

Corporations Act 2001
A Public Company Limited by Guarantee
Constitution

MENTAL HEALTH LIVED EXPERIENCE PEAK QUEENSLAND Limited

As Amended 14 December 2022

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1 The Company

- 1.1 The name of the **Company** is Mental Health Lived Experience Peak Queensland Limited.
- 1.2 The Company is a not-for-profit public company limited by guarantee.
- 1.3 The liability of the members is limited to the amount of the guarantee stated in clause 1.4.
- 1.4 Every member must contribute an amount of not more than \$10 to the property of the Company if it is wound up while they are a member, or within one year after they cease to be a member.

2 Objects and powers

- 2.1 The Company's objects are:
 - 2.1.1 Providing policy advice and system advocacy for, and with, **Consumers** of all ages of the Queensland mental health system, in particular those who are marginalised and disadvantaged, based on the principles of equity, access, cultural-safety, recovery, and human rights
 - 2.1.2 Working with the mental health system to empower and build capacity of experienced and emerging mental health Consumer representatives to participate in mental health sector improvement initiatives
 - 2.1.3 Undertaking projects in relation to supporting Consumer engagement and participation
 - 2.1.4 Working collaboratively and/or in partnership with other agencies and organisations in the sector to improve the mental health and wellbeing of Consumers and the community
 - 2.1.5 Supporting, demonstrating and fostering Company practices and environments, at all levels, that are culturally safe, recovery-oriented, trauma-informed, and consumer-led.
- 2.2 The Company will pursue its objects through:
 - 2.2.1 Developing mechanisms and providing forums to hear directly from Consumers of mental health services of all ages, in particular those who are marginalised and disadvantaged, to provide an independent, informed and representative voice for mental health Consumers in Queensland
 - 2.2.2 Staying well-informed of government policy and action in relation to mental health and the Queensland mental health system, and actively providing advice to government and other organisations that reflects the views, needs and preferences of Consumers of mental health services in Queensland
 - 2.2.3 Influencing decision making to achieve better health and wellbeing outcomes, a better mental health system, and to improve equity and access for all Consumers of mental health services in Queensland
 - 2.2.4 Promoting and using ethical, recovery-oriented mental health research that is co-designed and/or Consumer-led, and/or impacts on mental health Consumers to inform responses that will lead to better health outcomes
 - 2.2.5 Enhancing and optimising the capacity of Consumers of mental health services to participate in mental health policy, research, and mental health sector improvement initiatives by providing education, training, support, networking, professional development, and supervision opportunities
 - 2.2.6 Developing the capacity of the mental health sector to effectively partner with mental health Consumers by providing education and resources
 - 2.2.7 Engaging and collaborating with agencies, organisations, institutions or bodies that, in the opinion of the Company, support and uphold the Company's objects and charitable purposes, to encourage initiatives and assist in developing innovative programs aimed at promoting the mental health and wellbeing of Consumers of mental health services and the community, and reducing stigma and discrimination

- 2.2.8 Making known and furthering the objects, charitable purposes and activities of the Company by maintaining a website and social media presence, and by publishing and distributing papers, newsletters, leaflets, reports and other publications and by advertising in any medium or by any means thought to be desirable
- 2.2.9 Ensuring that Consumer-led, recovery-oriented, trauma-informed practice and cultural safety underpin all aspects of the Company's operations and
- 2.2.10 Doing all other things that are incidental or conducive to the operation of the Company and otherwise for the attainment of all or any of the above objects of the Company.

3 No profits for members

Transfer of income or property

- 3.1 Subject to clause 3.2, all of the assets and income of the Company are to be applied solely to the furtherance of the charitable purposes of the Company and no portion is to be distributed directly or indirectly to any member.

Payments, services and information

- 3.2 Nothing in clause 3.1 prevents the payment, in good faith, of an amount, calculated on arms-length terms, in respect of:
 - 3.2.1 remuneration payable to a **Director** or other officer of the Company in relation to their role or
 - 3.2.2 goods or services actually supplied to the Company by members.

Gift Fund

- 3.3 The Company, if endorsed as a deductible gift recipient in its own right, will ensure that it is carried on for the purpose in respect of which the Company is so endorsed or approved and may maintain for that purpose a fund (**Gift Fund**):
 - 3.3.1 to which all gifts of money or property for those purposes are made;
 - 3.3.2 to which contributions are made in relation to an eligible fundraising event for the principal purposes of the Company;
 - 3.3.3 to which all money received by the Company because of the gift is credited; and
 - 3.3.4 which does not receive any other money or property.
- 3.4 The Company must use the Gift Fund only for its objects set out in clause 2.

4 Membership

Membership and eligibility

- 4.1 The members of the Company are:
 - 4.1.1 the initial members (being the persons named as members in the application for registration of the Company); and
 - 4.1.2 other persons who apply to be, and are accepted as, members, in accordance with this **Constitution**.

Number of members and eligibility for admission

- 4.2 The number of members of the Company is unlimited.
- 4.3 To be eligible for admission as a member, a person must:
 - 4.3.1 be a natural person
 - 4.3.2 self-identify as a person with a **Lived Experience**, provided that this requirement does not apply to the initial members referred to in clause 4.1.1;

- 4.3.3 be a resident of Queensland
- 4.3.4 be 18 years old or older, and
- 4.3.5 not be a paid employee of the Company, provided that this does not preclude a Director or **Secretary** from being admitted as a member.

Becoming a member

- 4.4 A person may apply to become a member of the Company by writing to the Secretary stating that they:
 - 4.4.1 satisfy the eligibility criteria set out in clause 4.3
 - 4.4.2 want to become a member
 - 4.4.3 support the purposes of the Company and
 - 4.4.4 agree to comply with this Constitution, including paying the guarantee under clause 1.4, if required.

