



# CONSTITUTION

2016

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## 1 NAME<sup>1</sup>

The name of the Association shall be Shelter WA Inc., hereinafter referred to as Shelter WA.

## 2 DEFINITIONS

- 2.1 "Act" means the Association Incorporations Act (WA) 2015.
- 2.2 "Shelter WA Board" means the governing committee of Shelter WA established and referred to in Clause 8.
- 2.3 "Board Member" means a member of the Shelter WA Board.
- 2.4 "Deductible Gift Recipient" has the meaning given in the Income Tax Assessment Act 1997 (Cth)
- 2.5 "General Meeting" means a General Meeting, Annual General Meeting or Special General Meeting of Shelter WA Members under this Constitution.
- 2.6 "Member" means a member as defined in Clause 7.
- 2.7 "Special Resolution" means a resolution passed by a majority of not less than three-fourths of the Voting Members present at a meeting of Shelter WA of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with this Constitution who are entitled under this Constitution to vote and vote in person or by proxy.
- 2.8 A "Voting Member" means a Member who has paid the membership fee for that year (if applicable) and is entitled to vote at General Meetings.

## 3 INCONSISTENCY BETWEEN THE CONSTITUTION AND THE ACT

If there is any inconsistency between this Constitution and the Act, the Act prevails.

## 4 OBJECTIVES<sup>2</sup>

Shelter WA is formed with the principal object of assisting disadvantaged and marginalised people in Western Australia to obtain affordable housing by:

- 4.1 Promoting appropriate, accessible, affordable and secure housing options for vulnerable and disadvantaged West Australians, including people experiencing homelessness;
- 4.2 Undertaking or sponsoring research and providing education to address housing related poverty and the elimination of homelessness;
- 4.3 Participating in the development of national, state and local Government housing policies to promote an increase in the supply of secure, appropriate and affordable housing, including an

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<sup>1</sup> AIA Schedule 1, Item 1; AIA s 22(1)(a)

<sup>2</sup> AIA Schedule 1, Item 1; AIA s 22(1)(b)

- expanded and improved housing system which is accessible to vulnerable and disadvantaged individuals and groups;
- 4.4 Providing services for members to improve the delivery of affordable housing and homelessness services;
  - 4.5 Promoting the needs and ongoing sustainability of the affordable housing and support services sectors;
  - 4.6 Assisting members to alleviate housing related poverty in Western Australia through the provision of affordable housing and adequate support services;
  - 4.7 Assisting vulnerable and disadvantaged housing consumers to participate in the formulation of national, state and local Government housing policies and develop networks to facilitate this process;
  - 4.8 Supporting and promoting initiatives which increase the capacity of individuals and groups to attain secure, appropriate and affordable housing of their choice, including providing a referral service free of charge;
  - 4.9 Providing education to housing workers and consumers on housing and housing related issues, and in particular the publication, promotion and circulation of reports, periodicals and other documents for the furtherance of these objects;
  - 4.10 Exploring opportunities to strengthen Shelter WA's response to the need for a greater supply of affordable housing for low income and otherwise vulnerable and disadvantaged consumers;
  - 4.11 Engaging key stakeholders, relevant government agencies, local government, and private industry, and working with other community organisations to further these objectives and influence housing policy decision makers.

## **5 APPLICATION OF INCOME AND PROPERTY**

- 5.1 The income and property of Shelter WA shall be applied solely towards the promotion of the objects of Shelter WA. No portion of the income or property of Shelter WA shall be paid, transferred or distributed directly or indirectly to the Members of Shelter WA provided that nothing shall prevent the payment in good faith of reasonable remuneration to any officer or employee of Shelter WA or to any person or group other than a Member of Shelter WA in return for services rendered to Shelter WA acting for the purposes of Shelter WA<sup>3</sup>.
- 5.2 Notwithstanding Clause 5.1 of this Constitution, Members of Shelter WA incurring reasonable expenses in carrying out Shelter WA business may be reimbursed from time to time with the approval of the Board.

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<sup>3</sup> AIA s 22(2).

