's incursions into every aspect of State Members' community and professional obligations including state competition and community playing structures, junior school development programs and the scheduling and kick off times of state Super Rugby matches necessarily contributes to sub-optimal outcomes for supporters, media and ultimately revenue.

### **1.2 The State Members**

With the exclusion of the powers specifically conferred upon the ARU, State Members should otherwise have the autonomy and independence to determine the allocation of funds to districts, clubs, community endeavours and grass roots development within their respective jurisdictions. State Members are also best placed to determine their own governance models to suit their individual needs (however could be required to submit standardised strategic plans and key performance indicators to the ARU to continuously measure efficiency).

### **1.3 SANZAAR**

NSWRU believes that many key decisions made by SAANZAR are not necessarily in the interests of the Australian State Members. In a similar vein to NSWRU's proposal with respect to the executive decision making process at the ARU, NSWRU urges co-ordinated consideration of the interests of all parties subject to SAANZAR decision making by consultation and collaboration. NSWRU also proposes the SANZAAR model is developed to better reflect the growing need for state and stakeholder governance of the competition as is the case with comparable rugby union competitions internationally.

## **2. FINANCE AND FUNDING**

NSWRU suggests that an appropriate revenue model for discussion should involve a distribution of an agreed proportion of the income received from media and sponsorship rights to each State Member (the 'ARU Distribution Percentage') on the basis of certain agreed factors such as the number of registered players and/or annual growth targets. In this respect, NSWRU suggests that providing appropriate and



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equitable funding to the traditional heartland states of rugby union from which a vast majority of the existing (and no doubt future) players and fans derive is not a question of self interest but instead a necessity for the long term continuity of the sport.

The ARU Distribution Percentage could be utilised as a yardstick by which the efficiency of both the ARU and its affiliates can be measured. The appropriate allocation of voting rights to ARU members should equip those parties with the power to drive the appropriate efficiency measures by, if necessary, implementing change. As the recent past all too clearly indicates, the existing financial model is defective and, in the absence of a dramatic reduction in club overheads like player payments (which NSWRU does not realistically foresee should Australian rugby union wish to compete on an international level), State Members must be provided with the financial stability to survive without reliance on ad-hoc subsidies and bailouts.

The ARU Distribution Percentage received by State Members should be supplemented by funds derived from their media, sponsorship and, as is presently the case, gate receipts from state matches. Steps must also be taken to increase the content of broadcast material for home games (which is currently restricted to eight games a year) to ensure the long term sustainability of the model.

In a similar manner as proposed for the ARU, an agreed percentage of State Member revenue should appropriately be channelled to districts and clubs within the state on the basis of the performance of those entities (the 'State Distribution Percentage'). Any other incidental revenue raising by clubs and districts should be retained by the relevant club or district. States Members must be fiscally responsible and should retain the capacity to borrow.

NSWRU also recognises the significant financial input from the Federal Government via the Sporting Schools program and encourages further contribution at a grass roots level to facilitate increased participation in rugby union by women, indigenous Australians and remote communities. By working



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collaboratively with State Members, both state and federal funding can be utilised to increase participation and communicate key messages to positively influence the public perception of rugby union in Australia.

### **3. SPECIFIC GOVERNANCE ISSUES**

#### **3.1 Player recruitment and payments**

Also critical to the financial success of State Members is the autonomy (within the boundaries of prudent and generally accepted financial disciplines) to freely recruit talent and to train and develop that talent within the state franchise. NSWRU strongly opposes a draft system in which the ARU dictates the allocation of players to its State Members and believes in the free market which operates so effectively in other sporting codes and its ability to provide an equitable allocation of resources and talent between the State Members and their respective Super Rugby clubs.

NSWRU is also concerned by the global expansion of payments to players which, under the existing revenue model, leaves State Members with insufficient revenue to cover their increasing costs. NSWRU urges an open dialogue in relation to reforms to the ARU's distribution of income and envisages a forum in which all State Members and affiliates can contribute to overcoming the existing costs issues and emerging external threats with a business model for Super Rugby and state franchises that is robust, sustainable and profitable.

#### **3.2 Technical support**

While the obligation to ensure continued community involvement and grass roots development should rightly sit with the State Members, the ARU could appropriately coordinate key development needs for the sport such as safety messages, best practice for rugby technical and tactical skills, education packs that could be state branded and distributed and support to ensure elite pathways are well resourced and



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coaches and administrators are supported. NSWRU also encourages the ARU to focus on collective functional skills such as technology and social media.

### **4. CONCLUSIONS / RECOMMENDATIONS**

The existing governance structure complicates and fragments key responsibilities. With reform, NSWRU believes clarity and accountability of decision making can be achieved at a state and national level streamlining corporate governance arrangements, restoring autonomy and efficiency to State Members and ultimately resulting in growth and increased national participation in the great sport of rugby union.

NSWRU's key recommendations are:

- a) there be an initial consultation between the ARU, State Members (and other affiliates) and the Australian Sports Commission (the 'Initial Consultation') to agree on the appropriate overarching governance principles and any recommended changes at ARU board level and with respect to SANZAAR (to occur within 4 months);
- b) once the Initial Consultation is complete, a further consultation be arranged between key stakeholders including State Members and SANZAAR (to address governance issues and the unsustainable nature for State Members of a competition with only eight home games per season) (the 'SANZAAR Consultation') (to occur within 6 months);
- c) the State Members convene with the relevant regional bodies, districts and clubs to discuss the outcomes of the Initial Consultation and SANZAAR Consultation and the application of the general governance principles at a state level (to occur within 9 months); and



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- d) the ARU, State Members and affiliates (with the oversight of the Australian Sports Commission) aim to agree a revised governance model within 12 months.