Directors decide whether to approve membership

- 4.5 The Directors must consider an application for membership within a reasonable time after the Secretary receives the application.
- 4.6 If the Directors approve an application, the Secretary must, as soon as possible:
 - 4.6.1 enter the new member on the **Register**, and
 - 4.6.2 write to the member to tell them that their application was approved, and the date that their membership started.
- 4.7 If the Directors reject an application, the Secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.
- 4.8 For the avoidance of doubt, the Directors may approve an application even if the application does not state the matters listed in clause 4.4. In that case, by applying to be a member, the applicant represents that they satisfy the requirement stated in subclause 4.4.1 and they agree to the matters stated in subclauses 4.4.2, 4.4.3 and 4.4.4.

When a person becomes a member

- 4.9 Other than initial members, an applicant will become a member when they are entered on the Register.

Register of members

- 4.10 A Register of members must be kept in accordance with the *Corporations Act 2001* (**Corporations Act**).
- 4.11 The Register must be kept in the office of the Company. The following details must be entered and kept current in the Register in respect of each member:
 - 4.11.1 the full name, residential address, postal address, telephone number and email address of the member
 - 4.11.2 the date of admission to, and cessation of, membership
 - 4.11.3 other information as required by the **Board**.
- 4.12 The Register must be open for inspection by members in accordance with the Corporations Act.
- 4.13 Each member must notify the Secretary in writing of any change of that member's address within a period of one month following such a change and all notices given to the address last notified will be considered fully received.

Ongoing member obligations and rights

4.14 Members agree to be bound by the provisions of this Constitution.

4.15 For so long as a member abides by the provisions of this Constitution, the member will enjoy the rights and privileges of membership under this Constitution and the Corporations Act.

Voting rights

4.16 Members have the right to:

4.16.1 vote in person or by proxy at any properly convened **General Meeting** of the members of the Company

4.16.2 cast a vote in any properly held postal ballot.

4.17 All members may exercise one vote each on all resolutions.

4.18 Clause 4.16 applies regardless of whether voting is conducted in person, via a postal ballot, or by proxy and applies to any matter on which members are entitled to vote, including, but not limited, to voting on a poll.

5 Application fees

5.1 The application fee, payable by applicants for ordinary membership of the Company (if demanded), will be in the amount determined from time to time by resolution of the Board, not exceeding \$10.

6 Cessation of membership

Resignation

6.1 A member may resign from membership of the Company by giving written notice to the Secretary, in which case:

6.1.1 the resignation will take effect from the date of receipt of the notice of resignation or such later date as may be stated in the notice

6.1.2 the member's liability for any fees, subscriptions or other moneys in arrears at the date of such resignation will continue until discharged by payment.

Removal from membership

6.2 In accordance with this clause, the Directors may resolve to warn, suspend, or expel a member from the Company if the Directors consider that:

6.2.1 the member has breached this Constitution, or

6.2.2 the member's behaviour is causing, has caused, or is likely to cause harm to the Company.

6.3 At least 14 days before the Directors' meeting at which a resolution under clause 6.2 will be considered, the Secretary must notify the member in writing:

6.3.1 that the Directors are considering a resolution to warn, suspend, or expel the member

6.3.2 that this resolution will be considered at a Directors' meeting and the date of that meeting

6.3.3 what the member is said to have done or not done to warrant the expulsion

6.3.4 the nature of the resolution that has been proposed

6.3.5 that the member may provide an explanation to the Directors, and details of how to do so.

6.4 Before the Directors pass any resolution under clause 6.2, the member must be given a chance to explain or defend themselves by:

6.4.1 sending the Directors a written explanation before that Directors' meeting, and/or

- 6.4.2 speaking at the meeting.
- 6.5 After considering any explanation under clause 6.4, the Directors may:
 - 6.5.1 take no further action
 - 6.5.2 warn the member
 - 6.5.3 suspend the member's rights as a member for a period of no more than 12 months
 - 6.5.4 expel the member
 - 6.5.5 refer the decision to an unbiased, independent person on conditions that the Directors consider appropriate (however, the person can only make a decision that the Directors could have made under this clause), or
 - 6.5.6 require the matter to be determined at a General Meeting.
- 6.6 The Directors cannot fine a member.
- 6.7 The Secretary must give written notice to the member of the decision under clause 6.56.5 as soon as possible.
- 6.8 Disciplinary procedures must be completed as soon as reasonably practical.
- 6.9 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

Other cessation of membership

- 6.10 A person ceases to be a member if they:
 - 6.10.1 die or
 - 6.10.2 fail or decline to complete the annual membership renewal process (if any) required by the Board.

7 General Meetings of members

General Meetings called by Directors

- 7.1 The Directors may call a General Meeting.
- 7.2 If members with at least 5 per cent of the votes that may be cast at a General Meeting make a written request to the Company for a General Meeting to be held, the Directors must:
 - 7.2.1 within 21 days of the members' request, give all members notice of a General Meeting, and
 - 7.2.2 hold the General Meeting within two months of the members' request.
- 7.3 The members who make the request for a General Meeting must:
 - 7.3.1 state in the request any resolution to be proposed at the meeting
 - 7.3.2 sign the request, and
 - 7.3.3 give the request to the Company.
- 7.4 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

General Meetings called by members

- 7.5 If the Directors do not call the meeting within 21 days of being requested under clause 7.2, 50 per cent or more of the members who made the request may call and arrange to hold a General Meeting.
- 7.6 To call and hold a meeting under clause 7.5, the members must:

- 7.6.1 as far as possible, follow the procedures for General Meetings set out in this Constitution
 - 7.6.2 call the meeting using the list of members on the Register, which the Company must provide to the members making the request at no cost, and
 - 7.6.3 hold the General Meeting within three months after the request was given to the Company.
- 7.7 The Company must pay the members who request the General Meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.