## 6 POWERS OF SHELTER WA

Shelter WA shall have powers to pursue or secure its objectives including to:

- 6.1 Purchase, lease, exchange, hire or otherwise acquire any real or personal property or any rights or privileges;
- 6.2 Borrow and raise money, or otherwise obtain financial assistance in such manner and on such terms and securities as may be determined to meet the objectives of Shelter WA;
- 6.3 Invest Shelter WA funds;
- 6.4 Sell, exchange, mortgage, lease, hire, dispose of or turn to account or otherwise deal with all or any part of the real personal property of Shelter WA;
- 6.5 Affiliate with bodies where it is seen as beneficial to furthering the objects of Shelter WA;
- 6.6 Employ paid staff or outside consultants, and co-opt services and skills of volunteers and students on placement;
- 6.7 Establish and support, or aid in the establishment or support of any other not for profit association whose objectives are similar to those of Shelter WA;
- 6.8 Distribute any lawfully acquired monies or other resources to other not-for-profit organisations for the purpose of furthering the objects of Shelter WA in such manner as Shelter WA sees fit;
- 6.9 Make known and promote the objectives of Shelter WA in any form judged likely to further the interests of Shelter WA; and do all such other lawful things as are incidental or conducive to the attainment of the basic objectives of Shelter WA.

## 7 INCOME SOURCES

Shelter WA will obtain income from the following sources:

- 7.1 Joining and annual fees levied on each Member, as determined by the Board from time to time<sup>4</sup>;
- 7.2 Donations, gifts or bequests;
- 7.3 Charges or fees for training, or other work, facilities or services performed by the organisation or by employees, for Members or to or for any individual, body corporate, association, group or Commonwealth or State or local government service, body instrumentality or service;
- 7.4 Grants of monies; and
- 7.5 Such other sources as the Members in General Meeting or Board determine.

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<sup>4</sup> AIA requires the Association to state the entrance fees, subscriptions and other amounts to be paid by members – Schedule 1, Item 5; Model Rules 9.1 and 9.2.

## **8 MEMBERSHIP<sup>5</sup>**

- 8.1 The following classes of Members apply to Shelter WA:
- 8.1.1 Organisational Member (Full Voting Member – 1 Vote)
  - 8.1.2 Individual Member (Full Voting Member – 1 Vote)
  - 8.1.3 Reciprocal Members (Non-Voting Member)
  - 8.1.4 Associate Member (Non-Voting Member)
  - 8.1.5 Life Member (Non-Voting Member)
  - 8.1.6 Patron (Voting Member)
- 8.2 Organisational Members shall be incorporated not-for-profit organisations with an interest in housing or associated issues, who have applied in writing for membership, paid the prescribed membership fee, and subscribe to the objectives of Shelter WA. Organisational members shall be entitled to one vote at General Meetings.
- 8.2.1 An organisational member may appoint from its members a representative who may speak and vote on its behalf;
  - 8.2.2 Notification of such representatives must be conveyed to Shelter WA in writing;
  - 8.2.3 An organisational member may at any time terminate the appointment of its representative and nominate another person as representative in their place, for general membership;
  - 8.2.4 An organisational representative is eligible for election to any position of office within Shelter WA, provided they meet at least one of the following criteria:
    - (a) The organisation has been a member of Shelter WA for at least one year; or
    - (b) The organisation submits a nomination that includes two signatories of others eligible for election.
- 8.3 Individual Members must be persons with an interest in affordable housing or associated issues, who have applied in writing for membership, paid the prescribed membership fee (if applicable) and subscribe to the objects of Shelter WA. Individual members shall be entitled to one vote at General Meetings.
- 8.4 An individual member is eligible for election to any position of office within Shelter WA, provided they meet at least one of the following criteria:
- 8.4.1 The individual member has been a member of Shelter WA for at least one year; or
  - 8.4.2 The individual member submits a nomination that includes two signatories of other eligible members<sup>6</sup>.

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<sup>5</sup> AIA Schedule 1; Item 3.

<sup>6</sup> Model Rule 5.3.

