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**COLEAMBALLY IRRIGATION
CO-OPERATIVE LIMITED**

RULES
OF
**COLEAMBALLY IRRIGATION CO-OPERATIVE
LIMITED**

Registered under the Co-operatives Act 1992 (NSW)

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DIVISION 1 - INTRODUCTION

1 INTERPRETATION

1.1 In these Rules, unless the context otherwise requires:

Access Fee a fixed fee charged to the holder of a Delivery Entitlement for the right to on-going access to water delivery services.

Access Licences means any or all of the access licences held by the Co-operative of the type referred to in section 56 of the Water Management Act.

Access Register means the Water Access Licence Register required to be kept under section 71 of the Water Management Act.

Active member means a member who is in active membership within the meaning of **Rule 15.1**.

Alter or a similar word or expression, used in relation to a Rule amendment, includes “add to”, “substitute” and “rescind”.

Annual Allocation means the amount of water (expressed as a percentage of the aggregate of all Nominal Water Entitlements) determined by the Board to be available for distribution by the Co-operative through the System in a Season.

Applicant for Transformation means a member who has applied to have their Nominal Water Entitlements transformed to a Share Component of a Water Access Licence.

Area of Operations has the meaning given to that term in the Operating Licence.

Asset Maintenance Fund means the reserve fund established by the Co-operative under **Rule 125**.

Auditor means auditor or auditors for the time being of the Co-operative appointed pursuant to **Rule 124.1**.

Available Water is the sum of the member’s annual allocation, carryover allocation from the previous season, temporary transfers and any distribution of additional water.

Banking account includes an account with any financial institution into which the Co-operative's monies may be paid.

Board means the whole of or any number of the directors assembled at a meeting of the directors or transacting business in accordance with **Rule 71**, being not less than a quorum or a majority, as the case may be.

Business Day means a day other than a Saturday, Sunday or gazetted public holiday in New South Wales.

By-laws means the by-laws passed by the Board from time to time pursuant to **Rule 134**.

Call includes instalment of a call.

Capital means Share capital.

CEC means the Community Environmental Committee referred to in **Rule 76**.

Certificate means a certificate referred to under **Rule 13** evidencing the Shares in the Co-operative and the Farm Number of the member, and may be in the form of a certificate, letter of allotment, transfer receipt or other document of title to Shares.

Certificate of Nominal Water Entitlements means the Certificate of Nominal Water Entitlements referred to in the Water Supply Contract.

Coleambally Irrigation Corporation means the Coleambally Irrigation Corporation as constituted by section 26A of the Water Management Act immediately before the repeal of that section by the Amending Act.

Coleambally Irrigation Limited means the entity registered under the Corporations Law which ceased to exist on registration of the Co-operative.

Contribution Notice means a notice given by the Co-operative advising the Contributions due from the member for the period to which the notice relates.

Contributions means the aggregate of Fixed Contributions, Variable Contributions and Levies.

Co-operative means Coleambally Irrigation Co-operative Limited.

Co-operatives Act means the Co-operatives Act 1992 (NSW).

Corresponding Nominal Water Entitlements when referring to Nominal Water Entitlements in relation to Shares in the Co-operative means those Nominal Water Entitlements which correspond in the Register to the Shares to which reference is made.

Corresponding Shares when referring to Shares in the Co-operative in relation to Nominal Water Entitlements means those Shares which correspond in the Register to the Nominal Water Entitlements to which reference is made.

Delivery Entitlement an entitlement to have water delivered at specified times, rates and locations under specified circumstances.

director means any director of the Co-operative for the time being and includes a deputy director referred to under **Rule 67**.

Dispute means any dispute which may arise between any two or more members or any member and the Co-operative.

Distribution Rules means the By-laws from time to time made by the Board in accordance with **Rule 134.2**, the Licences and other applicable law, governing the manner in which available water flows are distributed among the members and generally governing the distribution practices of the Co-operative within the Area of Operations.

Diversion Point means any location from which the Co-operative takes its supply of water from the Ministerial Corporation pursuant to its Access Licences.

Environment Protection Licence means the licence issued to the Co-operative under section 42 of the Protection of the Environment Operations Act 1997 (NSW).

Existing Irrigator has the meaning given to that term section 34(1A) of the Irrigation Corporations Act as in force on the date of proclamation of Coleambally Irrigation Limited as a class 2 irrigation corporation.

Farm Number means a unique number entered in the Register used to identify a Landholding.

Financial year means the financial year of the Co-operative as specified in **Rule 121**.

Forward Water Contract means a Water Access Licence held under a ‘term transfer’ within the meaning of section 71N of the Water Management Act.

Fixed Contribution means the amount determined by the Board for a season to be contributed by a member for each share (and Corresponding Nominal Water Entitlement) held by the member (irrespective of whether water is actually delivered to the member).

IAC means the Independent Anomalies Committee referred to in **Rule 129.2**.

Intergovernmental Agreement on a National Water Initiative means the intergovernmental agreement on a National Water Initiative between the Commonwealth of Australia and the Governments of New South Wales, Victoria, Queensland, South Australia, the Australian Capital Territory and the Northern Territory dated 25 June 2004.

Irrigation Corporations Act means the Irrigation Corporations Act 1994 (NSW).

Joint Landholder means, in relation to a Landholding, any person who holds an interest in land with another person either as a joint tenant or tenant in common.

Landholder means:

- (a) the registered proprietor (or joint registered proprietors) of a Landholding connected to the System;
- (b) the holder of a perpetual Crown lease connected to the System;
- (c) any mortgagee, charge or encumbrance of the Landholding, who has entered into and is in possession of the whole of the Landholding; and
- (d) a lessee where the lease provides that the lessee is responsible for the payment of Contributions and the lease has otherwise been approved by the Co-operative. In this case the lessee is considered to be the Landholder to the exclusion of the registered proprietor for the term of the lease.

Landholding means in respect of a member a parcel of land individually identified by a Farm Number in the Register connected to the System.

Levy is an amount payable to the Co-operative as determined by the Board.

Licences means the Operating Licence, all Access Licences issued in accordance with the Water Management Act, the Combined Works and Use Approvals Licence and Environment Protection Licence and other authorities lawfully required by the Co-operative to permit it to carry on business as an irrigation corporation in accordance with the Water Management Act.

LPI means the Land and Property Information register of the NSW Land and Property Management Authority or its successors.

Megalitre means one million litres.

Member means a member of the Co-operative and **membership** means the state of being a member of the Co-operative.

Member's Annual Allocation means the volume of water (expressed as a percentage of the Member's Nominal Water Entitlements) determined by the Board from time to time during a Year to be available for supply to the member at the Member's Outlet in a Season. This allocation is net of Transmission Losses.

Members' Annual Allocations means the sum of all Member's Annual Allocations.

Member's Outlet means the Work(s) specified in the Register from which a member may, subject to the Rules, take its supply.

Member's Nominal Water Entitlements means in respect of any member the Nominal Water Entitlements shown in the Register from time to time as being held by that member.

Ministerial Corporation means the Water Administration Ministerial Corporation constituted by section 371 of the Water Management Act.

Month means calendar month.

Mutual means Coleambally Irrigation Mutual Co-operative Limited.

Nominal Water Entitlements means a contractual right indicated by a Certificate of Nominal Water Entitlements and evidenced by an entry in the Register whereby the Co-operative is to supply a specified quantity of water to a member in a given period in accordance with the Rules.

Operating Licence means the operating licence held by the Co-operative pursuant to section 122 of the Water Management Act.

Postal Ballot includes a special postal ballot.

Register means the register maintained by the Co-operative pursuant to the Co-operatives Act, which includes details of Shares held by members.

Registered Office means the Registered Office from time to time of the Co-operative.

Registrar means the Registrar of Co-operatives or any person to whom the Registrar's functions have been delegated.

Regulations means the Regulations made under the Co-operatives Act.

Relevant Interest has the same meaning given to that term in Schedule 2 of the Co-operatives Act.

Reserves means the reserves referred to in **Rule 119.3(d)**.

Rules mean the registered Rules of the Co-operative as amended from time to time, including the Water Supply Rules, and reference to particular Rules has a corresponding meaning.

Seal means the common seal or official seal from time to time of the Co-operative.

Season means the period from 15 August in any calendar year to 15 May in the following calendar year or such other period as may be determined by the Board and notified to members from time to time.

Secretary means any person appointed under **Rule 79** to perform the duties of Secretary of the Co-operative.

Share means a share in the Capital of the Co-operative. A reference to share includes all existing Shares, whether part of the original capital or not.

Share component means the share component of an available water resource as defined in section 56 of the Water Management Act.

Special resolution means a resolution which is passed in accordance with **Rule 57**.

State means the State of New South Wales.

System means the system constituted by the Works of the Co-operative for the supply, storage and drainage of water in accordance with the Licences.

Termination Fee means a payment made to the Co-operative upon surrendering a Delivery Entitlement with the corresponding removal of the rights and obligations associated with that Delivery Entitlement.

Transformation means the transformation of all or part of a Member's Nominal Water Entitlements in accordance with the Water Market Rules to a Water Access Licence.

Transformed means the process of Transformation.

Transformed Irrigator means a person who elects to have their Member's Nominal Water Entitlements Transformed.

Transmission Losses means the estimated loss of water from the System expressed as a percentage of the volume of water supplied to the Co-operative or as a gross quantity of water, as the context requires.

Variable Contributions, if charged, means the amount determined by the Board for each Season to be contributed by the member for each Megalitre or part thereof of water passing through the Member's Outlet.

Water Access Licence means a Water Access Licence issued under section 63 of the Water Management Act.

Water Act means the Water Act 2007 (Cth).

Water Entitlement Number (WEN) is the number assigned to an individual water entitlement by which a search can be conducted on the National Water Register.

Water Management Act means the Water Management Act 2000 (NSW).

Water Market Rules means the Water Market Rules pursuant to section 97 of the Water Act.

Water Supply Rules means the Water Supply Rules set out in Division 8 formerly the Water Supply Contract.

Water Trading Rules means **Rules 103 to 118** inclusive governing the transfer of:

- (a) Shares;
- (b) Corresponding Nominal Water Entitlements;
- (c) Delivery Entitlements;
- (d) Member's Annual Allocations (or part thereof); and/or
- (e) water from a source outside of the System.

Works includes any dam, levee, bank, reservoir, weir, flume, channel (whether an artificial channel or natural channel artificially improved), cutting, drain, excavation, tunnel, pipe, sewer, bridge, culvert, fence, pumping plant, machinery, bore and any appliance.

Writing includes printing, typing and any other mode of representing or reproducing words in permanently visible form (including facsimile and email) and "written" has a corresponding meaning.

Year means the Co-operative's financial year.

1.2 References to the Corporations Law are as adopted under the Co-operatives Act.

1.3 Words:

- (a) importing one gender include the other gender;
- (b) importing persons include corporations and other bodies corporate;
- (c) in the singular include the plural, and vice versa;
- (d) or expressions used have the same meanings as those given to them in the Act.

1.4 A reference in these Rules to an Act includes a reference to:

- (a) that Act as originally enacted, and as amended from time to time since its original enactment; and
- (b) if that Act has been repealed since the inclusion of the reference in these Rules - the legislation enacted in substitution of the Act (whether legislation of the State or Federal Parliament) and as amended from time to time since its enactment.

1.5 A reference in these Rules to a provision in an Act includes a reference to:

- (a) the provision as originally enacted, and as amended from time to time since the original enactment;
- (b) if the provision has been omitted and re-enacted (with or without modification) since the enactment of the reference - the provision as re-enacted and as amended from time to time since its re-enactment; and
- (c) if the provision has been omitted and replaced with a new provision dealing with the same area of law or procedure - the new provision as enacted and as amended from time to time since its enactment.

1.6 In the interpretation of a Rule the interpretation that will best achieve the purpose of the Rule is to be preferred to any other interpretation. This provision applies whether or not the purpose is expressly stated in the Rule.

1.7 In these Rules, unless the context indicates a contrary intention, headings are for convenience and do not affect interpretation.

2 RULES

2.1 The Rules have the effect of a contract under seal:

- (a) between the Co-operative and each member;
- (b) between the Co-operative and each director, the principal executive officer and the secretary of the Co-operative; and
- (c) between a member and each other member.

2.2 Under the contract referred to in **Rule 2.1**, each of those persons agrees to observe and perform the provisions of the Rules as in force from time to time so far as those provisions are applicable to that person.

2.3 The Rules may be altered:

- (a) by a special resolution;
- (b) by a resolution of the Board in accordance with section 112 of the Co-operatives Act; or
- (c) otherwise as permitted by the Co-operatives Act.

2.4 An alteration to the Rules does not take effect unless and until it is registered by the Registrar.

2.5 Where any Rule is altered by way of a Board resolution under section 112 of the Co-operatives Act, the Co-operative must cause the alteration to be notified, in writing, to members as soon as practicable after the alteration is registered and, in any event, not later than the date on which notice is given to the members of the next annual general meeting of the Co-operative, following the registration of the alteration.

2.6 Any member is entitled to obtain from the Co-operative a copy of the Rules upon payment of a sum of \$20 or such other amount as the Board may determine from time to time.

3 TRADING CO-OPERATIVE

3.1 The Co-operative is a trading co-operative within the meaning of section 14 of the Co-operatives Act.

4 NAME

4.1 The name of the Co-operative is:

COLEAMBALLY IRRIGATION CO-OPERATIVE LIMITED

4.2 The Co-operative may change its name in accordance with section 259 of the Co-operatives Act.

DIVISION 2 - POWERS

5 POWERS

5.1 The Co-operative has, both within and outside the State:

- (a) the legal capacity of a natural person; and
- (b) all of the powers allowed by or under the Co-operatives Act.

5.2 The powers of the Co-operative to:

- (a) obtain financial accommodation; and
- (b) give security for the repayment of money,

must be exercised subject to the Co-operatives Act, but are otherwise unlimited by the Rules.

5.3 In addition the Co-operative has power to:

- (a) borrow or raise money by any means, including issuing debentures and subordinated debt;
- (b) enter into financial arrangements;
- (c) secure by mortgage or otherwise the payment of moneys by any person including, but not limited to, the granting of security by way of legal or equitable mortgage upon the undertaking of the Co-operative or upon all or any part of the

property and rights (both present and future) of the Co-operative, including uncalled or unpaid capital, subscriptions, payment of financial accommodation and other moneys, or by the issue of bonds; and

(d) promote and carry out any charitable undertaking.

5.4 Without limiting the provisions of this Rule, and subject to the provisions of the Co-operatives Act, the Co-operative has power to:

- (a) form or participate in the formation of a body corporate or unit trust;
- (b) acquire interests in, sell or otherwise dispose of interests in, bodies corporate, unit trusts and joint ventures; and
- (c) form or enter into a partnership, joint venture or other association with other persons or bodies,

in order to further the Co-operative's primary activity.

6 CHARGES

6.1 The Co-operative has, in respect of any debt due from a member or former member to the Co-operative, a charge on each of the following:

- (a) the share or interest in the capital, Corresponding Nominal Water Entitlements and the credit balance and deposits of a member or former member;
- (b) any dividend, interest, bonus or rebate payable to a member or former member; and
- (c) any entry fees, regular subscriptions and/or Contributions required to be repaid to a member when the member ceases to be a member.

6.2 The Co-operative may set off any amount paid on account of that share or other thing, or any amount credited or payable to such member or former member in or towards payment of the debt.

6.3 Subject to **Rule 6.4** the charge may be enforced at any time after 21 days notice to the member or former member. The charge is to be enforced by appropriation by the Co-operative of the things that are subject to the charge. Any share in respect of which capital has been so appropriated must be cancelled.

6.4 A member or former member must be given an opportunity to make a submission to the Board in relation to a notice issued under **Rule 6.3**.

6.5 The Co-operative may sell in such manner as the Board thinks fit, all or any shares in respect of which the Co-operative has a charge. However, no sale may be made:

- (a) unless a sum in respect of which the charge exists remains payable at the date of the sale; and

- (b) until the expiration of 14 days after a notice in writing has been given to the registered holder of the share, or the person entitled to the share by reason of death or bankruptcy.

6.6 The notice under **Rule 6.5(b)** must:

- (a) state and demand payment of such part of the amount in respect of which the charge exists as is payable at the date when the notice is given; and
- (b) indicate that unless the sum demanded is paid within the time stipulated, the Shares will be sold by the Co-operative.

6.7 Where the highest offer received by the Co-operative is less than the amount paid up on Shares to be sold, the Board must before accepting the offer, notify the member of:

- (a) the receipt of the offer and the amount of the offer; and
- (b) the Board's intention to accept the offer at the expiration of 14 days if no payment is made before then to the Co-operative of all moneys in respect of which the charge exists.

6.8 From the proceeds of this sale the Co-operative may:

- (a) deduct the expenses, if any, associated with the sale; and
- (b) apply the balance to reduce the liability of the member.

If a surplus remains after this deduction and application, the surplus is payable to the member whose Shares and Corresponding Nominal Water Entitlements were sold.

6.9 To give effect to the sale the Board may authorise a person to transfer the Shares and Corresponding Nominal Water Entitlements sold to the person who bought them.

7 DEALINGS OF MEMBERS WITH THE CO-OPERATIVE

7.1 The Co-operative may, in accordance with section 78 of the Co-operatives Act, make a contract with a member requiring the member to have specified dealings with the Co-operative for a fixed period.

7.2 The provisions of the contract may require a member to:

- (a) sell products through or to the Co-operative; or
- (b) obtain supplies or services through or from the Co-operative; or
- (c) pay to the Co-operative specified sums as liquidated damages for any failure to comply with a requirement authorised by this Rule.

7.3 A sum specified as liquidated damages is to be considered as a debt due to the Co-operative. In respect of this debt the Co-operative has, pursuant to section 80 of the Co-operatives Act, a charge on each of the following:

- (a) the share or interest in the capital, and the credit balance and deposits of the member or former member;
- (b) any dividend, interest, bonus or rebate payable to the member or former member; and
- (c) any entry fees, regular subscriptions and/or Contributions required to be repaid to a member when the member ceases to be a member.

7.4 The enforcement of a charge created under section 80 of the Co-operatives Act must comply with that section and **Rule 6**.

8 SUBDIVISION

8.1 A member shall not subdivide a Landholding without the Co-operative's prior written consent.

8.2 In its absolute discretion, the Co-operative may withhold its consent to a subdivision of a Landholding or may grant its consent subject to conditions. The Co-operative shall consult with the Mutual in relation to any proposed subdivision.

8.3 In addition to any other conditions it may impose, the Co-operative shall be entitled, in its discretion as a condition to its consent to the subdivision of the Landholding, to cancel the Member's Nominal Water Entitlements and issue new Nominal Water Entitlements in respect of any one or more of the parcels of land created by the subdivision.

DIVISION 3 - MEMBERSHIP AND SHARES

9 EXISTING IRRIGATOR MEMBERSHIP

9.1 On the date of proclamation of Coleambally Irrigation Limited as a class 2 irrigation corporation under the Irrigation Corporations Act in force at the time, Existing Irrigators were admitted as members of Coleambally Irrigation Limited.

9.2 Pursuant to section 23 of the Co-operatives Act the members of Coleambally Irrigation Limited held a formation meeting to permit application for registration as a Co-operative under the Co-operatives Act.

9.3 From the date of registration of the Co-operative Existing Irrigators/members of Coleambally Irrigation Limited were admitted as members of the Co-operative.