Annual General Meeting

- 7.8 An **Annual General Meeting** must be held:
- 7.8.1 within 18 months after registration of the Company, and
 - 7.8.2 after the first Annual General Meeting, at least once in every calendar year.
- 7.9 Even if these items are not set out in the notice of meeting, the business of an Annual General Meeting may include:
- 7.9.1 a review of the Company's activities
 - 7.9.2 a review of the Company's finances
 - 7.9.3 any auditor's report
 - 7.9.4 the election of Directors
 - 7.9.5 approval of any remuneration for Directors, and
 - 7.9.6 the appointment and remuneration of auditors, if any.
- 7.10 Before or at each Annual General Meeting, the Directors must give information to the members on the Company's activities and finances during the period since the last Annual General Meeting.
- 7.11 The **Chair** of the Annual General Meeting must give members, as a whole, a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

Using technology to hold General Meetings

- 7.12 The Company may hold a General Meeting at two or more venues using any technology that gives the members, as a whole, a reasonable opportunity to participate, including to hear and be heard, address the other participating members simultaneously and to vote on a show of hands or on a poll.
- 7.13 A member using this technology is taken to be present in person at the General Meeting and is entitled to exercise all rights as if they were present at the main venue.
- 7.14 At a meeting held in two or more places using technology:
- 7.14.1 a quorum will be deemed to be present if the provisions set out in clause 7.18 regarding quorums are met in respect of the minimum number of members; and
 - 7.14.2 the meeting will be deemed to be held at the place where the largest group of participating members is assembled, or if no such group is identifiable, at the place at which the Chair is attending.

Notice of General Meetings

- 7.15 Notice of every General Meeting must be given to every member, Director, and the auditor, if any. No other person is entitled to receive notices of General Meetings.
- 7.16 Notice of a General Meeting:

7.16.1 must, subject to the provisions of the Corporations Act permitting short notice, be given not less than 21 days prior to the meeting

7.16.2 may be given by any form of communication permitted by the Corporations Act, and

7.16.3 must specify:

- a. the place, the date and the time of the meeting
- b. if the meeting is to be held in two or more places, the technology that will be used to facilitate this
- c. the general nature of the business to be transacted
- d. if it is proposed to move a special resolution at the meeting, the intention to propose the special resolution and the resolution
- e. a statement that:
 - (i) a member has the right to appoint a proxy
 - (ii) a proxy does not need to be a member of the Company
 - (iii) the proxy form may be delivered to the Company at its registered office or place, facsimile number, or electronic address specified in the notice of the meeting, and
 - (iv) the proxy form and any other documents referred to in clause 8 must be delivered to the Company at least 48 hours before the meeting, and
- f. any other matters required by the Corporations Act.

7.17 The accidental omission to give notice of any General Meeting to, or the non-receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the General Meeting.

Quorum at General Meetings

7.18 A quorum for the purposes of a General Meeting of members is one-third (rounded up to the nearest whole number) of the number of members of the Company for the time being or 13 members whichever is the lesser.

7.19 Members will be regarded as present for quorum purposes whether present personally or by proxy.

7.20 If a quorum is not present within half an hour from the time appointed for the meeting or a longer period allowed by the Chair:

7.20.1 if the meeting was convened by or on the requisition of members, it must be dissolved, or

7.20.2 in any other case it must stand adjourned to the same day in the next week, at the same time and place, or to another day and at another time and place determined by the Board.

7.21 If a meeting has been adjourned to another time and place determined by the Board, then notwithstanding any other provision, not less than seven days' notice of the adjourned meeting must be given in the same manner as the original meeting.

7.22 If, at the adjourned meeting, a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

Chair of General Meetings

7.23 The Chair may chair every General Meeting. If at any General Meeting the Chair is not present at the time specified for holding the meeting, the **Deputy Chair** may chair the General Meeting.

7.24 For any General Meeting, if:

- 7.24.1 a Chair or a Deputy Chair has not been elected as provided by 10.1
- 7.24.2 the Chair and the Deputy Chair are not present within 30 minutes after the appointed time for the holding of the meeting,
- 7.24.3 the Chair and/or Deputy Chair are present but are unwilling to chair the general meeting, or
- 7.24.4 a member elected by a majority of the members present may chair the General Meeting.

No casting vote for Chair

- 7.25 The Chair of a General Meeting is not entitled to a second or casting vote on any resolution, whether by show of hands or on a poll.

Adjournment of meetings

- 7.26 The Chair may, with the consent of any meeting at which a quorum is present, and must if so, directed by the meeting, adjourn the meeting to another time and to another place.
- 7.27 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- 7.28 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.
- 7.29 When a meeting is adjourned for less than 30 days, it is not necessary to give a further notice of the adjourned meeting. **Postal ballots**

- 7.30 Notwithstanding any other provision, to the extent permitted by law, a resolution of the members decided by postal ballot conducted in accordance with this Constitution will be as valid and effective as if it had been passed at a meeting of the Company duly called and constituted.

- 7.31 Without limiting the purposes for which the Board may conduct a postal ballot among the members, a postal ballot may be held for the elections of all Directors (including filling casual vacancies as contemplated by clause 9.8) and the results will be declared as appropriate at each Annual General Meeting.

- 7.32 A postal ballot may be held by electronic means.

- 7.33 In relation to a postal ballot for an election:

- 7.33.1 the postal ballot must be commenced by the Board, calling for nominations no earlier than six months before the Annual General Meeting and must be completed no later than one day before the Annual General Meeting

- 7.33.2 there will not be a further vote on the relevant resolution (whether by show of hands or by poll) at the Annual General Meeting in respect of any such election.

- 7.34 In relation to a postal ballot other than one conducted for an election as contemplated by clause 7.33, the Board may declare that the results of the postal ballot will be added to votes to be taken on the resolution at a General Meeting of members provided that:

- 7.34.1 this is advised to the members in writing prior to the conduct of the postal ballot, and

- 7.34.2 no member is entitled to vote more than once on the same resolution.