- 8.5 An individual member may nominate another member of Shelter WA as a proxy to speak and vote on their behalf; notification of the name of the proxy must be conveyed to Shelter WA in writing.
- 8.6 Reciprocal Members are members who are housing sector or community services peak bodies, whether incorporated or not. Reciprocal Members are entitled to offset the membership fee as prescribed by Shelter WA for the membership fee for its own body for Shelter WA.
- 8.6.1 Reciprocal Members shall not be entitled to nominate another member, vote, nor stand for election to the Board at General Meetings.
- 8.6.2 Reciprocal members may not be appointed or co-opted to the Board.
- 8.7 Associate Members include Government agencies, statutory authorities including local councils, and for-profit companies, with an interest in affordable housing or associated issues who have applied in writing for membership, paid the prescribed membership fee, and subscribe to the objects of Shelter WA.
- 8.7.1 Associate Members shall not be entitled to nominate another member, vote, nor stand for election to the Board at General Meetings.
- 8.7.2 Associate members may not be appointed or co-opted to the Board.
- 8.7.3 Associate members may participate in debate and shall receive publications and correspondence to members.
- 8.8 Life Member is a special category of honorary membership for persons who have given outstanding service to Shelter WA. Life Members shall be proposed by the Board and approved by a resolution of the AGM. Upon appointment, Life Members have no voting rights and are not required to pay any membership fees.
- 8.9 The Patron is an industry leader in housing and/or Development who is appointed by the Board to act in a representative capacity on behalf of Shelter WA at public functions and in the community. The appointment of the Patron by the Board shall be approved by a resolution of the AGM. The Patron shall be appointed for a 3 year term and at the conclusion of the term can be re-appointed for a further 3 year term. The Patron (if not already a member) will become an Individual Member with voting rights. The patron is not required to pay any membership fees.
- 8.10 No one organisation can have more than one voting Member, to include the registered agency representative and any individual Member who is an employee of that organisation.
- 8.11 The Board shall have the right to refuse membership to any organisation or individual. Any applicant who is refused membership may, on not less than two weeks written notice, require their application to be reconsidered at one subsequent General Meeting.
- 8.12 If membership fees are not paid within one calendar month of nomination or renewal of membership, then such Member shall be deemed non-financial and be removed from the

register of Financial Members.

- 8.13 Membership may be suspended by not less than a two-thirds majority vote at a Board meeting.
- 8.14 Any suspended Member or Member organisation may, on not less than two weeks written notice require the suspension to be reconsidered at one subsequent General Meeting.
- 8.15 Shelter WA shall not be required to accept the renewal of membership of a suspended Member or Member organisation when renewal next falls due.
- 8.16 Shelter WA must maintain a register of Members that includes each Member's<sup>7</sup>:
- 8.16.1 name;
  - 8.16.2 residential or postal address;
  - 8.16.3 type of membership (Organisational, Individual, Reciprocal or Associate); and
  - 8.16.4 the date on which the person became a Member.
- 8.17 Any Member is able to inspect the register free of charge, at such time and place as is mutually convenient to Shelter WA and the Member. The Member may make a copy of details from the register but has no right to remove the register for that purpose.
- 8.18 The Board may require a Member who requests a copy of the register to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of Shelter WA. Shelter WA may also charge a reasonable fee to the Member for providing a copy of the register, to be determined by the Board from time to time<sup>8</sup>.
- 8.19 Neither Shelter WA nor any Members may use or disclose the information on the register:
- 8.19.1 to gain access to information that a Member has deliberately denied them;
  - 8.19.2 to contact or send advertising material to Shelter WA or a Member, unless the information is approved by the Board;
  - 8.19.3 for any other purpose that is not directly connected with the affairs of Shelter WA<sup>9</sup>.

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<sup>7</sup> AIA Schedule 1, Item 4.

<sup>8</sup> Model Rule 8.3 is not mandatory but it is suggested that all associations consider using it to assist them to better manage their affairs.

<sup>9</sup>It is mandatory to include Model Rule 8.4 (when using the information on the register is prohibited).



## 9 SHELTER WA BOARD<sup>10</sup>

- 9.1 Responsibility for the governance and oversight of the management functions of Shelter WA shall be vested in the Board of Shelter WA.
- 9.2 The Board shall comprise not less than seven nor more than ten members, who are elected from the Members at the Annual General Meeting, comprising of<sup>11</sup>;
- 9.2.1 Chair
- 9.2.2 Vice-Chair
- 9.2.3 Secretary
- 9.2.4 Treasurer
- 9.2.5 not less than two nor more than six general Board Members; and
- 9.2.6 the ex officio Executive Officer.
- 9.3 The Chair and Vice Chair will be elected biannually at the Annual General Meeting and will hold office until the Annual General Meeting, two years later. The positions of Chair and Vice Chair shall not become vacant simultaneously.
- 9.4 Any vacancy occurring in any office of the Board between General Meetings may be filled by the Board from eligible persons, and the Board Member will hold office for the remainder of his or her predecessor's term of office.
- 9.5 Board members shall be elected at the AGM by financial members of Shelter WA (as outlined at Clause 11 Voting) and shall be eligible to serve for a term of two (2) years.
- 9.6 Retiring Board Members shall be eligible to renominate for a further two terms; but for no more than three (3) terms consecutively.
- 9.7 The Board shall meet as often as may be required to conduct the business of Shelter WA but not less than six times in each calendar year, to include General Meetings and the Annual General Meeting.
- 9.8 Quorum for Board meetings shall be six, or, in the event of temporary vacancies on the Board, no fewer than half of the remaining Board members. The Board shall endeavour to hold face-to-face meetings wherever possible, but it may meet via teleconference or videoconference if required. Participation via teleconference or videoconference is valid. Where possible the ex-officio Executive Officer shall be present at all Board Meetings<sup>12</sup>.