10 QUALIFICATIONS FOR MEMBERSHIP

10.1 A person is not entitled to be admitted to membership of the Co-operative unless:

- (a) there are reasonable grounds for believing that the person will be an active member of the Co-operative;
- (b) the person is the owner of a Landholding within the Co-operative's Area of Operations that can accept the delivery of water from the Co-operative's infrastructure;

- (c) the person has contributed or applied to contribute a minimum of 10 Megalitres of Nominal Water Entitlements or under section 71Q of the Water Management Act assigned 10 unit Shares from their Water Access Licence to one or more of the Water Access Licences issued to the Co-operative;
- (d) the person has been issued by the Co-operative with a minimum of 10 Megalitres of Delivery Entitlements to be attached to the person's Landholding; and
- (e) the person has either:
 - (i) applied for the transfer of Nominal Water Entitlements and Corresponding Shares where the Nominal Water Entitlements are included in the Water Access Licences issued to the Co-operative; or
 - (ii) applied to transfer Nominal Water Entitlements to the Water Access Licences of the Co-operative and has applied to the Co-operative for the issue of Corresponding Shares.

10.2 A Landholder who is a lessee will be entitled to be admitted to membership of the Co-operative if the Board is reasonably satisfied that the registered proprietor of the relevant land has agreed that the membership, Shares and Nominal Water Entitlements should be held in the name of and by the lessee.

11 MEMBERSHIP AND SHARES

11.1 Applications for membership, Shares or bonus or additional Shares must be lodged:

- (a) at the Registered Office;
- (b) in the form approved by the Board; and
- (c) together with the amount required to pay for the Shares fully or, if the Shares are to be issued partly paid, a deposit of \$0.10 in respect of such share for which application is made.

11.2 Every application made under **Rule 11.1** must be considered by the Board.

11.3 The Board may, at its discretion, refuse any application for membership, Shares or bonus or additional Shares (other than additional Shares the subject of a compulsory issue under section 155 of the Co-operatives Act). The Board need assign no reasons for such refusal, although the Board may choose to give reasons if the Board considers it appropriate to do so. Upon refusal the applicant's deposit must be refunded without interest.

11.4 Applications for membership and/or Shares may only be approved by the Board if:

- (a) in the case of an applicant to become a member, the applicant is qualified in accordance with **Rule 10** to be a member of the Co-operative;
- (b) water has been secured by the Co-operative such that, at the same time as the issue of each Share applied for, a Corresponding Nominal Water Entitlement can

be issued to the applicant without causing a reduction in the respective volumetric allocations attaching to the other Member's Nominal Water Entitlements;

- (c) the applicant has made an appropriate contribution (if any) to the reserves of the Co-operative as determined by the Board; and
- (d) the applicant has applied to the Co-operative and secured a minimum of 10 Delivery Entitlements.

11.5 If the Board approves of the application, the Board must allot the Shares for which application is made.

11.6 An applicant for membership of the Co-operative must take a minimum allotment of 10 Shares.

12 ALLOTMENT OF SHARES

12.1 If Shares are allotted:

- (a) the applicant's name;
- (b) the Farm Number;
- (c) the applicant's ABN (if applicable);
- (d) Water Entitlement Number (WEN);
- (e) the number of Shares allotted;
- (f) the date of allotment;
- (g) the number of Corresponding Nominal Water Entitlements;
- (h) details of any mortgages or charges on the Shares including the details of the holder of any Forward Water Contract;
- (i) any other information required by or under the Co-operatives Act; and
- (j) any other information required for the National Irrigation Corporation Water Entitlement Register,

must be entered in the Register.

12.2 The applicant must be notified in writing of the allotment of Shares, the Water Entitlement Number and of the entry in the Register. The applicant will then be entitled to the privileges attaching to membership, or to the holding of Shares, or bonus or additional Shares, as is appropriate to the case.

13 CERTIFICATE OF SHARES

13.1 Every person whose name is entered as a member in the Register will, without payment, be entitled to a certificate under seal specifying:

- (a) the number of Shares held by the member and the amount paid on those Shares;
- (b) the Farm Number;
- (c) the Water Entitlement Number (WEN);
- (d) any other details required by the Co-operatives Act; and
- (e) any other information required by or under the National Irrigation Corporation Water Entitlements Register.

13.2 In the event of an inconsistency between a certificate (or certificates) and the Register, the Register shall prevail.

13.3 Where Shares are held jointly by several persons, the Co-operative is only required to give one certificate. Delivery of a certificate to one of the joint holders is sufficient delivery to all.

13.4 If a certificate, letter of allotment, transfer, receipt or other document of title to Shares is lost, defaced or destroyed, a duplicate may be issued by the Co-operative in accordance with the Co-operatives Act and on payment of a fee. This fee must not exceed \$50 and must be on such terms as to evidence and indemnity as the Board thinks fit. A replacement certificate shall be marked as such.

14 LIABILITY OF MEMBERS TO THE CO-OPERATIVE

14.1 A member, in accordance with section 76 of the Co-operatives Act, is liable to the Co-operative for the following amounts:

- (a) the amount, if any, unpaid on the Shares held by that member; and
- (b) any Contributions or charges, including entry fees and regular subscriptions, payable by the member to the Co-operative as required by the Rules.

14.2 On the death of a member the Member's Estate is subject to the same liability as the member would have been liable until the member's personal representative or some other person is registered in the member's place.

14.3 The joint holders of a Share are jointly and severally liable in respect of any amount unpaid on Shares and in respect of any charges referred to in **Rule 14.1**.

15 ACTIVE MEMBERSHIP PROVISIONS

15.1 In accordance with Part 6 of the Co-operatives Act:

- (a) the provision of irrigation and agricultural services is a primary activity of the Co-operative; and
- (b) a member must:
 - (i) own a Landholding within the Co-operatives Area of Operations capable of accepting delivery of water from the Co-operative's infrastructure;

- (ii) hold a minimum of 10 Megalitres of Nominal Water Entitlements and Corresponding Shares where the Nominal Water Entitlements are included in the Water Access Licences issued to the Co-operative;
- (iii) hold a minimum of 10 Megalitres of Delivery Entitlements attached to the Landholding;
- (iv) use or trade a minimum of 10 Megalitres of water per Year;
- (v) pay, or undertake to pay in a manner acceptable to the Co-operative, on or before the due date the Contributions for each class of water supply and Levies determined in accordance with **Rule 119**;
- (vi) not be in breach of any provision of the relevant Water Supply Rules; and
- (vii) be an active member of the Mutual;

in order to establish active membership of the Co-operative.

16 FORFEITURES AND CANCELLATIONS - INACTIVE MEMBERS

16.1 The Board must, subject to **Rule 16.2** and after giving notice in accordance with section 132 of the Co-operatives Act, declare the membership of a member cancelled if:

- (a) the whereabouts of the member are not presently known to the Co-operative and have not been known to the Co-operative for a continuous period of at least 2 years before that date; or
- (b) the member is not presently an active member and has not been an active member at any time during the past 2 years.

16.2 A member must be given an opportunity to make a submission to the Board in relation to a notice issued under **Rule 16.1**.

16.3 The Board is to declare the Shares of a member forfeited at the same time as the member's membership is cancelled. The amount due in respect of that cancellation and forfeiture must be dealt with and repaid in accordance with section 134 of the Co-operatives Act.

16.4 The Co-operative must, in a form approved by the Registrar, keep a register of memberships cancelled pursuant to **Rule 16.1**. This Register must specify the particulars prescribed in the Regulations.

17 REGISTER OF INTERESTS IN SHARES AND NOMINAL WATER ENTITLEMENT

17.1 A member shall ensure that the Co-operative is informed in writing within 14 days of the creation of any interest or dealing in their Shares and Nominal Water Entitlement.

17.2 The Co-operative must keep a register of interests and dealing in Shares and Nominal Water Entitlement.

17.3 Any interest or dealing which may be registered for a water entitlement on the Water Access Licence Register in accordance with the Water Management Act may be registered for a Share and Nominal Water Entitlement on the Co-operative's register of interests.

18 CANCELLATION OF MEMBERSHIP DUE TO TRANSFORMATION

18.1 The Applicant for Transformation's membership will be cancelled effective on the date of registration on the Access Register of the assignment of the Share Component onto the Applicant for Transformation's Water Access Licence.

18.2 Upon cancellation of membership under **Rule 18.1** the Applicant for Transformation's name will be removed from the Register of Members to the Register of Inactive Members for a period of 2 years.

19 CANCELLATION OF DELIVERY ENTITLEMENT

19.1 An Application to Permanently Transfer Water Out of the Co-operative's Licence or an Application for the Transformation of Nominal Water Entitlements out of the Co-operative's Licence must include the Applicant's nomination to apply for:

- (a) the Termination of the associated Delivery Entitlements and payment of the associated Termination Fee; or
- (b) the retention of the associated Delivery Entitlements and the continued payment of the annual Access Fee levied against those Delivery Entitlements.

20 CAPITAL

20.1 The capital of the Co-operative must be raised by the issue of Shares of a nominal value of \$1 each.

20.2 The capital varies in amount according to the nominal value of Shares from time to time subscribed.

20.3 Shares may be of more than one class provided the shareholding and the rights of shareholders comply with the Co-operative principles as set out in the Co-operatives Act.

20.4 A Share (other than a bonus Share) must not be allotted unless at least 10% of the nominal value of the Share has been paid.

20.5 A Share must not be issued at a discount.

20.6 A member must not hold more than 10% of the issued Share capital of the Co-operative.

20.7 Shares of the Co-operative must not be quoted for sale on any stock exchange or in any other public manner whatsoever (within the meaning of the Income Tax Assessment Act 1936 (Cth)).

20.8 The Board may require a member to take up or subscribe for additional Shares in accordance with a proposal approved by the members by special resolution in accordance with section 155 of the Co-operatives Act.

20.9 Bonus Shares may be issued by the Co-operative in accordance with section 156 of the Co-operatives Act.

21 JOINT HOLDERS

21.1 Where 2 or more persons are registered as the holders of any Shares they shall be deemed to hold the Shares as joint tenants with benefits of survivorship subject to the following:

- (a) the Co-operative shall not be bound to register more than 3 persons as holders of any Share. However, this shall not apply to the executors or trustees of the deceased holder;
- (b) the joint holders of any Share shall be liable severally as well as jointly in respect of all payments which ought to be made in respect of the Share;
- (c) on the death of any one of the joint holders the survivor(s) shall be the only person(s) recognised by the Co-operative as having any title to the Shares;
- (d) any one of the joint holders may give effectual receipt for any dividend, bonus or return of capital paid to the joint owners; and
- (e) only the person whose name stands first in the Register as one of the joint holders of any Share shall be entitled to delivery of the certificate relating to the Share or to receive notice from the Co-operative. Any notice given to the person shall be deemed to be a notice to all joint holders.

22 SHARES TO BE FORFEITED TO REMEDY CONTRAVENTION OF MAXIMUM LEVEL OF SHARE INTEREST

22.1 Where a person (whether or not a member of the Co-operative) contravenes **Rule 20.6**, the Board shall declare to be forfeited sufficient number of the Shares in which the person has a Relevant Interest to remedy the contravention.

22.2 The Shares to be forfeited pursuant to this Rule are:

- (a) the Shares nominated by the person for the purpose; or
- (b) in the absence of such nomination – the Shares in which the person has had a Relevant Interest for the shortest time.

22.3 A declaration of the Board that Shares are forfeited operates to forfeit the Shares concerned.

22.4 The provisions of sections 134-136 (inclusive) of the Co-operatives Act shall apply to and in respect of Shares forfeited under this Rule as if the Shares had been forfeited under **Rule 16**.

23 NOTICE TO BE GIVEN OF SUBSTANTIAL SHARE INTEREST AND SUBSTANTIAL CHANGE IN SHARE INTEREST

23.1 A person must give notice in writing to the Co-operative within 5 business days after becoming aware that the person has a substantial Share interest in the Co-operative.

- 23.2 A person who has a substantial Share interest in the Co-operative must give notice in writing to the Co-operative within 5 business days after becoming aware that a substantial change has occurred in that interest.
- 23.3 A person who has ceased to have a substantial Share interest in the Co-operative must give notice in writing to the Co-operative within 5 business days after becoming aware that the person has ceased to have that interest.
- 23.4 For the purposes of this Rule:
- (a) a person has a substantial Share interest in the Co-operative if the nominal value of the Shares in which the person has a Relevant Interest represents 5% or more of the nominal value of the issued Share capital of the Co-operative;
 - (b) a substantial change takes place in a person's Share interest in the Co-operative if there is an increase or decrease in the number of Shares in which the person has a Relevant Interest and the increase or decrease represents at least 1% of the nominal value of the issued Share capital of the Co-operative; and
 - (c) "notice" means a notice in the form approved by the Registrar, specifying the particulars prescribed by the Co-operatives Regulation 1997.

24 CALLS AND ALLOTMENT OF SHARES

- 24.1 The Board may from time to time make calls upon the members in respect of any moneys unpaid on their Shares. A call is not valid unless the Board gives at least 28 days notice to the members, specifying the time or times for payment.
- 24.2 Each member must pay to the Co-operative, at the time or times so specified, the amount called on their Shares.
- 24.3 The joint holders of a Share are jointly and severally liable to pay all calls in respect of that Share.
- 24.4 If a sum called in respect of a Share is not paid before or on the day appointed for payment, the person from whom the sum is due must pay interest upon the sum. This interest is at the rate determined by the Board, after giving due consideration to prevailing commercial bank interest rates, from the day appointed for the payment to the time of actual payment. However, the Board is at liberty to waive payment of that interest wholly or in part.
- 24.5 When Shares are issued the Board may in its discretion prescribe conditions of issue which differ between shareholders with respect to:
- (a) the amount of calls made on the Shares of those shareholders; and
 - (b) the time in which payment must be made.
- 24.6 The Board may, if it thinks fit, receive from any member willing to advance it, all or any part of the money uncalled and unpaid upon any Shares held by that member.

- 24.7 Where money has been advanced in this way, the Board may pay interest on all or any proportion of this money to cover the time between the advance and the time that the money would otherwise have been payable on the Shares. The rate of interest can be agreed between the member and the Board (but must not exceed 6% unless the Co-operative determines otherwise by resolution at a general meeting).

25 DEFAULT IN PAYMENT OF CALLS

- 25.1 If a member fails to pay any call or instalment of a call by the day appointed for payment the Board may, while any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of the unpaid amount together with any interest which may have accrued.
- 25.2 The notice must name a further day (not earlier than 28 days from the date of the notice) by which the payment required by the notice is to be made. The notice must also state that if there is no payment by that time the Shares for which the call was made may be forfeited.
- 25.3 If the requirements of the notice are not complied with by the member, then any Share in respect of which the notice was given may be forfeited by a resolution of the Board at any time before the payment required by the notice is made.
- 25.4 The Co-operative, pursuant to **Rule 6**, has a charge upon the paid up amounts of the forfeited Shares and may appropriate those amounts pursuant to that Rule.

26 FORFEITED SHARES

- 26.1 A person whose Shares are due to be forfeited according to the Rules must deal with the Corresponding Nominal Water Entitlements in accordance with the Water Trading Rules.
- 26.2 A person whose Shares have been forfeited according to these Rules:
- (a) ceases to be a member in respect of the forfeited Shares;
 - (b) if all Shares of the person have been forfeited, ceases to be a party to a Water Supply Rules; and
 - (c) remains liable to pay to the Co-operative all moneys which were payable in respect of the Shares and Corresponding Nominal Water Entitlements as at the date of forfeiture.
- 26.3 A statutory declaration by a director of the Co-operative stating that a Share in the Co-operative has been forfeited on a date stated in the declaration is conclusive evidence of that fact as against all persons claiming to be entitled to the Share.

27 TRANSFER AND TRANSMISSION OF SHARES

- 27.1 A Share must not be sold or transferred except:
- (a) with the consent of the Board;
 - (b) to another member;

- (c) in accordance with the Water Trading Rules; and
 - (d) as otherwise provided by these Rules and/or the Co-operatives Act.
- 27.2 The instrument of transfer shall be executed by or on behalf of the transferor and the transferee. The transferor shall be deemed to remain the holder of the Share until the name of the transferee is entered in the Register.
- 27.3 Shares shall be transferred by instrument in writing in any usual or common form or in any other form which the Board shall approve (including the form set out in **SCHEDULE 1**).
- 27.4 The Board may decline to recognise an instrument of transfer unless:
- (a) a fee of \$50 is paid to the Co-operative for the transfer; and
 - (b) the instrument of transfer is accompanied by the certificate of Shares to be transferred, and any other evidence the Board may require to prove the title of the transferor and of the right of the transferor to transfer the Shares.
- 27.5 The Board may waive the production of any certificates upon evidence satisfactory to it of the loss or destruction of such certificates.
- 27.6 The Board may decline to register any transfer of Shares:
- (a) on which any call or instalment is due and unpaid;
 - (b) upon which the Co-operative has a lien;
 - (c) to a transferee who or which is not qualified to be a member, or of whom the Board for any reason whatsoever does not approve;
 - (d) where the member is a Landholder pursuant to a lease, unless the Board is satisfied that the registered proprietor of the relevant land has approved of the transfer of the Shares;
 - (e) if there is any interest or dealings listed on the register of interests and dealings in Shares and Nominal Water Entitlement and the consent (if required) of the holder of any such interest or dealing has not been obtained; or
 - (f) which would result in breach of **Rule 27.1**.
- 27.7 The Board must not consent to the sale or transfer of Shares where the purchaser or transferee of the Shares would then have a Relevant Interest in Shares the nominal value of which exceeds 5 % of the nominal value of the Co-operative's issued Share capital.
- 27.8 No transfer shall be made to a person of a limited legal capacity. However, the Co-operative shall not be bound to enquire as to the age or soundness of mind of any transferee.
- 27.9 The Board shall not be bound to give any reason for its refusal to register any transfer of Shares. If the Board refuses to register a transfer of any Shares it must send to the

transferee notice of the refusal within 28 days after the date on which the transfer was lodged with the Co-operative.

- 27.10 Upon the registration of a transfer a new certificate specifying the Shares transferred or transmitted shall be delivered to the transferee or transmittee.
- 27.11 Every instrument of transfer which is registered shall be retained by the Co-operative. However, any instrument of transfer which the Board refuses to register (except in the case of fraud) shall be returned on demand to the persons depositing the instrument of transfer.
- 27.12 The Board must have a record of all transfers made in the proper books of the Co-operative.
- 27.13 The Board may suspend the registration of transfers during the 14 days immediately preceding an annual general meeting.

28 EFFECT OF SALE, TRANSFER OR DISPOSAL OF SHARES

- 28.1 A member who has sold, transferred or disposed of the beneficial interest in that Member's Shares, or has agreed to do any of those things, is not entitled to vote at any meeting of the Co-operative.

29 DEATH OF MEMBER

- 29.1 Subject to section 170A of the Co-operatives Act, on the death of a member the Board must transfer the deceased Member's Share and Corresponding Nominal Water Entitlement to:
- (a) the personal representative of the deceased member; or
 - (b) the person whom the deceased's personal representative specifies in an application made to the Co-operative within 3 months after the death of the member.
- 29.2 Where the deceased member is entitled to a share in equity, the Board must not transfer the Share without the consent of the registered holder of the Share.

30 REGISTRATION OF OFFICIAL TRUSTEE IN BANKRUPTCY

- 30.1 Where a member is declared bankrupt, the Official Trustee in Bankruptcy may be registered as the holder of the Share and Corresponding Nominal Water Entitlement held by the bankrupt member.
- 30.2 If the bankrupt member is entitled in equity to the Share the Board may register the Official Trustee in Bankruptcy as the holder of a Share. This requires the consent:
- (a) of the registered holder of the Share; and
 - (b) the Co-operative.

31 REGISTRATION AS ADMINISTRATOR OF ESTATE OF INCAPABLE MEMBER

31.1 A person appointed under a law of a State or Territory to administer the estate of a registered holder of a Share in the Co-operative who is incapable of managing their affairs because of mental or physical infirmity may be registered as the holder of that Share and Corresponding Nominal Water Entitlement as administrator of the estate of the incapable person.