- 7.35 All postal ballots must be held in such a manner as to provide a reasonable opportunity for the members to cast a vote and otherwise in the manner prescribed by the Board from time to time in by-laws promulgated by the Board. **Voting at General Meetings**

- 7.36 All resolutions put to the vote of a General Meeting of members, which have not already been decided by postal ballot under this Constitution, must be decided on a show of hands unless a poll is demanded in accordance with clause 7.38.

- 7.37 On a show of hands, every member presents in person has one vote.
- 7.38 On a show of hands, a declaration by the Chair that a resolution has been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour for or against the resolution.

Vote on a poll

- 7.39 A poll may be demanded in respect of a resolution at a General Meeting:
- 7.39.1 by the Chair, or
- 7.39.2 by at least two members present and entitled to vote on the resolution:
- a. before the vote on that resolution is taken
 - b. before the result is declared on a show of hands, or
 - c. immediately after the result is declared on a show of hands.
- 7.40 On a poll, every member present in person or by proxy has one vote.
- 7.41 If a poll is duly demanded, it must be taken in the manner and, except as to the election of a Chair or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the Chair directs. The result of the poll is the resolution of the meeting at which the poll is demanded.
- 7.42 A poll demanded on the election of a Chair or on a question of adjournment must be taken immediately.

8 Proxies

Appointment of proxies

- 8.1 A member may appoint a person as their proxy to attend and vote in their place at a General Meeting.
- 8.2 A proxy does not need to be a member.
- 8.3 An instrument appointing a proxy will be deemed to confer authority to demand or join in demanding a poll and will (except to the extent to which the proxy is specifically directed to vote for or against any proposal) include power to act generally at the meeting for the person giving the proxy.
- 8.4 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
- 8.4.1 the member's name and address
 - 8.4.2 the Company's name
 - 8.4.3 the proxy's name or the name of the office held by the proxy, and
 - 8.4.4 the meetings at which the appointment may be used.
- 8.5 A proxy appointment may be standing (ongoing).
- 8.6 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- 8.7 Unless the Company receives written notice before the start or resumption of a General Meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
- 8.7.1 dies
 - 8.7.2 is mentally incapacitated

- 8.7.3 revokes the proxy's appointment, or
- 8.7.4 revokes the authority under which the proxy was appointed by a third party.
- 8.8 A proxy appointment may specify the way the proxy must vote on a particular resolution.
- 8.9 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- 8.10 When a vote in writing is held, a proxy:
 - 8.10.1 does not need to vote, unless the proxy appointment specifies the way they must vote
 - 8.10.2 if the way they must vote is specified on the proxy form, must vote that way, and
 - 8.10.3 if the proxy is also a member or holds more than one proxy, they may cast the votes held in different ways.
- 8.11 If the document appointing a proxy specifies the manner in which the proxy is to vote in respect of a particular resolution, the proxy is not entitled to vote on the resolution except in the manner specified in the document.

Receipt of proxies

- 8.12 For an appointment of a proxy to be valid for a meeting of the Company's members, the following documents must be received by the Company at least 48 hours before the meeting:
 - a. the proxy's appointment, and
 - b. if the appointment is signed, or otherwise authenticated in a manner prescribed by regulations for the purposes of subsection 250A(1) of the Corporations Act, by the appointer's attorney, the authority under which the appointment was signed or authenticated or a certified copy of that authority.

Revocation of appointment of a proxy

- 8.13 A vote given in accordance with the terms of a proxy document or power of attorney is valid despite:
 - 8.13.1 the death or mental incapacitation of the appointor, or
 - 8.13.2 the revocation of the instrument or of the authority under which the instrument was executed
 - except where the Company Secretary has been notified in writing of such event before the commencement of the meeting or adjourned meeting at which the proxy is used, in which case the proxy will be deemed to be invalid.

9 Board of Directors

Number of Directors

- 9.1 The Company must have at least three and no more than seven Directors.
- 9.2 The Company may, by ordinary resolution of its members, increase or decrease the minimum or maximum number of Directors provided that the minimum does not fall below three as required by the Corporations Act.

Composition of Board

- 9.3 A majority of the Directors must have Lived Experience.

Election and appointment of Directors

- 9.4 The initial Directors are the people who have agreed to act as Directors and who are named as proposed Directors in the application for registration of the Company.

- 9.5 Apart from the initial Directors and Directors appointed under clause 9.8, members may elect a Director by a resolution passed in a General Meeting.
- 9.6 Each of the Directors must be appointed by a separate resolution, unless:
- 9.6.1 the members present have first passed a resolution that the appointments may be voted on together, and
 - 9.6.2 no votes were cast against that resolution.
- 9.7 A person is eligible for election as a Director if:
- 9.7.1 they are not a paid employee of the Company
 - 9.7.2 subject to any nominations by-law that may be made under clause 17, they are nominated by two members entitled to vote or by the **Nominations, Remuneration and Governance Committee** in accordance with clause 14
 - 9.7.3 they give the Company their signed consent to act as a Director, and
 - 9.7.4 they are not ineligible to be a Director under the Corporations Act or the *Australian Charities and Not-for-profits Commission Act 2012 (the ACNC Act)*.
- 9.8 The Directors may appoint a person as a director to fill a casual vacancy or as an additional Director if that person:
- 9.8.1 gives the Company their signed consent to act as a Director, and
 - 9.8.2 is not ineligible to be a Director under the Corporations Act or the ACNC Act.
- 9.9 If the number of Directors is reduced to fewer than three or is less than the number required for a quorum, the continuing Directors may act for the purpose of increasing the number of Directors to three (or higher if required for a quorum) or calling a General Meeting, but for no other purpose.