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<sup>10</sup> AIA Schedule 1, Item 6(a) to (g)

Associations are recommended (but not required) to adopt Model Rule 14 which sets out the procedure and conduct of board meetings.

<sup>11</sup> Associations are recommended (but not required) to adopt Model Rule 11 i.e. including the responsibilities of each office holder in the constitution. Division 3 of the AIA formalises the duties of board members and officers which already exist under the common law.

<sup>12</sup> AIA s 22(1)(d).

- 9.9 The Executive Officer, Chair, Secretary or two other Board members shall have the power to call a meeting of the Board. Notice of meetings shall be given at the previous Board meeting or by seven days' written notice distributed to all Board Members, or in an emergency by such other notice as shall be ratified by the Board.
- 9.10 An Office Bearer or Board Member shall cease to hold office upon:
- 9.10.1 Resignation in writing;
  - 9.10.2 Suspension as a Member of Shelter WA; or
  - 9.10.3 Absence for three consecutive Board meetings without explanation acceptable to the Board.
- 9.11 Vacancies unfilled or arising in the Office Bearers or other Board Members may be filled by the Board by co-opting Members until the next Annual General Meeting, where positions will be filled by election.
- 9.12 Outgoing Board Members are responsible for transferring all relevant assets and records of Shelter WA to the new Board Members within 14 days of ceasing to be a member of the Board<sup>13</sup>.
- 9.13 The Board may function validly notwithstanding any vacancies as long as there are at least five Board members.
- 9.14 In addition to the Board members specified in Clause 8.2 and elected in accordance with Clause 8.5, the Board may appoint up to two Additional Board Members provided that each of the Additional Board Members:
- 9.14.1 shall have particular skills or expertise that are required by the Board; and
  - 9.14.2 shall be appointed for a term not exceeding twelve months; and
  - 9.14.3 shall not be appointed within one month following the declaration of the outcome of the Board election under Clause 8.5.

## **10 FUNCTIONS OF THE BOARD**

- 10.1 The functions of the Board are to delegate to the Executive Officer and staff of Shelter WA to provide for the day-to-day running of Shelter WA as per Clause 14:
- 10.1.1 Carry out the decisions of Shelter WA as expressed by members in General Meetings and other avenues;
  - 10.1.2 Monitor and maintain the financial, cultural and organisational health of Shelter WA; and
  - 10.1.3 Support and promote the business and positive profile of Shelter WA.
- 10.2 The Board may appoint Working Groups of Members for specific purposes and may depute to

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<sup>13</sup> AIA s 41; Model Rule 27.4 - This provision is included in the model rules and must be included in the rules of all associations, including those who choose not to adopt the model rules.

them such powers and duties as the Board may determine. Working Groups should appoint persons of relevant skills for the matter at hand and shall meet as they see fit and report to the Board. There must be at least one Board Member on any Working Group.

10.2.1 The Working Groups of Shelter WA may co-opt Members and non-Members of Shelter WA to their Working Groups as required:

10.2.2 Records shall be kept and proper entries made therein of all business attended to by any Working Group (where appropriate) at every meeting of the Board.

10.3 The Board may enact, amend and rescind the Shelter WA Policy and Procedures Manual as it sees fit.

## 11 GENERAL MEETINGS<sup>14</sup>

11.1 Valid notice of not more than twenty eight days and no less than fourteen days of all General Meetings shall be distributed to all Members and displayed at any premises occupied by Shelter WA<sup>15</sup>.