32 ENTITLEMENTS AND LIABILITIES OF PERSON REGISTERED AS TRUSTEE, ADMINISTRATOR, ETC

32.1 A person becoming entitled to a Share by reason of the death, bankruptcy or the incapacity of the holder is entitled to the dividends and other advantages to which that person would be entitled if he or she were the registered holder of the Share and Corresponding Nominal Water Entitlement. However, before being registered as a member in respect of the Share the person is not entitled to exercise any right conferred by membership in relation to meetings of the Co-operative.

32.2 A person registered pursuant to **Rules 29, 30 and 31** is, while so registered, subject to the same liabilities in respect of the Share as those to which that person would have been subject if the Share had remained, or had been registered, in the name of the dead person, incapable person or the bankrupt.

33 PURCHASE OF MEMBERS' SHARES

33.1 Subject to section 172 of the Co-operatives Act and **Rule 33.2**, the Co-operative may:

- (a) purchase any Share of a member at the request of the member; and
- (b) repay to a member, with the member's consent, the whole or any part of the amount paid up on any Share held by the member when the sum repaid is not required for the activities of the Co-operative.

33.2 Corresponding Nominal Water Entitlements in relation to each Share due to be repurchased must be dealt with in accordance with the Water Trading Rules.

33.3 The amount paid for a Share when it is repurchased may be an amount that is less than the nominal value of the Share, but only if the books of the Co-operative disclose that the amount paid is the net shareholder's equity per Share in the undertaking of the Co-operative.

33.4 The Co-operative must cancel any Share purchased by, or repaid in full by, the Co-operative.

33.5 If the Co-operative repurchases all of the Shares of a member the Water Supply Rules associated with membership with that member is terminated.

33.6 If, in the opinion of the Board, payment of the repurchase price would adversely affect the financial position of the Co-operative, the Board may instead of paying the repurchase price to the member allot or issue debentures of the Co-operative to the member to the value of the amount.

- 33.7 A debenture issued pursuant to **Rule 33.6** must:
- (a) bear interest during any period as determined in accordance with section 173 of the Co-operatives Act; and
 - (b) be repaid to the member as soon as repayment would not, in the opinion of the Board, adversely affect the financial position of the Co-operative and in any case, within 10 years.

34 TRANSFER AND TRANSMISSION OF DEBENTURES

- 34.1 The instrument of transfer of any debenture must be executed by or on behalf of the transferor and the transferee. The transferor is deemed to remain the holder of the debenture until the name of the transferee is entered in the register of debentures.
- 34.2 Debentures must be transferred by instrument in writing in any usual or common form which the Board has approved (including the form set out in **SCHEDULE 2**).
- 34.3 The Board may decline to recognise any instrument of transfer unless:
- (a) a fee of \$50 is paid to the Co-operative for the transfer; and
 - (b) the instrument of transfer is accompanied by the certificate (if any) of the debentures to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer.
- 34.4 A debenture must not be sold or transferred except:
- (a) with the consent of the Board; or
 - (b) as otherwise provided by the Rules or the Co-operatives Act.
- 34.5 The Board may decline to register any transfer to a person not qualified to be a member or of whom it does not approve. The Board may also decline to register any transfer of debentures on which the Co-operative has a lien or charge. If the Board refuses to register a transfer of debentures it must send notice of the refusal to the transferee within 28 days after the date on which the Board declined to register the transfer.
- 34.6 The Board must have a record of all transfers made in the proper books of the Co-operative.

35 SUSPENSION OF MEMBERS

- 35.1 The Co-operative may, in general meeting, suspend members, by special resolution, for a period not exceeding 1 year, who do any of the following acts:
- (a) infringe any of the Rules (including the Water Supply Rules) or By-Laws of the Co-operative;
 - (b) fail to discharge obligations to the Co-operative, whether prescribed by these Rules or arising out of contract; or

- (c) conduct themselves in a manner prejudicial or detrimental to the interests of the Co-operative.
- 35.2 Where in the opinion of the Board a member does any act referred to in **Rule 35.1**, the Board may call a special general meeting within 21 days of the occurrence of the act to consider that act.
- 35.3 Where the Board resolves to call a special general meeting of members pursuant to **Rule 35.2** the following procedure shall apply:
- (a) at least 21 days written notice stating the date, time and place of meeting shall be given to any member whose act is to be considered at the special general meeting and the written notice shall also state the nature of the act which, in the Board's opinion, has been done by the member;
 - (b) at the meeting the member shall be afforded a full opportunity to be heard and shall be entitled to call witnesses and to cross-examine witnesses. If the member fails to attend at the time and place mentioned, without reasonable excuse, the act shall be considered and the Co-operative may consider the resolution before it on the evidence before it, in spite of the absence of the member. Once the act has been considered, the Co-operative may decide to suspend the member who committed the act; and
 - (c) the Co-operative shall not make a decision on the act or on a suspension, except by vote by secret ballot of the members present and entitled to vote. A motion for that decision shall not be deemed to be passed unless two thirds of the members so present and so entitled vote in favour of the motion.
- 35.4 If the Co-operative suspends a member under this Rule, the Board may determine that some or all of the membership rights of that member (including the provision of water pursuant to the Water Supply Contract) are suspended.
- 35.5 The Board shall issue a notice to a member suspended under this Rule stating the rights suspended and the period of suspension.
- 35.6 A suspension under this Rule will cease:
- (a) on the date specified in the notice issued under **Rule 35.5**; or
 - (b) on an earlier date if the grounds on which the suspension was made have been rectified to the satisfaction of the Board.
- 35.7 If the Board resolves to lift the suspension of a member under **Rule 35.6(b)** the member must be notified in writing as soon as possible and the suspension will cease on the date specified in the notice issued under this **Rule 35.7**.

36 EXPULSION OF MEMBERS

- 36.1 Subject to Part 6, Division 4 of the Co-operatives Act, a member may be expelled from the Co-operative by special resolution to the effect:

- (a) that the member has failed to discharge the member's obligations to the Co-operative, whether prescribed by these Rules or arising out of any contract; or
 - (b) that the member has been guilty of conduct detrimental to the Co-operative.
- 36.2 In either case written notice of the proposed resolution must be forwarded to the member not less than 28 days before the date of the meeting at which the special resolution is to be moved. The member must be given a reasonable opportunity of being heard at the meeting.
- 36.3 The Corresponding Nominal Water Entitlements of any member due to be expelled must be dealt with in accordance with the Water Trading Rules.
- 36.4 The Shares of any member expelled will be forfeited and subsequently cancelled at the date of expulsion and the cancellation must be noted in the Register. Subject to **Rule 36.5**, the Co-operative must pay to the expelled member the amount of capital paid up on the Member's Shares at the time the expulsion (less any amount owing by the member to the Co-operative)
- 36.5 If the balance sheet of the Co-operative last issued before the expulsion of a member of the Co-operative disclosed a loss or deficiency, there must be a proportionate reduction in the capital to be repaid to the member. This reduction must be by an amount that bears, to the amount of the loss or deficiency disclosed in the balance sheet, the same proportion as the number of Shares held by the member bore to the total number of Shares held by all members of the Co-operative as at the date of expulsion of the member.
- 36.6 Payment to the expelled member must be made at such time as is determined by the Board in its discretion but not later than 12 months from the date of expulsion.
- 36.7 An expelled member must not be re-admitted as a member unless the re-admission is approved by special resolution. A member who is readmitted in this way must not have restored to them any Shares which were cancelled on their expulsion.

37 CEASING MEMBERSHIP

- 37.1 A person must cease to be a member in any of the following circumstances:
- (a) if the member's membership is cancelled under **Rule 16**;
 - (b) if the member is expelled in accordance with **Rule 36**;
 - (c) if the member becomes bankrupt and the members vote by special resolution that the membership of the bankrupt must cease on the passing of the resolution;
 - (d) if the Member's Property becomes subject to control under the law relating to bankruptcy and the members vote by special resolution that the membership of the member cease on the passing of the resolution;
 - (e) if the member becomes bankrupt and the trustee of the Member's Estate disclaims any debt, contract, duty or liability of the member with the Co-operative;

- (f) subject to section 70(2) of the Co-operatives Act, on death of the member;
- (g) if the contract of membership is rescinded on the ground of misrepresentation or mistake;
- (h) if the Member's Shares are transferred to another person and the transferee is registered as the holder of the Share;
- (i) if the Member's Shares are forfeited in accordance with the provisions of the Co-operatives Act or the provisions of these Rules;
- (j) if the Member's Shares are repurchased by the Co-operative in accordance with the provisions of these Rules;
- (k) if the Member's Shares are sold by the Co-operative pursuant to any power in these Rules and the purchaser is registered as holder in the member's place;
- (l) if the amount paid up on the Member's Shares are repaid to the member in accordance with the provisions of these Rules;
- (m) on the expiration of 1 month notice in writing of the member's intention to resign from membership, given by the member to the secretary;
- (n) in the case of a member that is a body corporate, if the body is dissolved; or
- (o) on cancellation of membership under **Rule 18**; or
- (p) if the member's right to Water Supply is otherwise terminated.

38 APPLICATION FOR TRANSFORMATION

- 38.1 Subject to these Rules and the Water Market Rules a member may apply to the Board for Transformation of the Member's Nominal Water Entitlements to the Access Register in a form required by the Board. On receipt of the application by the Co-operative the member is then deemed to be an Applicant for Transformation.
- 38.2 The Board may require the Applicant for Transformation to provide in addition to the information required to be provided pursuant to **Rule 38.1** any additional information that the Board may reasonably deem necessary to complete the transformation requirements.
- 38.3 An application for Transformation must be accompanied by the fee set out in **Rule 135**.
- 38.4 The Board must not approve an Application for Transformation until:
- (a) all outstanding amounts payable to the Co-operative or the Mutual have been paid;
 - (b) the security deposit, if required, has been provided; and
 - (c) where there is an encumbrance registered on the Applicant for Transformation's title to the Nominal Water Entitlements, the encumbrance holder has issued the

Co-operative with a discharge of encumbrance or consent to the release of the encumbrance.

38.5 The Board must advise the Applicant for Transformation within 25 Business Days of receiving the Application of its decision or the requirement for the Applicant to provide additional information under this Rule.

38.6 Subject to this Rule, the Board may approve provisional cancellation of the application for transformation. Upon compliance with this Rule, Transformation may be completed pursuant to **Rule 18**.

39 SECURITY DEPOSITS FOR TRANSFORMED IRRIGATORS

39.1 The Board may as a Condition of Approval require the Applicant for Transformation to provide a Security Deposit, the nature and amount of the Security Deposit must comply with the requirements of the Water Market Rules.

DIVISION 4 - VOTING

40 ONE MEMBER ONE VOTE

40.1 An active member of the Co-operative has one vote only in respect of any question or motion arising at a general meeting of the Co-operative.

40.2 A member's right to vote is a personal right and is not attached to, or conferred by, any Share held by the member in the Co-operative.

40.3 In the case of joint membership, the joint members have 1 vote only between them. That vote may only be exercised (subject to the grant of any proxy or power of attorney) by the joint member first appearing in the Register in respect of that joint membership.

41 PROXY VOTES

41.1 Voting may be by proxy at a general meeting.

41.2 The instrument appointing a proxy must be in writing under the hand of the appointer or of the appointer's attorney who has been duly authorised in writing.

41.3 An instrument appointing a proxy shall be deemed to confer authority to demand or join in the demanding of a poll.

41.4 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and the proxy must vote in this manner.

41.5 No person can act as a proxy unless the person is an active member of the Co-operative.

41.6 A person (with the exception of the Directors of the Co-operative who may act as proxy for a maximum of 10 members) must not act as proxy for more than 2 members on any 1 occasion.

41.7 **Rule 41.6** does not apply if the person acts under an instrument of proxy which specifies the manner in which they must vote, pursuant to **Rule 41.4**.

- 41.8 A vote given in accordance with the terms of an instrument of proxy, or of a power of attorney, is valid notwithstanding the previous death or unsoundness of mind of the principal, the revocation of the instrument (or of the authority under which the instrument was executed) or the power, if no intimation in writing of the death, unsoundness of mind or revocation has been received by the Co-operative at the Registered Office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

42 FORM AND VALIDITY OF PROXY

- 42.1 An instrument appointing a proxy is not valid unless:

- (a) the instrument in the form approved by the Board (including **SCHEDULE 3**); and
- (b) if the instrument was signed under a power of attorney or other authority, that power or authority (or a copy of that power or authority certified by a notary);

is/are deposited:

- (c) not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
- (d) in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll;

at the Registered Office, or at another place specified in the notice convening the meeting.

43 COUNTING OF PROXIES

- 43.1 The chairperson must determine if a vote recorded in a form of proxy is to be counted in relation to a proposed resolution.

- 43.2 Forms of proxy must be kept for at least three months after the meeting to which they relate. After this time they may be destroyed.

44 RESTRICTION ON VOTING ENTITLEMENT UNDER POWER OF ATTORNEY

- 44.1 A person is not entitled to exercise a member's right to vote under a power of attorney if that person has a power of attorney to vote in respect of another member.

45 EFFECT OF RELEVANT SHARE AND VOTING INTEREST ON VOTING RIGHTS

- 45.1 A member is not entitled to vote if another person (whether or not a member of the Co-operative) has a Relevant Interest in any Share held by the member or in the right to vote of the member.

- 45.2 A member who is not entitled to vote because of this Rule may apply to the Co-operatives Council for a review of the matter.

45.3 Where the Co-operatives Council orders that the member is entitled to vote the member's right to vote shall be restored.

46 NOTICE TO BE GIVEN OF VOTING INTEREST

46.1 A person (whether or not a member of the Co-operative) must give notice in writing to the Co-operative within 5 business days of becoming aware that the person has, or has ceased to have, a Relevant Interest in the right to vote of a member in the Co-operative.

46.2 For the purposes of this Rule, "notice" means a notice which contains the prescribed particulars as set out in clause 24 of the Co-operatives Regulation 1997.

DIVISION 5 - GENERAL MEETINGS

47 ANNUAL GENERAL MEETINGS

47.1 Subject to **Rule 47.2**, a general meeting of the Co-operative to be known as the "annual general meeting" must be held each year on a date and a time determined by the Board. This date must be within 5 months after the close of the financial year of the Co-operative or within such further time as may be prescribed by the Regulations or allowed by the Registrar.

47.2 The first annual general meeting of the Co-operative must be held on a date and time determined by the Board as long as it is within 19 months after the registration of the Co-operative.

47.3 All general meetings of the Co-operative other than the annual general meeting are special general meetings.

47.4 If an annual general meeting is not held in accordance with **Rule 47.1**, the members may requisition such a meeting. This requisition must be in accordance with section 195 of the Co-operatives Act and **Rule 48**.

48 SPECIAL GENERAL MEETINGS

48.1 The Board may, whenever it thinks fit, convene a special general meeting of the Co-operative.

48.2 The Board must convene a special general meeting of the Co-operative on the requisition in writing by such number of active members who together are able to cast at least 20% of the total number of votes able to be cast at a meeting of the Co-operative.

48.3 The requisition must:

- (a) state the objects of the meeting;
- (b) be signed by the requisitioning members (and may consist of several documents in like form each signed by one or more of the requisitioning members); and
- (c) be served on the Co-operative by being lodged at the Registered Office.

- 48.4 A meeting requisitioned by members in accordance with the Rules must be convened and held as soon as practicable and in any case within 2 months after the requisition is served.
- 48.5 Where the Board does not convene a meeting 21 days after the requisition is served, the following provisions apply:
- (a) the requisitioning members (or any of them representing at least half their aggregate voting rights) may convene the meeting in the same manner as nearly as possible as meetings are convened by the Board;
 - (b) for that purpose they may request the Co-operative to supply a written statement setting out the names and addresses of the persons entitled when the requisition was served to receive notice of general meetings of the Co-operative;
 - (c) the Board must send the requested statement to the requisitioning members within 7 days after the request for the statement is made;
 - (d) the meeting convened by the requisitioning members must be held not later than 3 months after the requisition is served;
 - (e) any reasonable expenses incurred by the requisitioning members because of the Board's failure to convene the meeting must be paid by the Co-operative; and
 - (f) any such amount required to be paid by the Co-operative is to be retained by the Co-operative out of any money due from the Co-operative by way of fees or other remuneration in respect of their services to such of the directors as were in default.

49 NOTICE OF GENERAL MEETINGS

- 49.1 At least 14 days notice (not including the day on which the notice is served or deemed to be served, but including the day for which notice is given) must be given of any general meeting in the manner stipulated in **Rule 131**.
- 49.2 Notice must be given to those persons who are, under these Rules, entitled to receive such notices from the Co-operative. However, the non-receipt of the notice by any member does not invalidate the proceedings at the general meeting.
- 49.3 The notice must specify the place, the day and the hour of the meeting and, in the case of special business, the general nature of that business.
- 49.4 Any member who has a resolution to submit to a general meeting must give written notice of it to the Co-operative not less than 28 days prior to the date of the meeting.
- 49.5 Where, in relation to a general meeting:
- (a) a member has notified their intention to move any business; and
 - (b) that notification has been made in accordance with the Rules,
- the Board must insert that business in any notice convening the general meeting.

49.6 Except as is provided by this Rule, no other person will be entitled to receive notices of general meetings.

50 BUSINESS OF GENERAL MEETINGS

50.1 The ordinary business of the annual general meeting is:

- (a) to confirm minutes of the last preceding general meeting (whether annual or special);
- (b) to receive from the Board, auditors or any officers of the Co-operative reports upon the transactions of the Co-operative during the financial year, including the statement of financial performance, the statement of financial position, and the statement of cash flows at the end of that year;
- (c) to determine the rates of dividend, bonus and rebate; and
- (d) to announce the results of the postal ballot for the election of directors and determine the remuneration of directors.

50.2 The annual general meeting may also transact special business of which notice has been given to members in accordance with these Rules.

50.3 All business of a general meeting, other than business of the annual general meeting that is by this Rule termed ordinary business, is special business.

51 QUORUM AT GENERAL MEETINGS

51.1 An item of business must not be transacted at any general meeting unless a quorum of members entitled to vote is present during the transaction of that item.

51.2 Except where these Rules state otherwise, 20 active members present in person, each being entitled to exercise a vote, constitute a quorum.

51.3 If within half an hour after the appointed time for the meeting a quorum is not present, the meeting:

- (a) if convened upon the requisition of members, must be dissolved; or
- (b) in any other case must be adjourned to the same day in the next week at the same time and place.

51.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting the members present constitute a quorum, provided at least 10 active members are present.

52 CHAIRPERSON AT GENERAL MEETINGS

52.1 The chairperson, if any, of the Board presides as chairperson at every general meeting of the Co-operative.

52.2 If there is no chairperson, or if at any meeting he or she is either not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act as

chairperson, then the members present must choose someone from their number to be chairperson (until such time as the chairperson attends and is willing to act).

- 52.3 The chairperson may, with the consent of any meeting at which a quorum is present, adjourn the meeting from time to time and from place to place. The chairperson must adjourn the meeting in this way if directed to do so by the meeting. However, the only business that can be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 14 days or more notice of the adjourned meeting must be given to all the Members in the same manner as notice was (or ought to) have been given of the original meeting. Apart from this it is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.