Term of office

- 9.10 At the third Annual General Meeting after the registration of the Company, and at each subsequent Annual General Meeting:
- 9.10.1 any Director appointed by the Directors to fill a casual vacancy or as an additional Director must retire; and
 - 9.10.2 at least one-third of the remaining Directors must retire.
- 9.11 The Directors who must retire at each Annual General Meeting under clause 9.10.2 will be the Directors who have been longest in office since last being elected. Where Directors were elected on the same day, the Directors to retire will be decided by lot unless they agree otherwise.
- 9.12 Other than a Director appointed under clause 9.8, a Director's term of office starts at the end of the Annual General Meeting at which they are elected and ends at the end of the Annual General Meeting at which they retire.
- 9.13 Each Director must retire at least once every three years.
- 9.14 A Director who retires under clause 9.10 may nominate for election or re-election, subject to clause 9.15.
- 9.15 A Director who has held office for a continuous period of six years or more may only be re-appointed or re-elected by a special resolution.

Responsibilities of Directors

- 9.16 The Directors are subject to and must comply with duties owed at law, including, but not limited to, the duties prescribed by the Act and the **ACNC Governance Standards**.
- 9.17 The Directors may exercise all of the powers of the Company which are not, by the Corporations Act or by this Constitution, required to be exercised by the members in a General Meeting.

Leave of absence

- 9.18 A Director may take a leave of absence for up to six months.
- 9.19 To take a leave of absence, the Director must give notice, in writing, to the Company of that Director's intention to take a leave of absence.
- 9.20 A notice of a Leave of Absence takes effect at the time of giving the notice to the Company or, if another time is specified in the notice, at that time.

Retirement from office

- 9.21 A Director may retire from office by giving notice, in writing, to the Company of that Director's intention to retire.
- 9.22 A notice of resignation takes effect at the time of giving the notice to the Company or, if another time is specified in the notice, at that time.

Vacation of office

- 9.23 Without limiting any other provision, the office of a Director becomes vacant if required by the Corporations Act or the ACNC Act, or if the Director:
- 9.23.1 becomes prohibited from being a director of a company by reason of the Corporations Act or the ACNC Act, any order made under the Corporations Act or otherwise at law
 - 9.23.2 becomes bankrupt or makes any arrangement or composition with their creditors generally
 - 9.23.3 shows behaviour indicating their decision-making capacity to make decisions to the best interest of the Company is not meeting the Company requirements
 - 9.23.4 becomes an employee of the Company or any related entity employing staff of the Company
 - 9.23.5 fails to attend more than three consecutive meetings of the Directors without leave of absence from the Board, or
 - 9.23.6 the Company in General Meeting resolves that the office of that Director be vacated.

Alternate Directors

- 9.24 A Director may, with the approval of the other Directors, appoint a person to be the Director's **Alternate Director** for a period that the Director thinks fit.
- 9.25 An Alternate Director may be a member or a Director of the Company, but need not be a member or a Director.
- 9.26 One person may act as Alternate Director to more than one Director.
- 9.27 An Alternate Director is entitled, if the appointer does not attend a meeting of Directors, to attend and vote in the place of and on behalf of the appointer.
- 9.28 An Alternate Director is entitled to a separate vote for each Director the Alternate Director represents in addition to any vote the Alternate Director may have as a Director in their own right.
- 9.29 In the absence of the appointer, an Alternate Director may exercise any powers that the appointer may exercise and the exercise of that power by the Alternate Director is to be taken to be the exercise of the power by the appointer.
- 9.30 The office of an Alternate Director is vacated if and when the appointer vacates office as a Director.
- 9.31 The appointment of an Alternate Director may be terminated at any time by the appointer even though the period of the appointment of the Alternate Director has not expired.

- 9.32 An appointment, or the termination of an appointment, of an Alternate Director must be in writing signed by the Director who makes or made the appointment and does not take effect unless and until the Company has received notice in writing of the appointment or termination.
- 9.33 An Alternate Director is not to be taken into account in determining the minimum or maximum number of Director allowed under this Constitution.
- 9.34 In determining whether a quorum is present at a meeting of Directors:
 - 9.34.1 where a Director has appointed an alternate director, that the Alternate Director is counted if the appointing Director is not present
 - 9.34.2 where a person is present as a Director and an Alternate Director for another Director, that person is counted separately provided that there is at least one other Director or Alternate Director present, and
 - 9.34.3 where a person is present as an Alternate Director for more than one Director, that person is counted separately for each appointment provided that there is at least one other Director or Alternate Director present.
- 9.35 An Alternate Director, while acting as a Director, is responsible to the Company for their own acts and defaults and is not to be taken to be the agent of the Director by whom they were appointed.

10 Chair and Deputy Chair

- 10.1 The Directors may elect one of their number as the Chair and one of their number as the Deputy Chair.
- 10.2 The Chair or, in their absence, the Deputy Chair (if any), will preside as Chair at every meeting of the Board.
- 10.3 If, for any reason, there is not a Chair nor a Deputy Chair, or neither of them is present within 15 minutes of the time nominated for the Board meeting to start, the Directors who are present and entitled to vote at the meeting must select one of their number to chair the meeting.

11 Directors' remuneration

- 11.1 Directors are entitled to be remunerated for their role as Directors provided such fees are approved annually by the Company at an Annual General Meeting.
- 11.2 In addition to remuneration approved under clause 11.1, Directors are entitled to be paid all reasonable travelling, accommodation, and other expenses properly incurred by them in attending and returning from meetings of the Board or any **Committee** or General Meetings or otherwise in the execution of their duties as Directors, provided that such expenses have first been approved by the Board.