11.2 Each voting Member is entitled to one vote at any General Meeting at which they are present. Each voting Organisational Member is entitled to one vote which shall be cast by their representative or appointed proxy.

11.3 A quorum at any General Meeting shall be ten Members or one-half of the Members, whichever is less. Such quorum must include at least two Board Members<sup>16</sup>.

11.4 If at any General Meeting there is no quorum within thirty minutes of the time appointed for the meeting then a majority of the Members present may decide to adjourn the meeting for a period not exceeding fourteen days. The quorum for such adjourned meeting shall be reduced to five failing which the meeting will lapse altogether.

11.5 A Special General Meeting shall be called by the Executive Officer within twenty eight days of receipt of a directive of the Board or a written request of three Board Members or at least 20 per cent of the total number of Members specifying the business to be conducted at the meeting<sup>17</sup>.

11.6 Any Members and/or resource persons with special interests or knowledge relevant to Shelter WA may be invited to attend any meeting and to speak at the discretion of the Chair, having given the required notice for inclusion on the Agenda to speak at a meeting.

11.7 The Annual General Meeting should be held at least once in each calendar year and not more

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<sup>14</sup> Schedule 1, Item 7.

<sup>15</sup> Schedule 1, Item 8 and Item 9.

<sup>16</sup> AIA s 22(1)(c).

<sup>17</sup> Schedule 1 Item 10; Model rule 18.1 – requires the number of members necessary to call a special general meeting to be expressed as a percentage of membership.

than four months after the close of the financial year<sup>18</sup>. The financial year shall be as set out in the by-laws<sup>19</sup>.

11.8 The Business of the Annual General Meeting shall be:

- i) to receive the Chair's report for the previous financial year;
- ii) to receive the Treasurer's report and the audited financial statements for the previous financial year;
- iii) to nominate the auditor for the next financial year;
- iv) to elect or re-elect the Board Members who must consent in person or in writing; and
- v) to conduct any other business placed on the agenda, so long as such business is given in writing to the Executive Officer at least fourteen days prior to the commencement of the meeting.

## 12 VOTING

12.1 Except in respect of a Special Resolution (Winding Up) and subject to Clauses 10 (General Meetings of Members, Quorum) and 24 (Notices), voting at all Shelter WA meetings shall be by consensus except that:

12.1.1 a contested election at an Annual General Meeting or other meeting shall be determined by secret ballot; and

12.1.2 in the event of a secret ballot a returning officer is to be appointed.

12.2 A consensus vote is achieved when all Voting Members present at a meeting are in agreement or where those in disagreement on an issue concede not to object.

12.2.1 For all meetings except the Annual General Meeting, if consensus cannot be achieved at the meeting where an issue is raised then the issue shall be referred to the next meeting. If after discussion the Chair determines that consensus is still not possible, the issue shall, unless otherwise provided herein, be put in the form of a resolution and be decided by a majority vote of the Voting Members.

12.2.2 For the Annual General Meeting, if after discussion the Chair determines that consensus cannot be achieved, the issue shall, unless otherwise provided herein, be put in the form of a resolution and be decided by a majority of the Voting Members present at the meeting.

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<sup>18</sup> Schedule 1, Item 13.

<sup>19</sup> Schedule 1, Item 12.

Note – this is the only time the by-laws are referred to in the Constitution. Shelter WA may consider adding further clarification i.e.

"The Board of Shelter WA may make, amend and repeal by-laws for the management of Shelter WA by ordinary resolution at a General Meeting provided that the by-laws are not inconsistent with the constitution or the Act"  
– See Model Rule 25.

- 12.3 Each Voting Member is entitled to one vote at any General Meeting of Shelter WA.
- 12.4 The Executive Officer is an ex-officio member and is not entitled to vote.