53 STANDING ORDERS AT GENERAL MEETINGS

- 53.1 Subject to **Rule 53.2**, the following standing orders must be observed at the Co-operative's meetings:
- (a) the mover of a proposition shall not speak for more than 10 minutes. Subsequent speakers shall be allowed 5 minutes, and the mover of the proposition 5 minutes to reply. The meeting may, however, by simple majority extend in a particular instance the time permitted by this Rule;
 - (b) whenever an amendment to an original proposition is proposed no second amendment shall be considered until the first amendment is disposed of;
 - (c) if an amendment is carried, the proposition as so amended shall displace the original proposition and may itself be amended;
 - (d) if an amendment is defeated, then a further amendment may be moved to the original proposition. However, only one amendment shall be submitted to the meeting for discussion at one time;
 - (e) the mover of every original proposition, but not of an amendment, shall have the right to reply. Immediately after this the question shall be put from the chairperson. No other member shall speak more than once on the same question, unless permission is given for an explanation or where the attention of the chairperson is called to a point of order;
 - (f) propositions and amendments shall be submitted in writing if requested by the chairperson;
 - (g) any discussion may be closed by a resolution "that the question be now put" being moved, seconded and carried. Such resolution shall be put to the meeting without debate;
 - (h) any member, or visitor invited to attend the meeting by the Board, may speak on any issue at a meeting with the permission of the chairperson provided that the permission may be conditional; and
 - (i) standing orders may be suspended for any period by ordinary resolution.

53.2 The members present at a meeting may suspend, amend or add to these orders for the purposes of that particular meeting.

54 ATTENDANCE AND VOTING AT GENERAL MEETINGS

54.1 At any meeting of the Co-operative a member who has been given notice that the Member's Shares are required to be forfeited under **Rule 16** is not entitled to attend.

54.2 The Board shall 21 days prior to the calling of a general meeting close the Register for the purposes of establishing voting entitlements and no changes to voting entitlements between that date and the close of the general meeting will be acknowledged without a resolution of the Board to that effect.

54.3 A member of the Co-operative is entitled to vote at a meeting of the Co-operative if:

- (a) that person is an active member of the Co-operative; and/or
- (b) the person is otherwise permitted to vote under the Co-operatives Act or the Rules.

54.4 At any general meeting a resolution put to the vote of the meeting must (as provided in section 201(2) of the Co-operatives Act) be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least 5 members.

54.5 If no poll is demanded a declaration by the chairperson that a resolution has been, on a show of hands:

- (a) carried;
- (b) carried unanimously;
- (c) carried by a particular majority; or
- (d) lost;

and an entry to that effect in the book of the proceedings of the Co-operative is evidence of the fact. No proof is needed of the number or proportion of the votes recorded in favour of, or against, that resolution.

54.6 Every member of the Co-operative (not under the age of 18) and every representative of a body corporate appointed under section 70 of the Co-operatives Act, who is present at a meeting:

- (a) in person; or
- (b) represented by proxy or attorney;

has, subject to **Rule 40.3**, one vote.

However, no member has a vote, or is entitled or eligible to vote, contrary to the Co-operatives Act.

- 54.7 Each membership is entitled to one vote at a general meeting. In the case of a joint membership the first mentioned member in the Register is the voting member.
- 54.8 If a poll is demanded, in accordance with **Rule 54.4**, it shall be taken in a manner which the chairperson directs. Unless the meeting is adjourned the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 54.9 A poll demanded on the election of a chairperson, or on a question of adjournment, shall be taken immediately.
- 54.10 A poll demanded in accordance with **Rule 54.4** may be withdrawn.
- 54.11 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place, or at which the poll is demanded, is entitled to a second or casting vote.
- 54.12 All resolutions, except special resolutions, are determined by a simple majority.

55 POSTAL BALLOT

- 55.1 The Co-operative may hold a postal ballot to determine any issue or proposal by the members in the manner prescribed in Schedule 2 of the Co-operatives Regulation 1997.

56 WHEN A SPECIAL POSTAL BALLOT IS REQUIRED

- 56.1 A special postal ballot must be conducted for the purpose of passing a special resolution in relation to any of the following matters:
- (a) conversion of the Co-operative to a non-trading Co-operative;
 - (b) transfer of incorporation;
 - (c) an acquisition or disposal of assets referred to in section 285 or such other section of the Co-operatives Act as is applicable;
 - (d) the maximum permissible level of Share interest in the Co-operative;
 - (e) takeover;
 - (f) merger;
 - (g) transfer of engagements;
 - (h) members' voluntary winding-up; or
 - (i) the Co-operative intends to borrow an amount in excess of 5% of the net assets of the Co-operative or \$1,000,000 (whichever is the greater).

57 SPECIAL RESOLUTION

- 57.1 A special resolution is a resolution of the Co-operative which must be passed:

- (a) by a two thirds majority of members voting in person or by proxy at a general meeting;
 - (b) by a two thirds majority in a postal ballot (other than a special postal ballot); or
 - (c) by a three quarters majority in a special postal ballot.
- 57.2 A resolution must not be considered to be passed as a special resolution unless at least 21 days notice has been given to the members of the Co-operative specifying:
- (a) the intention to propose the special resolution;
 - (b) the reasons for the making of the special resolution; and
 - (c) the effect of the special resolution being passed.
- 57.3 A special resolution has effect from the date it is passed except in the following circumstances:
- (a) the removal of an auditor;
 - (b) the expulsion of a member;
 - (c) the alteration of a Rule; or
 - (d) any matter for which a special resolution is required to be passed by special postal ballot (other than a special postal ballot in favour of a voluntary winding up),
- in which case it has effect from the time it is registered by the Registrar.

DIVISION 6 - DIRECTORS

58 BOARD OF DIRECTORS

- 58.1 There is a Board of 6 directors all of whom must be:
- (a) natural persons, whether as a member of the Co-operative, a representative of a body corporate member, or otherwise; and
 - (b) at least 18 years old.
- 58.2 Subject to the Co-operatives Act, 2 directors may be independent directors and of the remaining 4 directors 1 may be an employee who is an active member.
- 58.3 The business of the Co-operative is managed by the Board of directors, subject to the Co-operatives Act and the Rules.
- 58.4 The Board may exercise all of the powers of the Co-operative that are not, by the Co-operatives Act or the Rules, required to be exercised by the Co-operative in general meeting.

58.5 The acts of a director are valid despite any defect that may afterwards be discovered in the appointment or qualification of the director.

58.6 All directors shall within twelve months of becoming elected attend a training course on directors' duties and regularly attend courses for the purpose of attaining or maintaining skills appropriate to directors of an irrigation co-operative.

59 QUALIFICATIONS OF DIRECTORS

59.1 A person is not eligible to be elected as a director of a Co-operative unless the person:

- (a) is an active member of the Co-operative, or a representative of a body corporate which is an active member of the Co-operative (active member director); or
- (b) is a person nominated by the Board who the Board believes has relevant skills, experience or knowledge (independent director); or
- (c) an employee or officer of the Co-operative who is an active member of the Co-operative (active member director).

60 FIRST AND SUBSEQUENT DIRECTORS

60.1 The first directors shall be elected at the formation meeting of the Co-operative.

60.2 At the first annual general meeting of the Co-operative 2 of the active member directors must retire.

60.3 At the annual general meeting in the 2 subsequent years 1 active member and 1 independent director must retire.

60.4 At the annual general meeting in each subsequent year the directors must retire in rotation of 2, 2 and 2 in the proportions set out in **Rules 60.2** and **60.3** respectively.

61 DIRECTORS' RETIREMENT

61.1 The directors to retire in any year must (subject to the provision as to filling casual vacancies) be those who have been longest in office since their last election.

61.2 As between persons who became directors on the same day, which of them is to retire must (unless they otherwise agree among themselves) be determined by lot. In such case, the order for retirement shall be the order in which the names are withdrawn.

62 RE-ELECTION OF RETIRING DIRECTORS

62.1 A retiring director is eligible for re-election without nomination subject to the person holding the qualifications specified in **Rule 59**.

63 FILLING A VACATED OFFICE

63.1 At an annual general meeting at which a director retires or a casual vacancy occurs the vacated office may be filled by electing a person to it.

- 63.2 Nominations for candidates to fill the vacant positions must be sought in the manner which the Board determines.
- 63.3 The nominations must provide details of the qualifications and experience of the person nominated.
- 63.4 The election of directors, other than the independent directors, must be conducted by postal ballot in accordance with **Rule 55** and the results of the election must be announced at the annual general meeting.
- 63.5 At the annual general meeting at which an independent director retires:
- (a) where the Board nominates only one person to fill the vacant position, and with the approval of the members by ordinary resolution, the person shall be deemed elected; or
 - (b) where the Board nominates more than one person to fill the vacant position, an election shall be conducted by show of hands.

64 REMOVAL FROM OFFICE OF DIRECTOR

- 64.1 The Co-operative may at a general meeting (or other manner permitted by the Co-operatives Act or the Rules) by resolution passed by a simple majority:
- (a) remove any director before his or her period of office expires; and
 - (b) appoint another person in place of that director.
- 64.2 The person appointed under **Rule 64.1** must retire at the same time as the removed director would have retired if not removed.

65 VACATION OF OFFICE OF DIRECTOR

- 65.1 A director vacates office in the circumstances (if any) as are provided in the Rules and in any of the following circumstances:
- (a) if the person is the auditor of the Co-operative or a partner, employee or employer of the auditor;
 - (b) if the person has been convicted of an offence and that conviction disqualifies a person from being a director as provided by section 208 of the Co-operatives Act;
 - (c) if the person is prohibited from managing corporations under Part 2D.6 of the Corporations Law;
 - (d) if the person is an insolvent under administration (as defined in the Corporations Law);
 - (e) if the person is mentally incapacitated or the subject of an order under a law of another State or of a Territory relating to mental health;

- (f) if the director is absent from 3 consecutive ordinary meetings of the Board without its leave;
- (g) if the director resigns the office of director by written notice given by the director to the Co-operative;
- (h) if the director is removed from office by ordinary resolution of the Co-operative;
- (i) if a person ceases to hold the qualification by reason of which the person was qualified to be a director;
- (j) if the director becomes an employee of the Co-operative except if qualified under **Rule 59**; and
- (k) if an administrator of the Co-operative's affairs is appointed under Division 5 of Part 12 of the Co-operatives Act.

66 FILLING OF CASUAL VACANCIES

- 66.1 The Board may appoint a person to fill a casual vacancy (including a vacancy created under **Rule 65**) in the office of director until the next annual general meeting.
- 66.2 The person so chosen by the members (in accordance with **Rule 63**) at the next annual general meeting shall retire at the same time as the director who vacated the office would have done if that director had not vacated it.

67 DEPUTY DIRECTORS

- 67.1 Any director may from time to time apply, in writing, for any active member (other than an employee of the Co-operative, the auditor or a partner or employer or employee of the auditor) to be appointed by the Board as a deputy director to sit in the director's place on the Board.
- 67.2 A deputy director appointed by the Board shall be entitled to notice of meetings of the directors and, in the absence of the nominating director, to attend and vote at those meetings and to sign resolutions and to exercise such powers, authorities and discretions as are vested in or would otherwise be exercisable by the nominating director.
- 67.3 A deputy director shall vacate office if the nominating director ceases to be a director or on a majority of the other directors removing him from office.
- 67.4 An appointment or removal under this Rule must be in writing and must be served on the deputy director. The appointment or removal shall take effect from service of the notice of appointment or removal, as the case may be. Service of any such notice may be affected in accordance with **Rule 131**. A deputy director whilst acting in the absence of the nominating director shall not be an agent of the nominating director and the nominating director shall not be liable for the actions of the deputy director.
- 67.5 The remuneration of any such deputy director shall be payable out of the remuneration payable to the nominating director and shall consist of such portion of the last mentioned remuneration as shall be agreed between the deputy director and the

nominating director. The attendance of the deputy director at any meeting of the Board shall be deemed to be attendance by the nominating director.

67.6 For purposes of this Rule a meeting of the directors shall include a meeting conducted pursuant to **Rule 71**.

68 DIRECTOR'S EXPENSES

68.1 A director shall receive such remuneration for his or her services as shall be determined in general meeting, and all necessary expenses incurred by him or her in the business of the Co-operative shall be refunded to him or her.

69 DIRECTORS' LIABILITY INSURANCE

69.1 The Co-operative will pay the Directors and Officers insurance premiums for the Co-operative of its directors and officers during their term of office.

DIVISION 7 - PROCEEDINGS OF THE BOARD

70 PROCEEDINGS OF THE BOARD

70.1 Meetings of the Board (including those conducted in accordance with **Rule 71**) are to be held as often as may be necessary and must in any case be held at least once every 3 months.

70.2 Questions arising at any meeting must be decided by a majority of votes.

70.3 In the case of an equality of votes the chairperson has a second or casting vote.

70.4 A meeting of the Board may be called by a director giving notice individually to every other director.

70.5 A meeting of the Board may be called or held using any technology consented to by the Board. The consent may be a standing one.

70.6 Except in special circumstances determined by the chairperson, at least 48 hours notice must be given to the directors of all meetings of the Board.

71 TRANSACTION OF BUSINESS OUTSIDE BOARD MEETINGS

71.1 The Board may in accordance with section 210 of the Co-operatives Act transact its business in any of the following ways:

- (a) by circulation of papers among all of the members of the Board. A resolution in writing approved in writing by a majority of those members is to be taken to be a decision of the Board;
- (b) separate copies of a resolution may be distributed for signing by the directors if the wording of the resolution and approval is identical in each copy; and
- (c) at a meeting at which directors (or some directors) participate by telephone, closed-circuit television or other means, but only if any director who speaks on a matter before the meeting can be heard by the other.

- 71.2 For the purpose of this Rule:
- (a) the chairperson and each other director have the same voting rights as they have at an ordinary meeting of the Board; and
 - (b) a resolution is approved when the last director required for the majority signs the resolution.

71.3 A resolution approved under this Rule is to be recorded in the minutes of the meetings of the Board.

71.4 For the purposes of this Rule, papers may be circulated among directors by facsimile or other means of transmission.

72 QUORUM FOR BOARD MEETINGS

72.1 The quorum for a meeting of the Board is more than one half of the number of directors on the Board and at least 3 of whom must be active members.

73 CHAIRPERSON OF BOARD

73.1 The chairperson of the Board must be an active member.

73.2 The chairperson of the Board may be elected by the Board.

73.3 If no chairperson is elected, or if at any meeting the chairperson is not present within 5 minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present may choose one of their number to be chairperson of the meeting until such time as the chairperson attends and is willing to act in that capacity.

74 DELEGATION AND BOARD COMMITTEES

74.1 In accordance with section 213 of the Co-operatives Act, the Board may by resolution delegate the exercise of any of the Board's powers (other than this power of delegation) as are specified in the resolution:

- (a) to a director;
- (b) to a committee of 2 or more directors;
- (c) to a committee of members of the Co-operative; or
- (d) to a committee of members and other persons if members comprise the majority of persons on the committee.

74.2 The Co-operative or the Board may by resolution revoke wholly or in part any such delegation.

74.3 A function, the exercise of which has been delegated under this Rule, may be exercised from time to time in accordance with the terms of the delegation while the delegation remains unrevoked.

- 74.4 A delegation under this Rule may be made subject to conditions or limitations as to the exercise of any of the functions delegated, or as to time or circumstance.
- 74.5 Despite any delegation under this Rule, the Board may continue to exercise all or any of the functions delegated.
- 74.6 A committee may elect a chairperson of their meetings. If no chairperson is elected or, if at any meeting the chairperson is not present within 5 minutes after the time appointed for holding the meeting, then the members present may choose one of their number to be chairperson of the meeting.
- 74.7 A committee may meet, and adjourn, as it thinks fit. Questions arising at any meeting must be determined by a majority of votes of the members of the committee present and voting. In the case of an equality of votes the chairperson has a second or casting vote.

75 OTHER COMMITTEES

- 75.1 The Board may by resolution appoint committees comprised of members or other persons, or both, to act in an advisory role to the Board and to any committees of directors.
- 75.2 The provisions of **Rule 73** apply to committees appointed under this Rule subject to any variations approved of by the Board.
- 75.3 The quorum for any meeting of the committee is one half (or where one half is not a whole number the whole number next higher than one half) of the number of members in the committee.

76 COMMUNITY ENVIRONMENTAL COMMITTEE

- 76.1 The CEC will comprise six members, one from each of the five Regions and one representing the Kerarbury LWMP area. The members within the five Regions will elect the regional representative and Kerarbury land owners will nominate a representative from their area. The Board may also appoint two independent advisors to the CEC.
- 76.2 The Board will approve and provide the CEC with a written charter. The members of the CEC are bound by the charter and may be removed by the Board if they fail to comply with that Charter.
- 76.3 The Board may delegate to the CEC certain Board powers consistent with the CEC charter from time to time.
- 76.4 The Board retains the right to review or override any decision or action of the CEC. The Board may review or override any decision or action of the CEC of the Board's own volition or on the written application of any interested person.

77 MINUTES

- 77.1 The Board must enter minutes of meetings into books provided for this purpose. In particular, minutes must be recorded:

- (a) of all appointments of officers and employees made by the directors;
- (b) of the names of the directors present at each meeting of the Board and of any committee of the Board;
- (c) of all resolutions and proceedings at all meetings of the Co-operative and of directors and of committees of directors;
- (d) appointments of directors and secretaries;
- (e) details of personal interests of directors in contracts entered into by the Co-operative;
- (f) the By-Laws made by the Board; and
- (g) general meetings of the Co-operative.

77.2 Minutes must be recorded in the minute book within 14 days of the date of the meeting to which they relate.

77.3 The confirmation of the minutes must be taken as the first business at the next succeeding meeting of the Co-operative, Board or committee to which the minutes relate. If it is impracticable for the minutes to be confirmed at that meeting, then the minutes must be confirmed at the next succeeding meeting.

77.4 Every director present at any meeting must sign his or her name in a book to be kept for that purpose.

77.5 The minutes are to be kept in the English language.

77.6 The minutes of each general meeting must be available for inspection by members.

78 OFFICERS

78.1 Without prejudice to the general powers conferred on the Board by the Co-operatives Act and the Rules, the Board has power to appoint and, at its discretion, remove or suspend officers, employees, agents and contractors, and to fix their powers, duties and remuneration.

78.2 The Board may delegate any of its powers under **Rule 78.1** to an officer or employee of the Co-operative, subject to any conditions or limitations which the Board sees fit to impose.

78.3 The Board may, at any time, revoke or vary a delegation made under **Rule 78.2**.

78.4 Despite any delegation under this Rule, the Board may continue to exercise all or any of the powers under **Rule 78.1**.

79 APPOINTMENT OF A SECRETARY

79.1 The Board shall appoint a secretary who shall perform all of the functions and duties required by the Co-operatives Act, the Regulations, the Rules and the law to be performed or undertaken by the secretary of the Co-operative.

- 79.2 A secretary shall:
- (a) be appointed to the office on such terms and conditions as the Board may determine; and
 - (b) hold office until death, or removal by the Board, or resignation from office.

DIVISION 8 - WATER SUPPLY RULES

80 ONGOING TERMS OF WATER SUPPLY RULES

- 80.1 This Division is a continuation of the previous Water Supply Contract and clarifies that the Water Supply Contract is part of the Co-operative Rules.

81 WATER SUPPLY RULES

- 81.1 This Division sets out the terms of Water Supply to Members and has the effect of changing the name of the former Water Supply Contract to Water Supply Rules.

- 81.2 Interpretation of this Rule

In addition to the definitions under **Rule 1**, in these Water Supply Rules, unless the context otherwise requires:

Annual Water Pricing Policy is the policy determined by the Board for the forthcoming Season.

Certificate of Nominal Water Entitlements means a Certificate of Nominal Water Entitlements evidencing the Member's Nominal Water Entitlements as provided by the Co-operative under **Rule 97**.

Class A Water Supply means a high security volumetric water allocation as described in **SCHEDULE 4**.

Class B Water Supply means normal security volumetric water allocation as described in **SCHEDULE 4**.

Class F Water Supply means "high flow opportunistic" water as described in **SCHEDULE 4**.

Class G Water Supply means high security stock and domestic volumetric allocation water as described in **SCHEDULE 4**.