12 Proceedings of Directors

Convening of Directors' Meetings

- 12.1 The Board must meet not less than four times per year, but otherwise as necessary to discharge their duties and functions.
- 12.2 The Chair or any other two Directors may request the Secretary to convene a meeting of the Board at any time and the Secretary must comply with such request.
- 12.3 Notice of each meeting of the Directors must be given to:
 - 12.3.1 each Director other than a Director who is on a leave of absence approved by the Board, or
 - 12.3.2 an Alternate Director

at least 48 hours before the meeting, or otherwise as determined by resolution of the Board, except in the case of a Director who is out of Australia or who has been given leave of absence from the Board.

- 12.4 A notice of a meeting of directors:
- 12.4.1 must specify the time and place of, or form of technology for, the meeting
 - 12.4.2 must state the nature of the business to be transacted at the meeting
 - 12.4.3 may be given in person, by post or, subject to the Corporations Act, by a form of technology, and
 - 12.4.4 is taken to have been given to an Alternate Director if it is given to the Director who appointed that Alternate Director.
- 12.5 A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting. The Directors may otherwise regulate their meetings as they think fit.

Quorum and voting and Directors' meetings

- 12.6 A quorum for the purposes of a meeting of the Board is a majority of Directors.
- 12.7 Questions arising at a meeting of the Board must be decided in the manner from time to time determined by the Board, and in the absence of any such agreement, by a majority of votes of Directors present and voting.
- 12.8 A Director must not be counted in a quorum and must not vote in respect of any contract or arrangement in which they are interested. At the beginning of each meeting, any Director who has an interest in an agenda item must declare their interest and must not take part in further discussions or voting on that matter. At the direction of the Board, such member will leave the meeting during the discussion and voting.

No Chair's casting vote

- 12.9 The Chair does not have a second or casting vote at meetings of Directors.

Validity of acts of Directors

- 12.10 All acts done by a meeting of the Board or of a Committee or by a person acting as a Director are valid even if it is later discovered that there is a defect in the appointment of a person to be a Director or a member of the Committee or that they or any of them were disqualified or were not entitled to vote.

Minutes

- 12.11 The Board must cause minutes of all proceedings of General Meetings, of meetings of the Board and of Committees to be entered, within one month after the relevant meeting is held, in books kept for the purpose.
- 12.12 The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the Chair of the meeting at which the proceedings took place or by the Chair of the next succeeding meeting. **Resolution in writing**
- 12.13 A resolution in writing signed by all Directors, excluding Directors who have been given leave of absence, is to be treated as a determination of the Board passed at a meeting of the Board duly convened and held.
- 12.14 A resolution in writing may consist of several documents in like form, each signed by one or more Directors and, if so signed, it takes effect on the latest date on which a Director signs one of the documents.
- 12.15 In relation to a resolution in writing:

12.15.1 a document generated by electronic means that purports to be a facsimile of a resolution of Directors is to be treated as a resolution in writing, and

12.15.2 a document bearing a facsimile of a signature is to be treated as signed.

13 Committees

13.1 The Board may appoint one or more Committees consisting of Directors or other independent members, as the Board thinks fit.

13.2 The Board may appoint any member of a Committee as chair of that Committee.

13.3 In the exercise of any powers delegated to it, a Committee must:

13.3.1 conform to the directions of the Board

13.3.2 report to the Board, and

13.3.3 otherwise conduct its meetings and proceedings in accordance with the provisions of this Constitution, as far as practicable, as if they were meetings and proceedings of the Board.

13.4 The Board may delegate powers, except this power to delegate, to a Committee. The delegation must be recorded in the Company's minute book.

14 Nominations, Remuneration and Governance Committee

14.1 A Nominations, Remuneration and Governance Committee will be established by the Board, which will operate in accordance with the provisions of clause 13 and any nominations by-law that may be made under clause 17.

14.2 The role of the Committee is to:

14.2.1 identify and nominate candidates for appointment or election as a Director

14.2.2 receive and consider notices of concern from members about the performance or conduct of Directors,

14.2.3 propose remuneration for the Directors and other relevant committees, when required, provided that remuneration for Directors is subject to clause 11.

14.3 The Committee will have, at least, 50% +1 independent members.

14.4 All nominations of Directors for election to the Board must be carried out in accordance with any nominations by-law that may be made under clause 17.

15 Chief Executive Officer

15.1 The Board may appoint any appropriately skilled and qualified person, to the position of Chief Executive Officer (**CEO**), to act as CEO of the Company for the period and on the terms (including as to remuneration) the Board see fit.

15.2 The Board may, on terms and conditions and with any restrictions they see fit, confer on the CEO any powers that the Board can exercise.

15.3 The Board may, at any time, revoke or vary the appointment of; or any of the powers conferred on, the CEO.

15.4 If the CEO becomes incapable of acting in that capacity, the Directors may appoint any other person, not being a Director, to act temporarily as CEO until such time as the position can be permanently filled.

16 Company Secretary

16.1 The Directors must:

16.1.1 appoint, and terminate the appointment of, one or more Company Secretaries

16.1.2 determine their terms and conditions of appointment.

16.2 The Secretary will be responsible to carry out all acts and deeds required by this Constitution, the Corporations Act or by law.

17 By-laws

17.1 The Board may, by resolution, make and adopt, or amend, by-laws with respect to any matter or thing for the purposes of giving effect to any provision of this Constitution or generally for the purposes of carrying out the objects of the Company, which by-laws will be binding on the members, provided that to the extent of any inconsistency, this Constitution will prevail over all such by-laws.

18 Seals and execution of documents

18.1 If the Company has one, the Board must provide for the safe custody of the **seal**.

18.2 The Company may execute a document by affixing the seal to the document where the fixing of the seal is witnessed by:

18.2.1 two Directors

18.2.2 a Director and the Secretary, or

18.2.3 a Director and some other person appointed by the Directors for the purpose.