### **13 DISCLOSURES, CONFLICTS AND PECUNIARY INTERESTS**

- 13.1 A member of the Board who has any direct or indirect pecuniary interest in a contract, or proposed contract, made by, or in the contemplation of, the Board, must disclose that interest to the Board and shall not take part in any deliberations or decision of the Board with respect to that contract.
- 13.2 Clause 12.1 does not apply in respect of a pecuniary interest that exists only by virtue of the fact that the member of the Board is a member of a class of persons for whose benefit Shelter WA is established.
- 13.3 Where a member of the Board of Shelter WA discloses a pecuniary interest in a contract or proposed contract under Clause 12.1, or his interest is not such as need be disclosed under Clause 12.1:
- i) the contract is not liable to be avoided by Shelter WA on any ground arising from the fiduciary relationship between the Board Member and Shelter WA; and
  - ii) the Board Member is not liable to account for profits derived from the contract.
- 13.4 Shelter WA shall cause every disclosure made under Clause 12.1 to be recorded in the minutes of the meeting of the Board at which it is made.
- 13.5 Shelter WA must not employ or otherwise engage a Board Member to perform services for Shelter WA. A Board Member may only be employed or otherwise engaged by the Shelter WA if the Board Member resigns as a Board Member before being employed or otherwise engaged by Shelter WA.
- 13.6 Disclosure of Conflicts and Pecuniary Interest is to be a standing Board Meeting Agenda item.

### **14 COMPLAINTS AND GRIEVANCES**

Procedures for the resolution of complaints and disputes are outlined in Shelter WA's Complaints Policy, available on the Shelter WA website<sup>20</sup>.

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<sup>20</sup> Schedule 1, Item 18. The AIA requires an association's rules to address a procedure for dealing with any dispute under or relating to the rules between members or between members and the association – this provision in Shelter WA's could be more comprehensive. Unresolved disputes between members and an incorporated association may heard by the SAT under the AIA (s 182). See suggested Model Rule 28.

## **15 EXECUTIVE OFFICER**

- 15.1 The Board shall appoint an Executive Officer. The Executive Officer is an ex-officio member of the Board and not entitled to vote. The Executive Officer is employed by Shelter WA, and is empowered by the Board to undertake the day to day operations of Shelter WA including, but not limited to the:
- 15.1.1 Raising of invoices for payments to Shelter WA;
  - 15.1.2 Payment of accounts received by Shelter WA;
  - 15.1.3 Preparation of meeting agenda for the Board or any other usual purpose in the business of Shelter WA;
  - 15.1.4 Preparation of financial reports, workers reports, project reports and other reports as requested by the Board;
  - 15.1.5 Keeping records of all receipts and payments and other financial transactions, which records shall be available for inspection by the Board;
  - 15.1.6 Recruitment and employment, orientation, performance management, support and supervision of all staff, contract employees, students and volunteers engaged by Shelter WA;
  - 15.1.7 Review and recommend to the Board from time to time any alterations in employee job descriptions, staffing structure and, salary levels associated with any employee of Shelter WA; and
  - 15.1.8 Service of notice of meetings to Members and Board Members.

## **16 CHAIR AND VICE-CHAIR**

- 16.1 Where a ballot occurs, the Chair at any meeting shall have a deliberative vote but not a casting vote.
- 16.2 The Chair shall chair Board and General Meetings except that in the absence of the Chair or at the request of the Chair or of a majority of the meeting another Member may be elected as meetings Chair.
- 16.3 The Chair and the Executive Officer shall prepare the agenda for Board and General Meetings.
- 16.4 The Chair shall encourage full balanced participation in meetings by all Members and shall decide on matters of order.
- 16.5 The Chair, Vice Chair or the Executive Officer shall act as Spokesperson unless an alternative Spokesperson has been appointed by the Board or General Meeting. The Spokesperson shall make statements in accordance with previously agreed policy, or in an emergency following consultation with at least two members of the Board.
- 16.6 The Chair will be responsible for ensuring regular performance target settings and performance

reviews for the Executive Officer.

- 16.7 The Chair acts in response to the Board, members and staff concerns.
- 16.8 If the Chair is absent from a meeting, the Vice Chair must preside at the meeting.
- 16.9 If the Chair and the Vice Chair are both absent, the presiding member for that meeting must be:
- 16.9.1 A member elected by the other members present if it is a general meeting; or
- 16.9.2 A Board member elected by the other Board members present if it is a Board meeting.

## **17 TREASURER**

- 17.1 The Treasurer or the Executive Officer shall cause monies received to be paid into an account authorised by the Board in the name of Shelter WA. Payments shall be as electronic funds transfer, credit/debit card authorisation, and petty cash or by cheque signed by two authorised signatories of whom there shall be no more than five appointed by the Board. Major or unusual expenditures shall be authorised in advance by the Board or at a General Meeting.
- 17.2 The Treasurer and the Executive Officer shall cause to be prepared financial budgets and statements and shall submit a report on the finances to each Board Meeting.
- 17.3 The Treasurer shall present audited accounts to the Annual General Meeting.