Class T Water Supply means high security town water volumetric allocation water to be supplied as described in **SCHEDULE 4**.

Customer means a person to whom water is supplied by the Co-operative under these Water Supply Rules.

Drainage includes surface drainage and subsoil drainage.

Drainage Outlet means the point of connection between the Landholding and the surface drainage system as approved by the Co-operative.

GST means a tax in the nature of a goods and services tax, value-added tax, broad-based consumption tax or other similar tax introduced in Australia.

GST Law includes any Act, order, ruling or regulation which imposes or otherwise deals with the administration or imposition of a GST in Australia.

Landholding, means in respect of a member a parcel of land individually identified by a Farm Number in the Register connected to the System. For the purposes of the definition of **Permitted Use** and where the relevant parcel of land is Association Property, includes the Development Lots and Neighbourhood Lots in the relevant Community Plan, Precinct Plan or Neighbourhood Plan (as the case may be) to which the water supplied by the Co-operative is to be distributed.

Law means the Water Management Act, the Water Act 1912 and any other relevant law including all By-Laws, regulations and other statutory instruments issued under these Acts.

Meter means an apparatus for the measurement of water or Drainage approved by the Co-operative.

Overdraw means an advance order for water in excess of that to which a member is entitled in any Year which, when delivered to the member, shall be repaid as determined by the Board or the By-laws.

Permitted Use means a use applicable to the Landholding or part of the Landholding, subject to any restriction on use applied by the Co-operative or any other law in respect of the Landholding.

Private Works means Works owned by an entity other than the Co-operative.

Prohibited Substance includes the substances set out in the By-laws (if any).

Services mean water services, drainage services and other services to be provided by the Co-operative.

Special Conditions in respect of a member means the special conditions, obligations and/or services described in the Register in relation to that member.

Stakeholder Representation Body means a local government authority or association and any other body or organisation recognised by the Co-operative as representing the interests of Nominal Water Entitlements holders.

82 OBLIGATIONS OF THE CO-OPERATIVE

- 82.1 (a) Water may be supplied to a Landholding by the Co-operative unconditionally or subject to conditions.
- (b) If the supply of water is required for rice growing, the conditions of supply may include conditions regarding the area and location of the land on which rice may be grown.

82.2 Provided the member complies in all respects with the Rules (including these Water Supply Rules), the Co-operative will if requested by the member:

- (a) make available to the member at the Member's Outlet the Member's Annual Allocation:
 - (i) subject to these Water Supply Rules, the Rules, the Law and any other relevant instrument or Licence held by the Co-operative;
 - (ii) in the class or classes of water supply specified in **SCHEDULE 4**;
 - (iii) for a Permitted Use;
 - (iv) in connection with the Landholding;
 - (v) at the times fixed by the Co-operative;
 - (vi) in the quantities fixed by the Co-operative; and
 - (vii) for a Contribution payable by the member in accordance with **Rule 119**;
- (b) subject to **Rule 82.4**, determine and notify to the member the Member's Annual Allocation for each Season, within 30 days of commencement of each Season, and not subsequently reduce the Member's Annual Allocation in respect of that Season; and
- (c) use its reasonable endeavours to provide any other services to the member on the terms agreed with the member from time to time.

82.3 Without limiting anything in these Water Supply Rules, where the Landholding is Association Property the distribution of water to a Development Lot or a Neighbourhood Lot in the relevant Community Plan, Precinct Plan or Neighbourhood Plan for a Permitted Use is deemed to be a use in connection with the Landholding for the purpose of **Rule 82.2(a)**.

82.4 The Co-operative cannot be compelled to deliver water, may alter the Member's Annual Allocation (on one or more occasions in any Season) and will not be in breach of these Water Supply Rules for reducing supply or failing to deliver water:

- (a) if the delivery would, in the reasonable opinion of the Co-operative, result in a breach of any of the Licences, any statute or any legal right or entitlements of a third party;
- (b) in the event of drought, accident or any other cause which the Co-operative considers renders it impractical to deliver water;
- (c) if the Co-operative is satisfied that it is necessary or expedient to reduce or discontinue the supply of water to any area or person because of an actual or threatened shortage of water or any other sufficient cause. That determination may be made in relation to all water, or to water used for any purpose or class of purposes, and may apply to and in respect of any particular area or person

specified in the determination or to and in respect of any class of areas or persons so specified;

- (d) if, in the opinion of the Co-operative, the supply or continuance of supply is likely to cause damage to a Landholding;
- (e) if the member has failed to make and maintain adequate provision:
 - (i) for the drainage of surplus surface water into the drainage works provided by the Co-operative for that purpose; or
 - (ii) if no such drainage works have been provided, for the retention of surplus surface water on the land in an appropriate manner; or
- (f) if the member fails to comply with a provision of this **Rule 82.4** or of any condition attaching to a supply of water.

82.5 The Co-operative may refuse to continue to make available the Member's Annual Allocation to the member if, in the reasonable opinion of the Co-operative, such a refusal is required to enable the Co-operative to honour its obligations under one or more of the Licences.

82.6 A refusal to supply or a discontinuation of supply:

- (a) does not relieve the member from liability for payment for any water supplied; and
- (b) does not prevent the Co-operative from proceeding against a member.

82.7 If the Co-operative anticipates at any time that the Annual Allocation will be less than 100% of the aggregate of all Nominal Water Entitlements, the Co-operative will provide for allocation of the available water as follows:

- (a) to the holders of Nominal Water Entitlements which convey Class A, Class G and Class T Water Supply, the maximum percentage of their Nominal Water Entitlements as stipulated in the relevant Law;
- (b) so long as adequate provision has been made in accordance with **Rule 82.7(a)**, to the holders of Nominal Water Entitlements which convey Class B Water Supply, as near to 100% of their Nominal Water Entitlements as is possible and prudent; and
- (c) so long as adequate provision has been made in accordance with **Rules 82.7(a)** and **82.7(b)** to supply all the holders of Nominal Water Entitlement, the Board may in its discretion allocate any remainder as Class F Water Supply, divided proportionally between all Class F Water Supply holders.

82.8 Any reduction in an allocation made pursuant to **Rule 82.7** does not preclude a further change in allocation under **Rule 82.4**.

- 82.9 The member may apply to the Co-operative for a conversion of the Member's Nominal Water Entitlements from one class of water supply to another. The Co-operative must consider every application and may:
- (a) refuse any application in its discretion; or
 - (b) approve any application subject to such terms and conditions as the Co-operative may reasonably determine.
- 82.10 The member acknowledges that the Co-operative is not under any obligation to supply a specific quality of water (including drinking water). The member accepts full responsibility for rendering the water suitable for drinking use. Any use of the water as drinking water or for other domestic purposes is at the member's own risk and the Co-operative accepts no liability for any such use.
- 82.11 The Co-operative obligations under this **Rule 82** are subject to reasonable amendment which the Co-operative may deem to be necessary to accommodate any changes in its Licence conditions or any of them, or any other fact, matter or thing imposed on it by the Ministerial Corporation from time to time affecting, directly or indirectly, its ability to meet those obligations.
- 82.12 The Co-operative shall deal with savings of Transmission Losses as follows:
- (a) by allocation to all members proportionate to the number of their Nominal Water Entitlements and their Delivery Entitlements whichever is the lesser but not less than 10, at a price determined by the Board which is fair and reasonable, with distributions based on the highest equal volume of Nominal Water Entitlements, Corresponding Shares and Delivery Entitlements; or
 - (b) by offer of sale to all members proportionate to the number of Nominal Water Entitlements and their Delivery Entitlements whichever is the lesser but not less than 10, at a price determined by the Board which is fair and reasonable PROVIDED THAT if a member does not accept the offer in any year then the Co-operative may sell such water allocation as is not accepted by the member as it shall determine; and
 - (c) only a member who:
 - (i) owns a Landholding within the Co-operative's Area of Operations that can accept delivery of water from the Co-operative's infrastructure; and
 - (ii) holds a minimum of 10 Megalitres of Nominal Water Entitlements, together with 10 Corresponding Shares and 10 Delivery Entitlements;
- is eligible to receive an allocation of Transmission Losses under this **Rule 82.12**.
- 82.13 To sell water permanently from the Conveyance Access Licence, the Co-operative must have shareholder approval.

83 OBLIGATIONS OF THE MEMBER

- 83.1 The member agrees to:

- (a) take a supply of water pursuant to the Member's Nominal Water Entitlements from the Co-operative under the terms of this Water Supply Rules and to apply all of that water to a Permitted Use and not to allow water delivered to the Landholding to be wasted;
- (b) place an order with the Co-operative in accordance with the class or classes of water supply, as described in **SCHEDULE 4** which the customer has agreed to receive;
- (c) satisfy all conditions imposed by the Co-operative for the supply of water to the member and the Drainage of water from the Landholding, including without limitation the Special Conditions;
- (d) rectify, to the Co-operative's satisfaction, any arrears of Contributions due from the member, and any other default or non-compliance notified by the Co-operative to the member;
- (e) ensure that the Member's Landholding is, in the opinion of the Co-operative, properly prepared for irrigation to prevent the waste of water;
- (f) ensure that the ditches or channels on the Landholding to be used for the distribution of water within the Landholding are, in the opinion of the Co-operative, adequate and in a good state of repair;
- (g) ensure that Drainage works on the Landholding are, in the opinion of the Co-operative, in a good state of repair;
- (h) acknowledge that the Member's Annual Allocation will be calculated having regard to Transmission Losses and the member is not entitled to delivery of that component of water which represents the Transmission Losses provided that this Rule shall not prohibit the Co-operative from agreeing to allocate or sell that component of water which represents the Transmission Losses to Members on a reasonable basis as determined by the Co-operative;
- (i) subject to **Rules 84** and **89.5**, not receive water in excess of 100% of the Member's Annual Allocation, exclusive of annual or temporary transfers in; and
- (j) where the Landholding is not within the Co-operative's Area of Operations, to allow the Co-operative, its officers, employees and agents to enter and occupy the Landholding in accordance with **Rule 87**.

84 OVERDRAW AND OTHER DEALINGS IN RESPECT OF MEMBER'S ANNUAL AVAILABLE WATER

84.1 A member must not:

- (a) Overdraw the Member's Annual Available Water; or
- (b) otherwise deal with the Member's Annual Available Water,

otherwise than in accordance with the Water Trading Agreement, provided that where the proposed transferor or proposed transferee is a member the dealing must be in accordance with the Water Trading Rules set out in the Rules of the Co-operative from time to time.

84.2 The penalties as determined by the Licencing Department in the current Water Allocation Plan for the regulated Murrumbidgee River from time to time will be imposed by the Co-operative on any member who has taken unauthorised diversion of water that belongs to other water users. These penalties could include all or any of the following:

- (a) debit of up to five times the unauthorised diversion,
- (b) a fee not exceeding five times the IPART charge for the unauthorised diversion,
- (c) if prosecution is successful a fine as determined from time to time for the offence and an additional fine for every day it continues,
- (d) suspension of right to access water,
- (e) cancellation of right to access water.

85 RESTRICTIONS

85.1 The member must not take water from the Co-operative during a period where the supply of water to the member is subject to suspension under these Water Supply Rules.

85.2 The member must not, without the Co-operative's prior written permission, including without limitation as provided by the Water Trading Rules:

- (a) directly or indirectly discharge or allow or cause to be discharged any Prohibited Substance into the System or to do any other act which might cause the water in the System to become contaminated;
- (b) divert or take water supplying or flowing into the System or do any other act to cause the quantity of water in the System to diminish;
- (c) construct or use any Work within the Landholding if such Work is likely to have the effect of altering the rate of delivery of water to the Landholding or elsewhere;
- (d) place, install or permit the placement or installation of a structure in or near a Work in such a manner as to wilfully or negligently interfere with the operations of the Work or destroy or damage the Work;
- (e) discharge rain water, ground water or surface water into the Co-operative's Drainage system. The member will take any steps necessary to prevent the intrusion of such water into the Drainage system. However, the member will not be responsible for any such intrusion arising from a fact, matter or circumstance within the control of the Co-operative; or

- (f) deal in any way with the Member's Nominal Water Entitlements, the Member's Annual Allocation or any interest in any of them.

85.3 Where the Co-operative is of the opinion that the member has breached or allowed a breach of **Rule 85.1** or **Rule 85.2**, the member must pay to the Co-operative an amount equivalent to the cost and expense which the Co-operative reasonably determines that it has incurred in detecting the breach, including any expenses associated with entry to and inspection of the Landholding and all costs and expenses of its notification of such breach.

85.4 If a Contribution remains unpaid and an alternative arrangement has not been approved by the Co-operative after a period of 90 days after the Contribution Notice has been issued, the Co-operative may exercise any security it may hold over the Member's Annual Allocation and deal with it until such time as the total debt (including interest) is fully recovered. When the total debt has been recovered the Co-operative must return the whole interest in the Member's Annual Allocation to the member.

86 ACCESS TO LANDHOLDING WITHIN AREA OF OPERATIONS

86.1 The Co-operative may, after giving reasonable notice to the Landholder, enter and occupy any Landholding within its Area of Operations in the manner and for the purposes described in section 120 of the Water Management Act.

86.2 In the exercise of its right to enter and occupy any Landholding the Co-operative must ensure that as little damage as possible is caused. If any damage is caused the member may make a claim for compensation in accordance with section 120(2) of the Water Management Act. The Co-operative will duly consider the member's claim for compensation.

86.3 The member must give every assistance possible to the Co-operative, its officers, employees and agents to enter and occupy the Landholding for all proper purposes.

86.4 The Co-operative may give a written notice to the member requiring the member to repair, alter or remove, within the period specified, all defective or improper Work(s) discovered on an inspection by the Co-operative.

86.5 If the member does not comply with a notice of the type referred to in **Rule 86.4** within the specified time the Co-operative, its employees or other persons authorised by it may enter the Landholding and repair, alter or remove the defective or improper Work(s). The member will be liable for the Co-operative's costs and expenses in undertaking such repair, alteration or removal.

87 ACCESS TO LANDHOLDING OUTSIDE AREA OF OPERATIONS

87.1 The Co-operative may in accordance with this **Rule 87**, after giving reasonable notice to the Landholder, enter and occupy any Landholding outside its Area of Operations to which it supplies water in accordance with **Rule 82**, for any one or more of the following purposes:

- (a) to install, operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that the Co-operative considers are necessary or appropriate to any of its Works or to construct new Works and, for

these purposes, to carry out any work on, below or above the surface of the Landholding;

- (b) to read a meter that:
 - (i) measures water supplied by the Co-operative; or
 - (ii) monitors drainage for quantity or quality or both;
- (c) to find the source of pollution of water within the Landholding;
- (d) to ascertain whether a Water Supply Rule or other Rule for the provision of services by the Co-operative is being breached;
- (e) to rectify defective or improper work that has not been rectified by a customer in accordance with a notice served by the Co-operative on the customer under the Water Supply Rules or other Rules;
- (f) to ascertain the character and condition of the land or a building to enable the corporation to install, operate, repair, replace, maintain, remove, extend, expand, connect, disconnect or improve:
 - (i) efficient, co-ordinated and commercially viable systems and services for supplying water from both the surface and subsurface sources; and/or
 - (ii) surface and subsurface drainage networks which have sufficient capacity having regard to relevant factors, including the amount of water supplied by the Co-operative to customers and members;

or to construct new Works for the purposes of providing systems, services and/or networks of the type referred to at (i) and (ii) above;
- (g) to ascertain the condition and location of any pipe, sewer, drain, channel or fitting or other work used in connection with the land or a building to enable the corporation to install, operate, repair, replace, maintain, remove, extend, expand, connect, disconnect or improve the systems and services:
 - (i) efficient coordinated and commercially viable systems and services for supplying water from both the surface and subsurface sources; and/or
 - (ii) surface and subsurface drainage networks which have sufficient capacity having regard to relevant factors, including the amount of water supplied by the Co-operative to customers and members;

or to construct new Works for the purposes of providing systems, services or networks of the type referred to at (i) and (ii) above; and
- (h) to carry out any investigation or inspection, take levels, drill test bore-holes, make surveys and marks, and fix pegs and stakes, for the purpose of determining the site of any proposed water management work.

87.2 **Rule 87.1** does not affect any other action the Co-operative may lawfully take in accordance with an agreement or otherwise.

- 87.3 In the exercise of its right to enter and occupy any Landholding in accordance with this **Rule 87** the Co-operative must ensure that as little damage as possible is caused. If any damage is caused the member may make a claim for compensation, subject to the provisions of **Rule 94.3**. The Co-operative will duly consider the member's claim for compensation.
- 87.4 The member must give every assistance possible to the Co-operative, its officers, employees and agents to enter and occupy the Landholding for all proper purposes.
- 87.5 The Co-operative may give a written notice to the member requiring the member to repair, alter or remove, within the period specified, all defective or improper Work(s) discovered on an inspection by the Co-operative.
- 87.6 If the member does not comply with a notice of the type referred to in **Rule 87.5** within the specified time the Co-operative, its employees or other persons authorised by it may enter the Landholding and repair, alter or remove the defective or improper Work(s). The member will be liable for the Co-operative's costs and expenses in undertaking such repair, alteration or removal.

88 DRAINAGE

- 88.1 Subject to these Water Supply Rules, the Law and any other relevant instrument or Licence, the Co-operative will use its reasonable endeavours to supply Drainage services for discharge by the member through the member's connection to the Co-operative's Drainage system.
- 88.2 The Co-operative will not provide subsoil Drainage services unless it agrees to do so in writing.
- 88.3 The Co-operative may give a direction to the member that discharge of water from the Landholding:
- (a) must comply with water quality standards having regard to the requirements of the Licences (or any of them) and as prescribed by the Co-operative;
 - (b) must occur only through certain Works;
 - (c) must occur at times prescribed in writing by the Co-operative from time to time; and/or
 - (d) must not exceed volumes prescribed in writing by the Co-operative from time to time.
- 88.4 Without limitation, in accordance with **Rules 83.1(c)** and **88.5** a member must comply with any of the Co-operative's requirements regarding the construction and maintenance of internal drains and connections to the Works of the Co-operative.
- 88.5 The Co-operative may require the member to construct (at the member's cost) suitable and adequate Works on the Landholding to store water prior to its discharge into the Drainage system and for the regulation of the Drainage of water into the Drainage system. If the member does not construct the required Works the Co-operative may construct them or complete their construction in accordance with **Rule 90**.

- 88.6 The Co-operative may direct the member from time to time to store water from the Landholding in the Works. The member must comply with these directions.
- 88.7 The Co-operative may permit the member to discharge water into the Drainage system where the member is otherwise not permitted to do so. However, the member must comply with the obligations imposed by the Co-operative and pay any moneys required by the Co-operative in connection with the discharge.
- 88.8 The member must not breach any direction given to the member by the Co-operative or discharge water into the Drainage system other than as permitted under this **Rule 88**.
- 88.9 Where the Co-operative is of the reasonable opinion that the member has breached or allowed a breach of this **Rule 88**, the member must pay to the Co-operative an amount equivalent to the cost and expense which the Co-operative considers it has incurred in detecting the breach, including all costs and expenses associated with entry into and inspection of the Landholding and all costs and expenses of its notification of such breach.
- 88.10 Under the Environment Protection Licence, a withholding period will apply where an insecticide or herbicide which may cause pollution to the Drainage system has been used on the Member's Landholding. During the withholding period, water will not be drained from the Drainage Outlet. The duration of the withholding period may be reviewed by the Co-operative from time to time.