18.3 The Company may execute a document without the use of a seal if the document is signed by:

18.3.1 two Directors, or

18.3.2 a Director and the Secretary.

19 Amendment of this Constitution

19.1 This Constitution may be amended by a resolution passed by at least 75 per cent of the votes cast by the members present in person or by proxy and entitled to vote on the resolution.

19.2 The members must not pass a resolution to amend this Constitution if passing this resolution would cause the Company to cease to be a **Registered Charity** for so long as the ACNC Act is on foot.

20 Dispute resolution

20.1 The dispute resolution procedure in this clause applies to disputes (**disagreements**) under this Constitution between a member or Director and:

20.1.1 one or more members

20.1.2 one or more Directors, or

20.1.3 the Company.

20.2 A member must not start a dispute resolution procedure in relation to a matter that is the subject of a disciplinary procedure under clauses 6.2 to 6.9 until the disciplinary procedure is completed.

20.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.

20.4 If those involved in the dispute do not resolve it under clause 20.3, they must, within 10 days:

20.4.1 tell the Directors about the dispute in writing

20.4.2 agree or request that a mediator be appointed, and 20.4.3

attempt in good faith to settle the dispute by mediation.

20.5 The mediator must:

20.5.1 be chosen by agreement of those involved, or

- 20.5.2 where those involved do not agree:
- a. for disputes between members, a person chosen by the Directors, or
 - b. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profit Commission or the president of the law institute or society in the state or territory in which the Company has its registered office.
- 20.6 A mediator chosen by the Directors under clause 20.5.2a:
- 20.6.1 may be a member or former member of the Company
 - 20.6.2 must not have a personal interest in the dispute, and
 - 20.6.3 must not be biased towards or against anyone involved in the dispute.
- 20.7 When conducting the mediation, the mediator must:
- 20.7.1 allow those involved a reasonable chance to be heard
 - 20.7.2 allow those involved a reasonable chance to review any written statements
 - 20.7.3 ensure that those involved are given natural justice, and
 - 20.7.4 not make a decision on the dispute.

21 Protection of Officers

- 21.1 In this clause, '**Officer**' means a Director, Secretary or Committee member and includes a Director, Secretary or Committee member after they have ceased to hold that office.

Indemnity

- 21.2 The Company indemnifies each Officer out of the assets of the Company against all losses and liabilities (including costs, expenses and charges) incurred by that person as an Officer, to the extent that:
- 21.2.1 the Company is not precluded by law (including via the Corporations Act) from doing so, and
 - 21.2.2 the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 21.3 The indemnity is a continuing obligation and is enforceable by an Officer, even though that person is no longer an Officer.

Insurance

- 21.4 To the extent permitted by law (including the Corporations Act), and if the Directors consider it appropriate, the Company may pay or agree to pay a premium for a contract insuring a person who is, or has been, an Officer of the Company, against any liability incurred by the person acting as an Officer.

Insurance premiums

- 21.5 The Company may pay the premium on a contract insuring a person who is, or has been, an Officer of the Company against:
- 21.5.1 a liability for costs and expenses incurred by the person in defending proceedings arising out of the person's conduct as an Officer, whether civil or criminal, and whatever their outcome, and
 - 21.5.2 other liability incurred by the person as an Officer, except a liability that arises from conduct that involves a wilful breach of duty in relation to the Company or a contravention of sections 182, 183 or 184(2) or (3) of the Corporations Act.

22 Accounts, audit and records

Accounts

- 22.1 The Company must make and keep written financial records that:
- 22.1.1 correctly record and explain its transactions and financial position and performance, and
 - 22.1.2 enable true and fair financial statements to be prepared and to be audited.
- 22.2 The Company must keep written records that correctly record its operations.
- 22.3 The Board must provide for the safe custody of the books, records, documents and instruments of title of the Company.

Audit

- 22.4 A registered Company auditor must be appointed.
- 22.5 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Corporations Act.
- 22.6 The auditor or their representative is entitled to attend any General Meeting and be heard on any part of the business of the meeting that concerns the auditor. **Rights of inspection**
- 22.7 Subject to clause **Error! Reference source not found.** and the Corporations Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them are open to the inspection of members other than Directors, and a member other than a Director does not have the right to inspect any document of the Company, except as provided by law or authorised by resolution of the Board.
- 22.8 A Director has a right of access to the financial records of the Company at all reasonable times. If the Directors agree, the Company must give a Director or former Director access to:
- 22.8.1 certain documents, including documents provided for or available to the Directors, and
 - 22.8.2 any other documents referred to in those documents.

23 Notices

Persons authorised to give notices

- 23.1 A notice given by either the Company or a member in connection with this Constitution may be given on behalf of the Company or member by a solicitor, or, in the case of the Company, by the Secretary or a Director.
- 23.2 The signature of a person on a notice given by the Company may be written, printed, stamped or electronic.

Method and time of giving notices

- 23.3 In addition to the method for giving notices permitted by statute, a notice by the Company or a member in connection with this Constitution may be given by:
- 23.3.1 delivering it to the street address of the addressee and will be taken to have been received at the time of delivery
 - 23.3.2 sending it by prepaid ordinary post (airmail if outside Australia) to a street or postal address of the addressee and will be taken to have been received on the next business day (or 5th business day if sent outside Australia) after posting
 - 23.3.3 sending it electronically such as facsimile or email the addressee and will be taken to have been received when the transmission is complete, or
 - 23.3.4 sending it by means of any other technology which the members in General Meeting agree to be permissible for the purpose of giving notices.

Addresses for giving notices to members and to the Company

23.4 For the purposes of clause 23.30:

23.4.1 The address, facsimile, email or other contact details of a member are the last details formally notified by the member to the Company with a request that they be recorded in a register or the other records of the Company.

23.4.2 The street and postal address of the Company is the registered office of the Company and the facsimile, email or other contact details are as the Company may specify from time to time by written notice to the members as the contact details for the Company.