## **18 SECRETARY**

- 18.1 The Secretary, the Executive Officer, Chair or Vice-Chair shall call meetings in accordance with the provisions of this Constitution.
- 18.2 The Secretary or the Executive Officer shall cause records to be kept of the business of Shelter WA including the Constitution and Policies, records of Members, a register of minutes of meetings and of notices, a file of correspondence, and records of submissions or reports made by or on behalf of Shelter WA.
- 18.3 In the absence of the Secretary another Member shall be elected as minutes secretary. The Executive Officer is also authorised to record minutes of meetings as required by the Board.

## 19 CONSTITUTION

- 19.1 This constitution binds every Member and Shelter WA and each Member agrees to comply with this constitution. Shelter WA must provide, free of charge, a current copy of this constitution to each person who becomes a Member. Shelter WA must keep a current copy of this constitution<sup>21</sup>.
- 19.2 This constitution may be repealed, altered or amended by Special Resolution passed by at least 75% of members present at a General Meeting and eligible to vote, of which not less than fourteen days' written notice including notice of the proposed repeal, alteration or amendment has been distributed to all Members<sup>22</sup>.

## 20 FUNDS AND PROPERTY OF SHELTER WA<sup>23</sup>

- 20.1 The funds and property of Shelter WA shall consist of<sup>24</sup>:
- 20.1.1 Any real or personal property of which Shelter WA by this Constitution or by any established practice not inconsistent with this Constitution, have the right to custody, control and management;
  - 20.1.2 All monies from fund raising activities organised by Shelter WA and any interest, rents or dividends derived from investment of funds; and
  - 20.1.3 Any monies raised by any means whatsoever, not inconsistent with this Constitution.
- 20.2 Shelter WA shall operate in its name at any bank or financial institution such accounts as may be agreed upon by the Board. All funds of Shelter WA shall be paid into Shelter WA's accounts. The signatories to Shelter WA shall be decided by the Board.
- 20.3 Any payment made out of the funds of Shelter WA to a member of the Board must be authorised by a resolution of the Members<sup>25</sup>.

## 21 FINANCIAL RECORDS<sup>26</sup>

- 21.1 The financial records of the Board shall consist of electronic database records, account statements, receipt books, ledgers, journals, cheque books and other such documents as are

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<sup>21</sup> AIA s 35; Model Rule 24.1 must be included in the rules of all associations, including those who choose not to adopt the Model Rules. Model Rule 24.1 states that all associations must keep a current copy of their rules and provide a copy to each person who becomes a member of the association.

<sup>22</sup> Schedule 1, Item 14; Model Rule 24.2

<sup>23</sup> The AIA requires financial accounting and reporting provisions to be included in the association's constitution which reflect the requirements of the new law. Schedule 1, Item 11 and Model Rule 21.1.

<sup>24</sup> Schedule 1, Item 11 ; Model Rule 21.1.

<sup>25</sup> Schedule 1, Division 2.

<sup>26</sup> The AIA requires financial accounting and reporting provisions to be included in the association's constitution which reflect the requirements of the new law. Schedule 1, Item 11 and Model Rule 21.3.



- deemed necessary by the Board to show the current accurate financial position of Shelter WA.
- 21.2 The Board shall once in each year cause to be prepared proper accounts of income and expenditure and balance sheets.
- 21.3 The financial records and books of accounts shall be kept at such place as the Board shall think fit and shall be kept in the custody or control of the Secretary/Treasurer, except as otherwise directed by the Board. The financial records and books of Shelter WA must be retained for at least seven years<sup>27</sup>.
- 21.4 The Board shall within six months after the end of each financial year, cause to be prepared a financial report in writing of the operations of Shelter WA and a copy of such report will be made available at the AGM and on the Shelter WA website<sup>28</sup>.
- 21.5 The financial records must be retained by Shelter WA for at least 7 years after the transactions covered by the records are completed<sup>29</sup>.

## **22 AUDITOR<sup>30</sup>**

- 22.1 An auditor, who shall not be a Member of Shelter WA or a member of the Board, shall be appointed annually at the Annual General Meeting.
- 22.1.1 Notwithstanding Clause 22.1, an alternative auditor may be appointed, if passed by at least 75% of members present at a General Meeting and eligible to vote, of which not less than fourteen days' written notice, including notice of the proposed motion, has been distributed to all Members.