89 CONTRIBUTIONS AND OTHER CHARGES

- 89.1 The member will pay to the Co-operative all Contributions for which the member is liable, pursuant to the Rules, the Annual Water Pricing Policy and as notified by the Co-operative in accordance with this **Rule 89**.
- 89.2 The Co-operative will issue to the member a Contribution Notice, advising the Contributions due from the member in respect of a Year. The member must pay the Contributions on the due date and in the manner specified by the Co-operative in the Contribution Notice.
- 89.3 If a member first becomes subject to a Contribution Notice after the commencement of any Year, the amount of the Contributions is to be apportioned, for the period from the date on which the member becomes subject to the Contribution Notice until 30 June next following, on the basis of such proportion of the charge as that period bears to the whole of that Year.
- 89.4 A Contribution Notice must include details of:
- (a) the member's name, Water Entitlement Number and contact information;
 - (b) the types of services provided and the types of Contributions payable by the member for the period covered by the Contribution Notice;
 - (c) the amounts of Contributions as assessed by the Co-operative;
 - (d) any variations in the Contributions or bases of calculating Contributions since the period covered by the last immediately preceding Contribution Notice;

- (e) the date of the Contribution Notice;
 - (f) the due date for payment (being not less than 28 days after the date of the Contribution Notice); and
 - (g) the method or methods for payment.
- 89.5 If the Co-operative agrees with the member to provide water in excess of the Member's Annual Allocation then the member must reimburse the Co-operative for all of the Co-operative's costs of acquiring and delivering that water, including an appropriate part of the Co-operative's overheads, on demand.
- 89.6 In addition to any Contributions payable to the Co-operative, the Co-operative may require the member to contribute an appropriate levy as reasonably determined by the Co-operative from time to time having regard to the compliance, monitoring and reporting against the obligations placed on the Co-operative by State and Federal agencies through legislation and licence compliance.
- 89.7 Where payment is made by the member by cheque, the cheque must be honoured on presentation to a bank. If upon presentation the member's cheque is not honoured for any reason the Co-operative may require the member to pay, and the member must, pay the Contribution owing and any additional fee as the Co-operative may reasonably determine from time to time.
- 89.8 All unpaid amounts owing to the Co-operative will bear interest, as determined by the Co-operative from time to time calculated in accordance with the prescribed rate pursuant to s 101 of the Civil Procedure Act 2005 (NSW), from the due date until paid by the member. Interest will be calculated and accrued on a daily basis and be levied monthly commencing on the due date until the date of payment by the member.
- 89.9 The member will indemnify the Co-operative for all and any costs and fees incurred by the Co-operative in recovering or attempting to recover an unpaid amount due and payable by the member to the Co-operative.
- 89.10 Any unpaid amount or interest will be recovered from the member as a debt due to the Co-operative. The Co-operative may serve legal process and other documents by certified mail on the member at:
- (a) the member's last known address; or
 - (b) such address as the Co-operative may have as notified by the member in writing; or
 - (c) such other address as may be provided from time to time to the Co-operative by the Australian Electoral Commission.
- 89.11 Any payments made by the member for any overdue amounts will be applied first to the payment of accrued interest.

90 CONSTRUCTION, MAINTENANCE AND REPAIR OF WORKS

- 90.1 The member agrees to:

- (a) engage the Co-operative, or a contractor appropriately qualified and approved by the Co-operative, to carry out any work in relation to the member's connection to the System. This work must be approved by the Co-operative before connection;
- (b) pay a connection fee to the Co-operative in respect of connection to the System. This fee will be an amount determined from time to time by the Co-operative as permitted by Law and any provisions of any Licence or other legal instrument;
- (c) ensure that all Works on the Landholding are properly cleaned and maintained to the satisfaction of the Co-operative at the member's cost and expense;
- (d) if required by notice from the Co-operative, construct, remove, alter, repair or improve (or procure the construction alteration, removal, alteration, repair or improvement of) Works on the Landholding deemed necessary or desirable by the Co-operative:
 - (i) for the efficient management and conveyance of water supplied to the Landholding; and
 - (ii) for the storage, discharge and regulation of water into the Drainage system.

90.2 The Co-operative will stipulate the location, design, form, dimensions and levels of any materials for any Works required to be constructed.

90.3 If the member does not construct the required Works, the Co-operative may construct them or complete their construction.

90.4 Where the Co-operative has constructed Works or completed their construction, it may recover the costs and expenses incurred in such construction or completion of construction as the case may be including costs of acquisition of land or easements deemed necessary for construction of Works.

90.5 The member will not, without the written approval of the Co-operative, construct or use any Work (or any other device whatsoever) within the Landholding if the Work (or device) is likely to have the effect of altering the rate of delivery of water onto the Landholding.

90.6 The member will not remove or cause to be removed any structure, building, fixture, fence or other improvement on the Landholding in respect of which any monies are owing to the Co-operative without the written consent of the Co-operative.

90.7 A member which causes damage to a bridge, culvert, canal, channel, drain or other work constructed by the Co-operative is liable to pay the cost in repairing such damage and any incidental or consequential costs arising from such damage.

90.8 The Works constructed under this Rule are the sole property of the Co-operative.

90.9 A member will not construct, use or manage a Private Work that is not entered in the Register.

91 MEASUREMENT OF WATER USAGE

- 91.1 The supply of water by the Co-operative to any Landholding will be measured by a Meter except where the Co-operative has given prior written approval for measurement other than by a Meter.
- 91.2 The quantity of water supplied by the Co-operative as measured by a Meter will be taken to be the quantity of water actually supplied unless the member can establish, to the satisfaction of the Co-operative, that a materially different quantity was supplied.
- 91.3 Where:
- (a) a Meter is out of repair or, in the opinion of the Co-operative, is measuring incorrectly; or
 - (b) there is no Meter or other instrument measuring supply,
- the Co-operative may determine the quantity of water supplied to the member using any means it considers fit. The Co-operative's estimate of the quantity of water supplied will be taken to be the actual quantity of water supplied to the member.
- 91.4 The Co-operative may install, upgrade, replace and re-condition one or more Meters on the Landholding.
- 91.5 The Co-operative may from time to time determine and impose a charge for the use of a Meter. The member will be notified of such a charge. The member must pay such a charge on or before the due date for payment specified in the relevant notice.
- 91.6 The member may be required by the Co-operative to:
- (a) install or pay for the installation of one or more Meters of any type and size approved by the Co-operative;
 - (b) make installations according to the Co-operative's requirements or pay for the making of such installations; and
 - (c) maintain the installation in good working order and in accordance with the Co-operative's requirements.
- 91.7 Any Meter installed on the Landholding is the property of the Co-operative irrespective of who installs the Meter.
- 91.8 The Co-operative will from time to time and at such intervals as it determines, take readings, or require the member to take and record readings on behalf of the Co-operative, from any Meter for the purposes of calculating Contributions or for such other purposes as the Co-operative thinks fit.
- 91.9 The member must take all reasonable steps to ensure the safekeeping of each Meter installed on the Landholding. The member must keep each Meter in a location which allows unfettered access by the Co-operative to the Meter and, upon request, return each Meter to the Co-operative where the water supply is discontinued or the Meter is otherwise no longer required.

91.10 The member must not alter or remove, or allow the alteration or removal of, a Meter or other apparatus for the measurement, conveyance, reception or storage of water and Drainage without the prior written consent of the Co-operative.

92 DEFAULT

92.1 The member must:

- (a) comply at all times with the provisions of these Water Supply Rules;
- (b) at all times observe the provisions of the Law;
- (c) not do anything (or allow anything to be done) in relation to the Landholding or the Member's Nominal Water Entitlements, the doing or omission of which may result in a breach by the Co-operative of any of the Licences, or may render any of the Licences liable to suspension or cancellation; and
- (d) at all times comply (or procure compliance) with all environmental protocols, best management practices, cropping regimes and other catchment management policies from time to time implemented or adopted in respect of the Landholding;

and the member will be in default of these Water Supply Rules if the member contravenes any of these obligations.

92.2 Subject to **Rule 92.7**, where a member is in default the Co-operative may by written demand require the default to be remedied. If the default by the member continues for 30 days after the written demand the Co-operative is entitled to take any action necessary to remedy the default on behalf of the member. All costs incurred by the Co-operative in remedying the default may be charged to the member.

92.3 Subject to **Rule 92.7**, if:

- (a) the member repeatedly defaults; or
- (b) if any default of the member is so severe or prolonged that the Co-operative forms the view (on reasonable grounds) that the default may cause or substantially contribute to a breach of the Licences (or any of them), the Law or any legal right or entitlement of a third party;

the Co-operative may suspend all or part of the member's water supply, pending remedy of the default and without any obligation to make up any shortfall in supply to the member once the default is remedied.

92.4 Subject to **Rule 92.7**, if the existing manner of use of the Landholding (including, if relevant, the application of water) is or becomes (by reason of any of the Licences or a variation of any of them) likely, in the reasonable opinion of the Co-operative, whether immediately or over a period of time, to cause a breach of any of the Licences, the member will not be in default by virtue of such use until:

- (a) the Co-operative has given a written notice to the member specifying the manner in which the use may result in a breach of the Licences (or any of them) and

recommending to the member alterations to the use of the Landholding to remedy or avoid the breach; and

- (b) the member has failed to provide to the Co-operative written evidence that the recommendations of the Co-operative are being implemented by the member, or to provide to the Co-operative a written proposal setting out reasonable (in the opinion of the Co-operative) alternatives to the Co-operative's recommendations in relation to the use of the Landholding within 60 days after the receipt of the notice referred to in **Rule 92.4(a)**.

92.5 If the member proposes alternatives to the Co-operative's recommendations in accordance with **Rule 92.4(b)**:

- (a) the Co-operative will advise the member, within 30 days of receiving the written proposal, whether the member's alternatives are acceptable;
- (b) within a further 30 days the Co-operative and the member will agree on alternatives to the use of the Landholding and a timetable for their implementation;
- (c) if the implementation does not proceed in accordance with that timetable the Co-operative may serve a further notice on the member requiring implementation within 30 days; and
- (d) if at the expiration of the 30 day period the implementation has not proceeded in accordance with that notice the member will be in default and the Co-operative will be entitled to exercise all of its rights under this **Rule 92.5**.

92.6 The member will reimburse the Co-operative for any expenses incurred or loss or damage suffered as a result of a default.

92.7 Nothing in this **Rule 92** will prevent the Co-operative from immediately suspending the supply of water to the member where the Co-operative, upon becoming aware of a default by the member, reasonably determines that the default is so severe or its ramifications so serious or immediate (whether for the Co-operative or another person) that immediate suspension is necessary.

92.8 The Co-operative's rights under this **Rule 92** are in addition to any other rights the Co-operative may have at law or in equity.

93 GUARANTEES AND OTHER SECURITIES

93.1 The Co-operative's obligations under these Water Supply Rules are subject to the member, at its cost, arranging for the provision of such guarantee(s) and/or security(ies) (including without limitation third party guarantees) in favour of the Co-operative as the Co-operative may in its sole discretion require.

94 WARRANTY AND LIMITATION OF LIABILITY

94.1 The Co-operative warrants that it will use all reasonable endeavours to operate its business in an efficient and cost-effective manner and to comply with its obligation

under each of the Licences in order to maintain and keep current the Licences for each of their respective terms and any renewed term.

- 94.2 Nothing done or omitted to be done by the Co-operative or any persons acting under the authority of the Co-operative will render the Co-operative or that person liable for any loss, damage, sum of money, costs, cause of action, liability, claim or demand of any type by the member. Without limitation, no matter or thing done by the Co-operative, or by any person acting under the authority of the Co-operative, shall, if that matter or thing was done bona fide under **Rule 82.4** subject the Co-operative or any such person to any action, liability, claim or demand whatsoever.
- 94.3 A person does not have any right or claim to relief of any kind whatever in any legal or other proceeding against the Co-operative or officer or employee of the Co-operative in respect of any nuisance connected with or in any way arising out of:
- (a) the design, construction, alteration, maintenance, non-maintenance, operation, repair, disrepair or non-repair of a work owned or controlled by the Co-operative; or
 - (b) the destruction or damage, or partial destruction or partial damage, by flood, storm, tempest or otherwise of a work owned or controlled by the Co-operative; or
 - (c) the exercise, in respect of a work owned or controlled by the Co-operative, by the Co-operative of any function conferred or imposed on the Co-operative under this document, the Water Management Act or any other Act.
- 94.4 The Co-operative shall not incur any liability in respect of:
- (a) any advice furnished in good faith by the Co-operative relating to the likelihood of any land being flooded or the nature or extent of any such flooding;
 - (b) anything done or omitted to be done in good faith by the Co-operative in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding, including without limitation the carrying out of flood mitigation works; or
 - (c) any other thing done or omitted to be done in the exercise of the Co-operative's functions under any Law.
- 94.5 To the extent permissible by law, any and all implied warranties or representations by the Co-operative are negated. In particular, and without limitation, the Co-operative gives no warranty as to the quality of, or suitability for any purpose of, any water delivered by it and gives no warranty that any particular volume of water will be available at any time or times unless expressly agreed by the Co-operative in a particular instance.
- 94.6 Notwithstanding any other provision of these Water Supply Rules, the Co-operative will not be liable for any failure or delay in the Co-operative's performance of its obligations under these Water Supply Rules if such failure or delay is caused or contributed to by any event or circumstance beyond the control of the Co-operative.

95 GST

95.1 With the exception of any amount payable under this **Rule 95**, unless otherwise expressly stated all amounts stated to be payable under these Water Supply Rules are exclusive of GST.

95.2 Notwithstanding any other provision of these Water Supply Rules:

- (a) if a GST applies to any supply made by either party under or in connection with these Water Supply Rules; and
- (b) the party making the supply is or will be registered under GST Law at the time the supply is made by that party; and
- (c) a tax invoice (as that term is defined in the GST Law) in connection with the supply has been rendered by the supplier to the recipient of the supply,

the consideration (reduced, if required, in accordance with **Rule 95**) payable or to be provided for that supply will be increased by an amount equal to the GST liability properly incurred by the party making the supply.

95.3 If the imposition of a GST or any subsequent change in the GST Law is accompanied by or undertaken in connection with the abolition of or reduction in any existing taxes, duties or statutory charges (in this **Rule 95** “taxes”), the consideration payable by the recipient of the supply made under this document will be reduced by the actual costs of the party making the supply that are reduced directly or indirectly as a consequence of the abolition of or reduction in taxes.

95.4 The parties agree to meet prior to the imposition of a GST in order to determine in good faith the variation of any consideration in accordance with this **Rule 95**. In determining the amount of any reductions to the consideration in accordance with this **Rule 95**, the supplier must furnish the recipient of the supply with any relevant information reasonably requested by the supply recipient.

95.5 If this document requires a party to pay, reimburse or contribute to an amount for which the other party has received an invoice from a third party which includes GST, then the relevant amount for payment, contribution or reimbursement will be the GST Exclusive Value (calculated in accordance with the GST Law) of the supply to that other party.

96 MEMBER NOT TO CAUSE A CONTRAVENTION OF THE LICENCES

96.1 The Co-operative must notify the member from time to time in writing of the Co-operative’s obligations under its Licences.

96.2 The member must not knowingly do or omit to do anything that may cause a contravention of the Licences.

96.3 The member indemnifies and will keep indemnified the Co-operative from and against all claims and costs to which the Co-operative will or may become liable to as a result of any contravention referred to in **Rule 96.2** except to the extent that the negligence of the Co-operative causes or contributes to the quantum of any such claims or costs.

97 CERTIFICATE OF NOMINAL WATER ENTITLEMENTS

- 97.1 Every person whose name is entered as a member in the Register will without payment be entitled to a certificate under seal specifying the number of Nominal Water Entitlements of that member and the class, or classes, of water supply attaching to the Nominal Water Entitlements.
- 97.2 In the event of an inconsistency between a certificate (or certificates) issued under **Rule 97.1** and the Register, the Register shall prevail.
- 97.3 However, where Nominal Water Entitlements are held jointly by several persons, the Co-operative is only required to provide one Certificate of Nominal Water Entitlements. Delivery of a Certificate of Nominal Water Entitlements to one of the joint holders is sufficient delivery to all.
- 97.4 If a Certificate of Nominal Water Entitlements, letter of allotment, transfer, receipt or other document of title to Nominal Water Entitlements is lost, defaced or destroyed, a duplicate may be issued by the Co-operative on payment of a fee. This fee must not exceed \$50 and must be on such terms as to evidence and indemnity as the Board thinks fit. A replacement Certificate of Nominal Water Entitlements shall be marked as such.

98 REVIEW

- 98.1 The Co-operative must review these Water Supply Rules on the first anniversary of the formation of the Co-operative, and on every fifth anniversary of the formation of the Co-operative.
- 98.2 In the reviews referred to in **Rule 98.1** the Co-operative must consult with and consider in good faith any representations made by the members and any Stakeholder Representation Body.

99 VARIATION AND AMENDMENT

- 99.1 These Water Supply Rules may be amended in accordance with the Co-operatives Act.

100 COMMENCEMENT AND TERMINATION

- 100.1 The Water Supply Contract which has been re-named Water Supply Rules and the renaming continues the terms and conditions of the Water Supply Contract unless otherwise amended.
- 100.2 These Water Supply Rules will expire on the expiry of the Co-operative's Operating Licence and/or any subsequent licence periods in accordance with section 124 of the Water Management Act.

101 TERMINATION BY MEMBER

- 101.1 At any time on the giving of 30 days written notice to the Co-operative the member may terminate their obligations under these Water Supply Rules and all rights or obligations of the parties will cease except for any rights or obligations of the parties to one another arising out of anything occurring before the termination.

- 101.2 A notice of termination under **Rule 101.1** is ineffective unless the member:
- (a) transfers his or her Member's Nominal Water Entitlements in accordance with the Water Trading Rules;
 - (b) transfers or sells to the Co-operative his or her Corresponding Shares in accordance with the Rules;
 - (c) enters into an agreement with the Co-operative either on terms negotiated between the member and the Co-operative or on terms determined by a tribunal of competent jurisdiction whereby the Co-operative is possessed of legally enforceable rights equivalent to those set out in **Rule 87**; and
 - (d) has paid the Termination Fee as set out in **Rule 19**.

102 WAIVER

- 102.1 An action of the Co-operative in respect of these Water Supply Rules will only be binding against the Co-operative as a waiver if in writing and signed by an authorised officer of the Co-operative.
- 102.2 No custom or practice which evolves between the parties will constitute a waiver or lessen the Co-operative's right to insist upon the member's strict performance or observance of any provision of these Water Supply Rules or to exercise any of the Co-operative's other rights.
- 102.3 Regardless of the Co-operative's knowledge at the time, a demand by the Co-operative for Contributions or the subsequent acceptance of Contributions will not constitute a waiver of any earlier default by the member.

DIVISION 9 - WATER TRADING RULES

103 INTERPRETATION OF WATER TRADING RULES

- 103.1 In addition to the definitions set out in **Rule 1**, in these Water Trading Rules:

Annual Transferee Member means a member who is the transferee under a proposed Internal Annual Transfer or External Annual Transfer.

Applicants means the transferor and transferee under a Transfer Application.

External Annual Transfer means a contractual arrangement between a member and another person who may or may not be a member for the sale and purchase, subject to these Water Trading Rules, of a certain quantity (expressed in whole Megalitres) of the Member's Annual Allocation, for use:

- (a) only within the Season during which the Transfer is made; or
- (b) in the case of a Transfer made in the period between two Seasons, in the Season next following the Transfer.

and to *Annually Transfer Externally* shall have a corresponding meaning.

External Permanent Transfer means an agreement between a member and another person who may or may not be a member for an absolute legal assignment by way of sale and purchase, subject to these Water Trading Rules, of one or more Nominal Water Entitlements or share component and to **Permanently Transfer Externally** shall have a corresponding meaning.