Proof of giving notices

23.5 Sending a notice electronically, such as by facsimile or email, and the time of completion of transmission may be proved conclusively by production of:

23.5.1 a transmission report by the facsimile machine from which the notice was transmitted that indicates a facsimile of the notice was sent in its entirety to the facsimile number of the addressee, or

23.5.2 a printout or electronic record of an acknowledgement of receipt of the electronic format or email.

Persons entitled to notice of meeting

23.6 Notice of every General Meeting must be given by a method authorised by this Constitution to every member, Director and the auditor for the time being of the Company, if any. No other person is entitled to receive notices of General Meetings.

24 Change of status and winding up

24.1 If, during its lifetime, the Company ceases to be endorsed as a deductible gift recipient under subdivision 30-BA of the *Income Tax Assessment Act 1997* (Cth) (**ITAA**), any surplus Gift Moneys that the Company may hold at that time must be transferred to a fund, authority or institution:

24.1.1 which is charitable at law;

24.1.2 gifts to which can be deducted under Division 30 of the ITAA; and

24.1.3 which has been approved in writing by the Company.

24.2 Subject to clause 24.1, if, at the time of winding up or dissolution of the Company, any property remains other than Gift Moneys, after satisfaction of all its debts and liabilities, that property must not be paid or distributed to any of the members of the Company but must be given or transferred to some other institution or institutions determined by the members of the Company at or before the time of dissolution which:

24.2.1 has similar objects to the Company;

24.2.2 has a similar endorsement as the Company from the Commissioner of Taxation for the purposes of the ITAA; and

24.2.3 which has been approved in writing by the members of the Company.

24.3 If the members do not make the necessary determination under clause 24.2.3, the Company may apply to the Supreme Court to determine the institution or institutions.

25 Replaceable rules

25.1 The replaceable rules set out in the Corporations Act do not apply to the Company.

26 Reading this Constitution with the Corporations Act and the Australian Charities and Not-for-profits Commission Act

- 26.1 While the Company is a Registered Charity, the ACNC Act and the Corporations Act override any clauses in this Constitution that are inconsistent with those Acts.
- 26.2 If the Company is not a Registered Charity (even if it remains a charity), the Corporations Act overrides any clause in this Constitution that is inconsistent with that Act.
- 26.3 A word or expression that is defined in the Corporations Act, or used in the Corporations Act and covering the same subject, has the same meaning when used in this Constitution.

27 Definitions and interpretation

Definitions

- 27.1 In this Constitution, subject to clause 26 and except where the context requires otherwise:

ACNC Act means the *Australian Charities and Not-for-profit Commission Act 2012* (Cth).

ACNC Governance Standards means the governance standards prescribed by Division 45 of the Australian Charities and Not-for-profit Commission Regulation 2013.

Alternate Director means a person appointed as such under clause 9.24.

Annual General Meeting means an annual general meeting of members held in accordance with clause 7.8.

Board means the board of Directors of the Company.

CEO means the Chief Executive Officer, referred to in clause 15.

Chair means, for the purposes of General Meetings, the person determined or appointed in accordance with clauses 7.23 or 7.24 and, for all other purposes, the person appointed in accordance with clause 10.1.

Committee means a committee appointed by the Board under clause 13 and the Nominations, Remuneration and Governance Committee.

Company means Mental Health Lived Experience Peak Queensland Limited

Consumer means people who use, have used, or are potential users, of Queensland mental health services.

Constitution means this document, as amended from time to time.

Corporations Act means the *Corporations Act 2001* (Cth).

Deputy Chair means the person appointed in accordance with clause 10.1.

Director means a person elected (or appointed to fill a casual vacancy) in accordance with the Constitution to perform the duties of a director of the Company and, where appropriate, includes an Alternate Director (when acting in that capacity).

General Meeting means a meeting of members and includes an Annual General Meeting.

Gift Moneys means all gifts of money or property (including contributions made in relation to an eligible fundraising event) made to the Company.

Nominations, Remuneration and Governance Committee means the Committee formed from time to time pursuant to clause 14.

Lived Experience means direct personal experience of mental illness and/or direct personal experience of suicidal ideation or surviving a suicide attempt.

Registered Charity means a charity that is registered under the ACNC Act.

Register means the register of members kept by the Company under the Corporations Act.

Seal means, if the Company has one, the common seal of the Company, if any.

Company Secretary means a person appointed to perform the duties of a secretary of the Company.

Interpretation

27.2 In this Constitution, except where the context otherwise requires:

27.2.1 the singular denotes the plural and vice versa

27.2.2 a 'person' means a natural person.

27.2.3 where a word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning

27.2.4 headings and formatting must be ignored in the interpretation of this Constitution

27.2.5 a reference to a time of day means that time of day in the state or territory in which the office is situated

27.2.6 for the purposes of determining the length of a period (but not its commencement) a reference to:

- a day means a period of time commencing at midnight and ending 24 hours later;
- a month means a calendar month, which is a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of that next month
- where a period of time is specified and is to be calculated before or after a given day, act or event it must be calculated without counting that day or the day of that act or event
- a provision of this Constitution, except that specifying the time for deposit of proxies with the Company, which has the effect of requiring anything to be done on or by a date that is not a business day must be interpreted as if it required it to be done on or by the next business day
- a reference to an Act of Parliament, whether state or federal, includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).

TABLE OF AMENDMENTS

DATE	CHANGE
14 DECEMBER 2022 AGM	The members AGREED to the amendment of cl 7.18 of the Constitution (by adding the words "or 13 members whichever is the lesser") to read: <i>7.18 A quorum for the purposes of a General Meeting of members is one-third (round up to the nearest whole number) of the number of members of the Company for the time being or 13 members whichever is the lesser.</i>