## **23 WINDING UP**

- 23.1 Shelter WA may be wound up voluntarily by a Special Resolution passed at a General Meeting whenever at least twenty one days' written notice of such a resolution has been given to all Members of Shelter WA and all Members of the Board.
- 23.2 Subject to the operation of this clause, if, on the winding up of Shelter WA, any property of Shelter WA remains after satisfaction of the debts and liabilities of Shelter WA and the costs, charges and expenses of that winding up, that property shall be distributed to another association, institution or body that is charitable at law<sup>31</sup> and registered as such by the Australian Charities

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<sup>27</sup> Schedule 1, Item 16; Model Rule 27.1.

<sup>28</sup> Schedule 1, Item 11; Model Rule 21.4; AIA s 71.

<sup>29</sup> AIA s 67 and see Model Rule 21.3.

<sup>30</sup> The AIA requires financial accounting and reporting provisions to be included in the association's constitution which reflect the requirements of the new law. Schedule 1, Item 11 and Model Rule 21.5.

<sup>31</sup> Schedule 1, Item 19; AIA s 24 and Model Rule 29.

and Not-for-profits Commission.

- 23.3 That association, institution or body shall be determined by resolution of the Members when authorising and directing the Board under section 33(3) of the Act to prepare a distribution plan for the distribution of the surplus property of Shelter WA.
- 23.4 Based on the requirements in this clause, the recipient association, institution or body shall be determined by resolution of the General Meeting concerned, on a simple majority, or in default of such resolution, by a Judge of the District Court of Western Australia.
- 23.5 Notice of the dissolution of Shelter WA will be given to the Australian Taxation Office.

## **24 SURPLUS GIFTS (if Shelter WA is endorsed as a Deductible Gift Recipient)**

- 24.2 This clause only applies if Shelter WA is endorsed as a Deductible Gift Recipient by the Commissioner of Taxation.
- 24.3 Subject to the Act and any other applicable law, and any court order, any surplus assets (including "gift funds" as defined in Clause 24.5) that remain after Shelter WA is wound up must be distributed to one or more charities:
- i) with charitable purpose(s) at law similar to, or inclusive of, the purpose(s) in Clause 4;
  - ii) which also prohibit the distribution of any surplus assets to its members to at least the same extent as Shelter WA; and
  - iii) that is or are Deductible Gift Recipients.
- 24.4 The decision as to the charity or charities to be given the surplus assets must be made by the Members passing a Special Resolution at or before the time of winding up. If the Members do not make this decision, the association may apply to the Supreme Court to make this decision.
- 24.5 If the association's deductible gift recipient endorsement is revoked (whether or not the association is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of Rules 24.1(a), 24.1(b) and 24.1(c), as decided by the Directors.
- 24.6 For the purpose of this Rule 24 "gift funds" means:
- i) gifts of money or property for the principal purpose of the association;
  - ii) contributions made in relation to a fund raising event held for the principal purpose of the association; and
  - iii) money received by the association because of such gifts and contributions.
- "contributions" and "fund raising" event have the same meaning as in Division 30 of the Income Tax Assessment Act 1997(Cth).

## **25 COMMON SEAL<sup>32</sup>**

The Common Seal of Shelter WA engraved with the name of Shelter WA (Inc.) shall be kept in the care of the Executive Officer. The seal shall be affixed only by resolution of the Board or of a General Meeting and in the presence of two Board Members including at least one Office Bearer.

## **26 NOTICES**

26.2 A notice required to be given under this Constitution shall be in writing and deemed to be served on the person to whom it is to be given, by either giving it personally to them, sending it through the post in a pre-paid letter to the address of that person last notified to Shelter WA, electronically by email to the email address last notified to Shelter WA, by facsimile or in an emergency by such other notice as shall be ratified by the Board.

26.3 Any notice served by post shall be deemed to have been served at the time that the notice would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the envelope containing the notice was properly addressed, pre-paid and posted. Proof of notice that has been transmitted electronically by email or by facsimile can be requested by a Member or Board Member within 30 days of the date of the transmission.

## **27 INSPECTION OF DOCUMENTS AND RECORDS**

Subject to the requirements of the Act, the Board may decide whether or not to allow a Member to inspect the documents and records of Shelter WA<sup>33</sup>.

July 2016

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<sup>32</sup> Schedule 1, Item 15.

<sup>33</sup> Schedule 1, Item 17.