External Temporary Transfer means an agreement between a member and another person who may or may not be a member under which the holder of Nominal Water Entitlements or share component agrees, subject to these Water Trading Rules, to transfer to the other person, for use for a period no longer than that set out in the relevant Water Sharing Plan for temporary transfers, a certain percentage of the Member's Nominal Water Entitlement or the person's share component in accordance with a Forward Water Entitlement Contract and to **Temporarily Transfer Externally** shall have a corresponding meaning.

External Transfer means an External Permanent Transfer, External Temporary Transfer or an External Annual Transfer.

Internal Annual Transfer means a contractual arrangement between a member and another member under which the holder of Nominal Water Entitlements agrees, subject to these Water Trading Rules, to transfer to the other member, for use:

- (a) only within the Season during which the Transfer is made; or
- (b) in the case of a Transfer made in the period between two Seasons, in the Season next following the Transfer;

a certain quantity (expressed in whole Megalitres) of the Member's Annual Allocation and to **Annual Transfer Internally** shall have a corresponding meaning.

Internal Permanent Transfer means an absolute legal assignment from a member to another member and shall include all of the rights which attach to the relevant Nominal Water Entitlements together with the Corresponding Shares and to **Permanently Transfer Internally** shall have a corresponding meaning.

Internal Temporary Transfer means a contractual arrangement between a member and another member under which the holder of Nominal Water Entitlements agrees, subject to these Water Trading Rules, to transfer to the other member, for use for a period no longer than that set out in the relevant Water Sharing Plan for temporary transfers, a certain quantity (expressed in whole Megalitres) of the Member's Nominal Water Entitlement in accordance with a Forward Water Entitlement Contract and to **Temporarily Transfer Internally** shall have a corresponding meaning.

Internal Transfer means an Internal Permanent Transfer, Internal Temporary Transfer or an Internal Annual Transfer.

Into the Area of Operations means, when referring to an External Transfer, a Transfer to a member from another person who may or may not be a member with either additional Nominal Water Entitlements (in the case of an External Permanent Transfer), or a quantity of the volumetric allocation attaching to Nominal Water Entitlements in the case of an External Annual Transfer.

Notice of Sale means a notice, in the form prescribed by the Co-operative from time to time, as to the sale of a Member's Landholding and/or Nominal Water Entitlements and Corresponding Shares.

Order, when used in connection with the supply of water to a member, means an order for water in the prescribed form (if any) and placed with the Co-operative in the manner prescribed in the Distribution Rules.

Out of the Area of Operations means, when referring to an External Transfer, a Transfer from a member to another person who may or may not be a member with either Nominal Water Entitlements (in the case of an External Permanent Transfer), or a quantity of the volumetric allocation of water attaching to Nominal Water Entitlements in the case of an External Annual Transfer.

Purchaser means any transferee, purchaser or disposee, whether by way of gift, declaration of trust or for value.

Transfer means an Internal Annual Transfer, an Internal Temporary Transfer, an Internal Permanent Transfer, an External Annual Transfer, an External Temporary Transfer or an External Permanent Transfer, as the context requires.

Transfer Application means an application for a Transfer completed and signed and in the form determined by the Co-operative.

Transfer Assessment Criteria has the meaning given to that term in **Rule 105**.

Transferee means the party to a Transfer Application proposing to acquire additional Nominal Water Entitlements, or an additional quantity of volumetric allocation of water, as the case may be.

Transferor means the party to a Transfer Application proposing to sell Nominal Water Entitlements or a quantity of volumetric allocation of water, as the case may be.

104 TRANSFERS AND RESTRICTIONS

104.1 Except as may be provided under **Rule 38** (Transformation), the member may not sell, transfer or otherwise dispose of in any other way the Member's Nominal Water Entitlements or Shares (or any interest in them) or the Member's Annual Allocation (in whole or in part) except:

- (a) in the case of an Internal Annual Transfer to another member in accordance with **Rule 106**;
- (b) in the case of an Internal Temporary Transfer to another member in accordance with **Rule 107**;
- (c) in the case of an Internal Permanent Transfer to another member in accordance with **Rule 108** or **Rule 109** (as the case may require) and **Rule 27**;
- (d) in the case of an External Annual Transfer Out of the Area of Operations in accordance with **Rule 110**;

- (e) in the case of an External Annual Transfer Into the Area of Operations in accordance with **Rule 111**;
 - (f) in the case of an External Temporary Transfer Out of the Area of Operations in accordance with **Rule 112**;
 - (g) in the case of an External Temporary Transfer Into of the Area of Operations in accordance with **Rule 113**;
 - (h) in the case of an External Permanent Transfer Out of the Area of Operations in accordance with **Rule 114**;
 - (i) in the case of an External Permanent Transfer Into the Area of Operations, in accordance with **Rule 115**; and
 - (j) in the case of cancellation or forfeiture of Corresponding Shares, in accordance with **Rule 116**.
- 104.2 No Permanent Transfer is permitted if the effect of that Transfer is that the number of Member's Nominal Water Entitlements is not equal to the number of Shares held by that member.
- 104.3 The member may not transfer the Member's Shares (or any of them) except together with an Internal Permanent Transfer and then only the Corresponding Shares.
- 104.4 The member may Permanently Transfer Externally provided that such a transfer does not have the effect of reducing the Co-operative's Nominal Water Entitlement under its General and High Security Water Access Licences by more than that percentage amount determined under Clause 63 of the Intergovernmental Agreement on a National Water Initiative.
- 104.5 External Permanent Transfers are permitted but must be in accordance with any conditions which may be imposed by the Board of the Mutual, which may include the payment of an exit fee.
- 104.6 The Board may approve a Transfer unconditionally or subject to conditions.
- 104.7 The Co-operative may annually transfer internally water not required to service Members' Annual Allocations.

105 TRANSFER ASSESSMENT CRITERIA

- 105.1 Every Transfer Application for an External Permanent Transfer or an Internal Permanent Transfer must be determined by the Board.
- 105.2 A Transfer Application for an External Annual Transfer or an Internal Annual Transfer may be determined by the Chief Executive.
- 105.3 Every Transfer Application must be determined in accordance with the following criteria (the "Transfer Assessment Criteria"):
- (a) water delivery efficiency;

- (b) Transmission Losses;
- (c) environmental concerns;
- (d) channel capacity;
- (e) geographical location;
- (f) maintenance or operations;
- (g) suitable drainage and recycling facilities;
- (h) height of water tables or rapid water table rise;
- (i) soil salinity;
- (j) whether infrastructure improvements will be required;
- (k) the obligation to pay an annual Access Fee or a Termination Fee;
- (l) the number of Nominal Water Entitlements, or the volumetric allocation attaching to Nominal Water Entitlements, as the case may be, which will be available to the Landholding of the transferor following the Transfer; and
- (m) the number of Nominal Water Entitlements, or the volumetric allocation attaching to Nominal Water Entitlements, as the case may be, the subject of the Transfer Application.

105.4 In considering and determining any Transfer Application, the Board or the Chief Executive (as the case may be) may attribute such weight to each of the Transfer Assessment Criteria as it or they determine in the context of the Transfer Application under consideration.

105.5 The Board or the Chief Executive (as the case may be) may also (and where they are under an obligation at law to do so, must also) take into account other criteria relevant to the Co-operative's obligations under the Licences.

105.6 Subject to **Rules 105.7** and **105.10**, no Transfer will take effect until the Board or the Chief Executive (as the case may be) have altered the Register (in the case of Internal and External Permanent Transfers) or the appropriate records of the Co-operative (in the case of Internal and External Annual and Temporary Transfers) to record the Transfer.

105.7 No External Transfer may take effect, and the consent of the Board or the Chief Executive (as the case may be) to all Transfers remains in escrow, until the Ministerial Corporation and each other authority (if any) having jurisdiction in relation to the proposed Transfer approves the proposed Transfer.

105.8 The Co-operative may refuse a Transfer unless all Contributions payable by the transferor member (if applicable) and the transferee member (if applicable) have been paid.

105.9 The Co-operative may refuse a Transfer if there is any interest or dealings listed on the register of interests and dealings in Shares and Nominal Water Entitlement and the

consent (if required) of the holder of any such interest or dealing has not been obtained by the Applicant.

105.10 The Co-operative is not obliged to seek the approval of, nor to join in any application to, the Ministerial Corporation or any other authority (if any) whose approval is required in respect of the proposed Transfer, unless and until the Transfer Application has been approved by the Board or the Chief Executive (as the case may be).

105.11 In the case of an Internal Permanent Transfer which is to take place in the course of a sale of the Landholding to which the relevant Nominal Water Entitlements are referable, the Transfer will not take effect unless and until the Co-operative receives a Notice of Sale executed by both Applicants together with an Application to Transfer the Shares and associated Nominal Water Entitlements duly stamped by the Office of State Revenue.

106 INTERNAL ANNUAL TRANSFERS

106.1 In addition to any other requirements set out in these Water Trading Rules, an Internal Annual Transfer may only be effected by lodging a Transfer Application, made by both the Applicants, to the Co-operative to approve the delivery of that quantity of the Member's Annual Allocation to the Member's Outlet of the transferee member in accordance with Orders placed by the transferee member.

106.2 Immediately the Internal Annual Transfer takes effect in accordance with **Rule 105**, and for the Season in which the Transfer occurs (or in respect of which it is to be effective) the Co-operative may act upon the Order of the transferee, to the exclusion of the transferor, in relation to the quantity of the Member's Annual Allocation transferred.

107 INTERNAL TEMPORARY TRANSFERS

107.1 In addition to any other requirements set out in these Water Trading Rules, an Internal Temporary Transfer may only be effected by lodging a Forward Water Entitlement Contract, signed by both the Applicants, to the Co-operative to approve the delivery of that quantity of the Member's Nominal Water Entitlement to the Member's Outlet of the transferee member in accordance with Orders placed by the transferee member.

107.2 Immediately the Internal Temporary Transfer takes effect in accordance with **Rule 105**, and for the term in which the Transfer occurs, the Co-operative may act upon the order of the transferee, to the exclusion of the transferor, in relation to the quantity of the Member's Nominal Water Entitlement transferred.

108 INTERNAL PERMANENT TRANSFERS INDEPENDENT OF THE TRANSFER OF A LANDHOLDING

108.1 In addition to any other requirements set out in these Water Trading Rules, an Internal Permanent Transfer may only be effected by lodging with the Co-operative a Transfer Application, made by both the Applicants, for the approval of the Co-operative in respect of the Transfer.

108.2 In the course of completing the Transfer Application the Selling and Purchasing Members must nominate one of the following:

- (a) that the associated Delivery Entitlements will remain with the Seller who will continue to pay the associated annual Access Fees levied against those Delivery Entitlements; or
- (b) that the associated Delivery Entitlements will be transferred to the Purchaser who will assume responsibility for the annual Access Fees levied against those Delivery Entitlements; or
- (c) apply to the Co-operative for the cancellation of the associated Delivery Entitlements and pay the associated Termination Fee.

109 INTERNAL PERMANENT TRANSFERS IN THE COURSE OF THE TRANSFER OF A LANDHOLDING

109.1 An Internal Permanent Transfer in the course of the transfer of a Landholding must be effected in the same manner as any other Internal Permanent Transfer, and in addition the Co-operative must be satisfied:

- (a) that the Transfer is a condition of the sale, transfer or other disposition of the Landholding, or of a part of the interest of the member in the Landholding;
- (b) that the Transfer is in respect of all the Nominal Water Entitlements in relation to that Landholding, or an interest (in the same proportion as the interest being disposed of in the Landholding bears to the Landholding) in all of the Nominal Water Entitlements in relation to the Landholding;
- (c) that the Applicants have procured the agreement in writing (in a form satisfactory to the Co-operative) of any mortgagee of the Landholding, any holder of an interest registered on the register of interests in Shares and Nominal Water Entitlement referred to in **Rule 17** and of any other person who will hold any interest in the Landholding following the Transfer, under which the mortgagee or other person agrees to comply in all respects with the provisions of the Water Supply Rules.

109.2 Upon the completion of the disposition of the Landholding, or the relevant interest in the Landholding (as the case may be), the transferor must procure that a Notice of Sale is:

- (a) completed and executed by the transferor and the transferee; and
- (b) delivered to the Co-operative.

109.3 Upon the completion of the disposition of the Landholding, or the relevant interest in the Landholding (as the case may be), the transferor must ensure that an Application to Transfer the Shares and associated Nominal Water Entitlements duly stamped by the Office of State Revenue is:

- (a) completed and executed by the transferor and the transferee; and
- (b) delivered to the Co-operative.

110 EXTERNAL ANNUAL TRANSFER OUT OF THE AREA OF OPERATIONS

- 110.1 For the purposes of this **Rule 110** and **Rules 111, 112, 113, 114** and **115** the expressions “access licence” and “water allocation” shall have the same meaning as given to them in the Dictionary of the Water Management Act. “Share component” shall have the same meaning as given to it in section 56 of the Water Management Act.
- 110.2 External Annual Transfer Out of the Area of Operations may only be effected by each of the Applicants completing and lodging with the Co-operative a Transfer Application for the Co-operative to apply under Division 4, Part 2, Chapter 3 of the Water Management Act for an assignment of water allocation to the person holding the access licence pursuant to which the transferee Applicant is supplied with water.

111 EXTERNAL ANNUAL TRANSFER INTO THE AREA OF OPERATIONS

- 111.1 An External Annual Transfer Into the Area of Operations may only be effected by the Applicants completing and lodging with the Co-operative a Transfer Application, for the Co-operative to apply under Division 4, Part 2, Chapter 3 of the Water Management Act for an assignment of water allocation from the person holding the access licence pursuant to which the transferor Applicant is supplied with water to the Co-operative.

112 EXTERNAL TEMPORARY TRANSFER OUT OF THE AREA OF OPERATIONS

- 112.1 An External Temporary Transfer Out of the Area of Operations may only be effected by each of the Applicants completing and lodging with the Co-operative a Transfer Application for the Co-operative to apply under Division 4, Part 2, Chapter 3 of the Water Management Act for an assignment of share component to the person holding the access licence pursuant to which the transferee Applicant is supplied with water.
- 112.2 The member Applicant must procure that the person holding the access licence pursuant to which the transferee Applicant is supplied with water enter into an agreement with the Co-operative to ensure that the share component is assigned back to the Co-operative at the end of the agreed term for the transfer of share component.

113 EXTERNAL TEMPORARY TRANSFER INTO THE AREA OF OPERATIONS

- 113.1 An External Temporary Transfer Into the Area of Operations may only be effected by the Applicants completing and lodging with the Co-operative a Transfer Application for the Co-operative to apply under Division 4, Part 2, Chapter 3 of the Water Management Act, for an assignment of share component of part of the access licence from the person holding the access licence pursuant to which the transferor Applicant is supplied with water to the Co-operative.
- 113.2 The Co-operative must enter into an agreement with the person holding the access licence pursuant to which the transferor Applicant is supplied with water to ensure that the share component is assigned back to that person at the end of the agreed term for the transfer of share component.

114 EXTERNAL PERMANENT TRANSFERS OUT OF THE AREA OF OPERATIONS

- 114.1 An External Permanent Transfer Out of the Area of Operations may only be effected by the Applicants lodging with the Co-operative a Transfer Application for the Co-operative to apply under Division 4, Part 2, Chapter 3 of the Water Management Act, for an assignment of part of the share component of the Co-operative, to the person holding the access licence pursuant to which the transferee Applicant is supplied with water.
- 114.2 In applying for an External Permanent Transfer Out of the Area of Operation the Selling Member is required to apply for:
- (a) the Termination of the associated Delivery Entitlements and payment of the associated Termination Fee; or
 - (b) the retention of the associated Delivery Entitlements and the continued payment of the annual Fixed Charges levied against those Delivery Entitlements.

115 EXTERNAL PERMANENT TRANSFERS INTO THE AREA OF OPERATIONS

- 115.1 An External Permanent Transfer Into the Area of Operations may only be effected by the Applicants completing and lodging with the Co-operative a Transfer Application for the Co-operative to apply under Division 4, Part 2, Chapter 3 of the Water Management Act, for an assignment of share component from the person holding the access licence pursuant to which the transferor Applicant is supplied with water to the Co-operative.
- 115.2 An External Permanent Transfer Into the Area of Operations will require the Co-operative allot to the Purchasing Member a Corresponding number of Shares in the Co-operative.
- 115.3 If the Applicant requires delivery of the available water allocation associated with the External Permanent Transfer Into the Area of Operations the Applicant must apply to the Co-operative for a number of Delivery Entitlements equal to the number of Nominal Water Entitlements associated with each Application.

116 CANCELLATION OR FORFEITURE OF CORRESPONDING SHARES

- 116.1 If the Share of a member is due to be cancelled or forfeited under the Rules the member must Permanently Transfer Internally or Permanently Transfer Externally the Corresponding Nominal Water Entitlements in accordance with the Water Trading Rules.
- 116.2 If the member fails to Permanently Transfer Internally or Permanently Transfer Externally the Corresponding Nominal Water Entitlements by the date of forfeiture or cancellation the member must, under this Rule, permanently transfer the Corresponding Nominal Water Entitlements to the Co-operative at fair value.

117 OBLIGATIONS OF THE CO-OPERATIVE

- 117.1 The Co-operative will notify the Applicants of its determination on any Transfer Application within 30 days of receipt of a duly completed and executed Transfer Application accompanied by all of the required material and information.
- 117.2 If the Co-operative requires further information from the Applicants in order to determine the Transfer Application the Co-operative must notify the member within 14 days after the Co-operative receives the Transfer Application, of the additional information required. The Applicants must provide the information promptly. The 30 day period during which the Co-operative must determine the Transfer Application commences on receipt of the last of the information required by the Co-operative.
- 117.3 The Co-operative must promptly determine all Transfer Applications in accordance with these Water Trading Rules.
- 117.4 If a Transfer Application is approved the Co-operative must promptly record the Transfer in the Register (in the case of Internal and External Permanent Transfers) or the appropriate records of the Co-operative (in the case of Internal and External Annual Transfers).
- 117.5 If a member transfers the Member's Landholding together with the Member's Nominal Water Entitlements in accordance with these Water Trading Rules the Co-operative has discretion to refuse to register the transferee as a member, and is not obliged to provide any reasons for refusal.
- 117.6 If an Internal Permanent Transfer is approved the Co-operative must:
- (a) upon receipt of a duly executed Share transfer form, register the transfer of the Corresponding Shares to the transferee member; and
 - (b) cancel the existing certificates of the transferor member and the transferee member and;
 - (i) issue fresh certificates showing the quantity and distinctive identification numbers of the Share of the members;
 - (ii) issue fresh Certificates of Nominal Water Entitlements showing the quantity and distinctive identification numbers of the Member's Nominal Water Entitlements; and
 - (iii) if required issue fresh Certificates of Delivery Entitlements showing the quantity and distinctive identification numbers of the Member's Delivery Entitlements.
- 117.7 All Applicants, together with any Certificates evidencing title to Shares in the Co-operative, which are the subject of or are affected by the Transfer to which the Transfer Application relates, must be left for registration at the Registered Office or such other place as the Co-operative may permit and such other evidence as the Co-operative may reasonably require to show the right of the transferor to make the Transfer.

118 GENERAL

- 118.1 Any stamp duty payable in respect of any Transfer Application must be paid by the Applicants before a Transfer Application will be registered by the Co-operative.
- 118.2 Applicants must pay, bear and indemnify the Co-operative in respect of all duties, taxes and imposts assessed or assessable, charged or chargeable or for which the Co-operative may become liable by reason of the Transfer to which the Transfer Application relates.
- 118.3 Applicants must reimburse the Co-operative on demand for all costs incurred by the Co-operative (including an appropriate part of the Co-operative's overheads):
- (a) in considering the Transfer Application and all accompanying information;
 - (b) for the fees and expenses of any consultants engaged by the Co-operative to assist the Co-operative in its review and assessment of the Transfer Application; and
 - (c) payable to the Ministerial Corporation or to any other authority in relation to the Transfer Application or the Transfer itself;

or otherwise reasonably incurred as a direct result of the Transfer Application or the Transfer itself.

DIVISION 10 - CONTRIBUTIONS, OPERATING EXPENSES, RESERVES AND CHARGES TO MEMBERS

119 DETERMINATION OF CONTRIBUTIONS

- 119.1 The Board must on the last Business Day of each July, determine the:
- (a) Contributions for each class of water supply;
 - (b) Levies; and
 - (c) Termination Fees;
- and notify members of those determinations in the form of a Contribution Notice.
- 119.2 The Contributions determined by the Board for one class of water supply need not be the same as those determined for another class of water supply, but the Contributions determined for a class of water supply must be the same for all Nominal Water Entitlements conveying that class of water supply.
- 119.3 In determining Contributions for a Year the Board must calculate Contributions so as to cover costs and expenses and overheads of the Co-operative in carrying out its primary activities, including, but not limited to:
- (a) the amounts payable by the Co-operative pursuant to its Licences;

- (b) the anticipated costs of the operation by the Co-operative of its business and the performance of the Co-operative of its functions as an irrigation corporation for the relevant Year;
- (c) costs of regular repairs, refurbishment, maintenance and construction in relation to the Co-operative's assets for the Year;
- (d) amounts sufficient to allow accumulation of reserves at rates sufficient to meet anticipated expenses and liabilities of the Co-operative in future Years, including:
 - (i) a fund to be known as the "Asset Maintenance Fund" to cover maintenance and refurbishment expenses on the Co-operative's assets; and
 - (ii) such other reserves as the Co-operative may from time to time determine are prudent and reasonable to permit the Co-operative to carry out its primary activities; and
- (e) the costs and expenses of the Co-operative in delivering water to members.

119.4 The Board may at any time vary any Contribution, whether or not the member has paid that Contribution, for any reason including but not limited to:

- (a) an error however described having been made in the Contribution or in its calculation;
- (b) the provision of any additional services; and
- (c) any other factor, matter or circumstance determined by the Board.

119.5 The Board will notify the member of any variation in Contributions. Any variation will take effect from the date on which the relevant notice is delivered to the member or such other date as may be specified by the Board in such notice.

120 ESTABLISHMENT OF MANAGEMENT RESERVES

120.1 The Board must cause separate accounts to be kept for the Reserves established under **Rule 119.3**.

120.2 Subject to **Rule 120.3** moneys to the credit of the Reserves may only be utilised for the purposes stated (in respect of each particular reserve) in **Rule 119.3**.

120.3 Moneys to the credit of the Reserves may only be expended for a purpose other than those stated (in respect of each particular reserve) in **Rule 119.3(d)** if approved by an ordinary resolution of members at a general meeting.

DIVISION 11 - ACCOUNTS

121 FINANCIAL YEAR

121.1 The financial year of the Co-operative ends on the 30 June.

122 ACCOUNTS

- 122.1 The Board must have prepared the accounts, statements and directors' report in accordance with the Rules.
- 122.2 The Board must submit those accounts, statements and report, together with the auditor's report on those accounts, to the annual general meeting of the Co-operative, in accordance with the Rules.
- 122.3 The Board must also have a copy of everything required to be submitted under **Rule 122.2** displayed at the Registered Office for a period of not less than 14 days before the date of the annual general meeting of the Co-operative.
- 122.4 The Board must, at least 21 days before the date of the annual general meeting of the Co-operative, send a copy of everything required to be submitted under **Rule 122.2** to each member.

123 BANKING

- 123.1 The Board must have a banking account or accounts in the name of the Co-operative into which all moneys received must be paid as soon as possible after receipt.
- 123.2 All cheques drawn on these accounts and all drafts, bills of exchange, promissory notes, and other negotiable instruments for and on behalf of the Co-operative, must be signed by 2 directors or by any 2 persons authorised by the Board.

124 AUDIT

- 124.1 One or more auditors must be appointed, hold office, be remunerated, be removed and have qualifications, duties and responsibilities as provided by the Regulations or any order made by the Registrar pursuant to those Regulations.
- 124.2 All reasonable fees and expenses of the auditor are payable by the Co-operative.

DIVISION 12 - CO-OPERATIVE FUNDS

125 CO-OPERATIVE FUNDS

- 125.1 The Co-operative shall, in accordance with directions from the Mutual, collect sinking fund levies. The Co-operative is the agent of the Mutual and shall remit all funds collected in accordance with its instructions.
- 125.2 The Board may resolve to retain all or any part of the surplus arising in any Year from the business of the Co-operative to be applied for the benefit of the Co-operative.
- 125.3 Any part of the surplus arising in any Year from the business of the Co-operative or any part of the reserves may:
- (a) be paid to a member by way of rebate based on the business done by the member with the Co-operative;

- (b) be applied by way of the issue of bonus Shares to a member provided water has been secured by the Co-operative such that at the same time as the issue of each bonus Share a Corresponding Nominal Water Entitlement can be issued to the member without causing a reduction in the respective volumetric allocations attaching to other Member's Nominal Water Entitlements; or
- (c) be paid to a member by way of limited dividend ("limited dividend" means a dividend that does not exceed the prescribed amount),

which rebate, bonus or dividend must be declared at any general meeting of the Co-operative.

125.4 The rebate, bonus or dividend must not exceed:

- (a) the amount recommended by the Board; nor
- (b) the percentage permitted by the Co-operatives Act or the Regulations.

125.5 The amount of any rebate or dividend payable to a member under this Rule may, with the consent of the member, be applied:

- (a) in payment for the issue to the member of bonus Shares; or
- (b) as a loan to the Co-operative.

125.6 Any part of the surplus arising in any Year from the business of the Co-operative may be credited to any person who is not a member, but is qualified to be a member, by way of rebate in proportion to the business done by him or her with the Co-operative, if:

- (a) the person was a member at the time the business was done and the membership has lapsed; or
- (b) the person has applied for membership after the business was done.

125.7 Nothing in this Rule precludes the payment of a bonus to an employee in accordance with the terms of his or her employment.

125.8 A part of the surplus, not exceeding 10%, arising in any Year from the business of the Co-operative may be applied for:-

- (a) charitable purposes;
- (b) supporting any activity dedicated to community advancement approved by the Co-operative; or
- (c) promoting co-operation.

125.9 For the purposes of this Rule, "surplus" means the surplus remaining after making proper allowance for depreciation in value of the property of the Co-operative and for contingent liability for loss.

125.10 If a holder of Shares on which all calls due have been paid becomes entitled to a rebate, bonus or dividend, this amount must be paid to that person.

- 125.11 If a holder of partially paid up Shares becomes entitled to a rebate, bonus or dividend, this amount must be applied to pay off any subscriptions or calls on the Shares which remain due and unpaid by the holder at the time the rebate, bonus or dividend accrues.
- 125.12 If several persons are registered as joint holders of any Share any one of them may be given a valid receipt for any dividend or other monies payable on or in respect of the Share.
- 125.13 Notice of any rebate, bonus or dividend that may have been declared must be given by displaying it at the Registered Office and in any other manner the Board determines.
- 125.14 No rebate, bonus or dividend may bear interest against the Co-operative.
- 125.15 Any surplus resulting from the Co-operative's operations during a Year, after providing for depreciation in value of the Co-operative's property and/or for contingent liability for loss, must be applied to carrying out the Co-operative's primary activity.

DIVISION 13 - MISCELLANEOUS

126 SEAL

- 126.1 The name of the Co-operative must appear in legible characters on its common seal and on any official seal. The common seal must be kept at the Registered Office in such custody as the Board directs.
- 126.2 The Co-operative may, pursuant to section 49 of the Co-operatives Act, have for use in place of its common seal one or more official seals for use outside the State. Each of the official seals must be a facsimile of the common seal with the addition on its face of the name of every place where it is to be used.
- 126.3 The common seal of the Co-operative must not be affixed to any instrument except by resolution of the Board. Two directors or two persons authorised by the Board must be present and must sign all instruments sealed.
- 126.4 The person affixing the official seal must certify in writing on the instrument to which it is affixed the date on which and the place at which it is affixed.

127 CUSTODY AND INSPECTION OF RECORDS AND REGISTERS

- 127.1 The Co-operative must have at the office where the registers are kept and available during all reasonable hours for inspection by any *member* free of charge the following:
- (a) a copy of the Co-operatives Act and the Regulations;
 - (b) a copy of the Rules;
 - (c) a copy of the last annual report of the Co-operative under section 252 of the Co-operatives Act;
 - (d) a copy of the minutes of each general meeting;
 - (e) the register of directors, members and Shares;

- (f) the register of interests and dealing in Shares and Nominal Water Entitlement;
- (g) the register of the names of persons who have given loans or deposits to, or hold securities or debentures given or issued by, the Co-operative;
- (h) the register of notifiable interests which is to be entered in alphabetical order of the names of persons from whom the Co-operative has received notification under **Rules 23** and **46**; and
- (i) such other registers as the Co-operatives Act or the Regulations provide are to be open for inspection.

127.2 A member is entitled to make a copy of entries in a register specified in this Rule and to do so free of charge. The Co-operative may charge an amount per page for photocopies.

127.3 The Co-operative must have at the place where the registers are kept and available during all reasonable hours for inspection by any person:

- (a) a copy of the Co-operatives Act and the Regulation;
- (b) a copy of the Rules; and
- (c) a copy of the last annual report of the Co-operative under section 252 of the Co-operatives Act.

128 PROVISION FOR LOSS

128.1 The Board must make such provisions for loss which may result from the transactions of the Co-operative as the Co-operatives Act requires or allows.

129 DISPUTE RESOLUTION

129.1 If a Dispute arises a party may not commence any court or arbitration proceedings relating to the Dispute unless it has complied with this Rule except where the person seeks urgent interlocutory relief.

129.2 The IAC may be asked to advise the Board in relation to any Dispute. In consideration of a Dispute only the elected members of the IAC may sit as a mediating committee and make recommendations to the Board.

129.3 Where a Dispute has been referred to the CEC under **Rule 129** prior to 27 April 2006 the CEC as constituted under **Rule 76** may hear or continue to hear the matter as if this Rule had not been amended.

130 DISPUTES COMMITTEES

130.1 The IAC will comprise three members selected from a pool of not more than seven members elected by the members. The Board may also appoint four independent advisors to the IAC.

- 130.2 The IAC shall conduct their business in the same manner as is specified in the Rules for the conduct of meetings of the Board (subject to the qualifications and limitations set out in this Rule).
- 130.3 The IAC shall be empowered to consider, and to make recommendations to the Board, in relation to any matter affecting any member of the Co-operative, and the Co-operative, arising out of:
- (a) these Rules (other than this Rule); and/or
 - (b) any order, Water Supply Rules, Water Trading Rules or any other provisions determined from time to time by the Board.
- 130.4 The IAC may not consider any matter or issue otherwise than on the application of either:
- (a) a member (or members) of the Co-operative; or
 - (b) a member (or members) of the Board.
- 130.5 The application shall:
- (a) be in writing;
 - (b) be signed by the applicant;
 - (c) be in a form (if any) prescribed by the Board;
- and provide in relation to the matter (or issue) which is the subject of the Dispute:
- (d) an accurate description of any affected Landholding;
 - (e) the nature of the Dispute and the date on which the Dispute commenced;
 - (f) copies of any correspondence, notices, plans, data or other information which may be directly relevant to the matter or issue;
 - (g) a succinct statement of the result, remedy or outcome sought by the applicant; and
 - (h) a succinct statement of the basis upon which the applicant believes that result, remedy or outcome to be just and reasonable.
- 130.6 The IAC may request additional information by notice in writing from the applicant, from the Board, or from another member. The applicant, the Board or that other member shall provide that information (subject to rights or privileges and to the law relating to secrecy and confidential information) to the committee which has requested that information within the time prescribed in the notice (or otherwise within a reasonable time).

131 NOTICES

- 131.1 A notice or other document is required to be given to a member under the Rules or the Co-operatives Act:
- (a) personally;
 - (b) by post; or
 - (c) subject to section 440A of the Co-operatives Act, by publishing the notice in a newspaper circulating generally in the State or in the area served by the Co-operative.
- 131.2 A document may be served on a Co-operative:
- (a) by post addressed to the Registered Office; or
 - (b) by leaving it at the Registered Office with a person who appears to be aged 16 or more.
- 131.3 Where a notice is sent by post, service is deemed to be effected by properly addressing, prepaying and posting a letter containing the notice. In the case of a notice of a meeting, service is deemed to be effected at the expiration of 24 hours after the letter containing the notice is posted. In every other case service is deemed to be effected at the time at which the letter would be delivered in the ordinary course of post and in proving this service it is enough to prove that the envelope containing the notice was properly addressed and posted.
- 131.4 A notice or other document to a member, advertised in a newspaper, is deemed to be duly given to the member on the date on which the advertisement appears.
- 131.5 A notice forwarded by facsimile transmission is deemed to have been served, unless the sender's facsimile machine indicates a malfunction in transmission, on the day of transmission if transmitted during a Business Day, otherwise on the next following Business Day.
- 131.6 A notice may be given by the Co-operative to the joint holders of a Share by giving the notice to the joint holder named first in the Register in respect of that Share.
- 131.7 A notice may be given by the Co-operative to the person entitled to a Share in consequence of the death, incapacity or bankruptcy of a member by sending it through the post in a prepaid letter addressed to that person by name. Alternatively, it can be addressed to the person by the title of the representative of the deceased, or incapacitated person, or trustee of the bankrupt, or by any like description. The address should be that supplied for the purpose by the person claiming to be entitled. Alternatively, if no such address has been supplied the notice can be given in the manner in which it could have been given if the death incapacity or bankruptcy had not occurred.
- 131.8 Notice of every general meeting must be given, in same manner as authorised above to:
- (a) every member of the Co-operative except those members who have not supplied to the Co-operative an address for the giving of notices to them; and

- (b) every person entitled to a Share in consequence of the death, incapacity or bankruptcy of a member who, but for that member's death, incapacity or bankruptcy would be entitled to receive notice of the meeting.

131.9 For the purpose of this Rule "registered address" means the address of the member as appearing in the Register.

132 WINDING UP

132.1 The winding up of the Co-operative must be in accordance with Part 12 of the Co-operatives Act.

133 FINES PAYABLE BY MEMBERS

133.1 The Board may impose on a member a maximum fine of \$500 for any infringement of the Rules.

133.2 A fine pursuant to **Rule 133.1** exceeding \$20 must not be imposed on a member unless:

- (a) written notice of intention to impose the fine and the reason for it has been given to the member; and
- (b) the member has been given a reasonable opportunity to appear before the Board in person (with or without witnesses) or to send to the Board a written statement for the purpose of showing cause why the fine should not be imposed.

133.3 Notwithstanding **Rule 133.1** above, the Board may impose on a member the equivalent of any fine imposed upon the Co-operative by a Government or statutory authority as a result of a legal obligation of the Co-operative arising from the action or inaction of a member.

134 BY-LAWS

134.1 The Board may make By-Laws not inconsistent with the Co-operatives Act, the Regulations or the Licences to govern the Co-operative's conduct and dealings with non-members.

134.2 The Board may also make By-Laws known as the Distribution Rules.

135 SCHEDULE OF CHARGES

Copy book of Rules	-	Rule 2	-	\$20.00
Duplicate Share Certificate-		Rule 13	-	\$50.00
Nominal Value of Shares	-	Rule 20	-	\$1.00
Transfer of Shares	-	Rule 27	-	\$50.00
Termination Fee	-	Rule 19	-	as published annually
Annual Access Fee	-	Rule 19	-	as determined by the Board

Transfer of Debentures	-	Rule 34	-	\$50.00
Transfer of Water	-	Rule 118	-	as published annually
Inspection of Register	-	Rule 127	-	free
Maximum Fine	-	Rule 133	-	\$500.00
Transformation Fee	-	Rule 38	-	as published annually

SCHEDULE 1

“Transfer of Share Forms”

I, of.....
in consideration of the sum of \$
paid to me by, of
(hereinafter called "the transferee") transfer
the Share (or Shares) numbered
.....

in COLEAMBALLY IRRIGATION CO-OPERATIVE LIMITED

to the transferee, the transferee's executors, administrators, and assigns, subject to the several conditions on which I hold the Share or Shares at the time of execution of this form (“**conditions**”);

and I, the transferee, agree to take the Share (or Shares) subject to the conditions and further acknowledge that on registration of the transfer I must become a member of the Mutual and will be liable for additional Contributions to the Co-operative and the Mutual.

EXECUTED on the day of in the year of

Signed by

....., transferor.

In the presence of, witness.

Signed by

....., transferee.

In the presence of, witness.

SCHEDULE 2

“Transfer of Debenture Forms”

I, of.....
in consideration of the sum of \$
paid to me by, of
(hereinafter called "the transferee") transfer
the debenture (or debentures) numbered
.....

in COLEAMBALLY IRRIGATION CO-OPERATIVE LIMITED

to the transferee, the transferee's executors, administrators, and assigns, subject to the several conditions on which I hold the debenture or debentures at the time of execution of this form (“**conditions**”);

and I, the transferee, agree to take the Share (or Shares) subject to the conditions.

EXECUTED on the day of in the year of

Signed by

....., transferor.

In the presence of, witness.

Signed by

....., transferee.

In the presence of, witness.

SCHEDULE 3

PROXIES

COLEAMBALLY IRRIGATION CO-OPERATIVE LIMITED

I/We, (Name) of (Address)

being a member/s of the abovenamed Co-operative hereby appoint

..... (Name) of (Address) as my/our proxy, to vote for me/us and on my/our behalf at the

*annual general/

*special general meeting of the Co-operative,

to be held on the day of

.....(month) (year) and at any adjournment of that meeting.

=This form is to be used *in favour/*against the resolution:

Signed this day of in the year.....

* Strike out whichever is not applicable.

= To be inserted if desired

CERTIFICATION

We the undersigned, certify that this is a copy of the Rules which was presented to the formation meeting on 30th June 2000 at Coleambally Bowling Club, Coleambally, NSW 2707 for the purpose of forming a co-operative to be known as **‘Coleambally Irrigation Co-operative Limited.**

..... Signature of Chairperson of Formation Meeting

..... Name of Chairperson of Formation Meeting

..... Signature of Secretary of Formation Meeting

..... Name of Secretary of Formation Meeting

SCHEDULE 4

CLASSES OF WATER SUPPLY

Description of Classes of Water Supply

Class A Water Supply

High security volumetric allocation water to be supplied for horticultural or industrial use, as noted in the Irrigation Corporation Licence and recorded in the Register for an individual member.

An approved Meter must be installed and functioning in the Member's Outlet to gain access.

An advance (as determined from time to time) water order must be placed on the Co-operative's water ordering system prior to gaining access.

Class B Water Supply

Normal security volumetric allocation water to be supplied to large area irrigation farms, horticulture farms, domestic gardens and for recreation use as noted in the Irrigation Corporation Licence and recorded in the Register for an individual member.

An approved Meter must be installed and functioning in the Member's Outlet to gain access.

An advance (as determined from time to time) water order must be placed on the Co-operative's water ordering system prior to gaining access.

Class F Water Supply

High flow opportunistic water to a Member's Outlet installed in the Co-operative's Drainage system. There are no Nominal Water Entitlements attached to Class F Water Supply.

Meter must be installed and functioning on the Member's Outlet to gain access. Meter readings must be supplied to the Co-operative to continue access.

An advance (as determined from time to time) water order must be placed on the Co-operative's water ordering system prior to gaining access.

The availability of Class F Water Supply may, in the discretion of the Co-operative, be suspended during periods where Class G Water Supply is made available by the Co-operative.

Class G Water Supply

High security volumetric allocation water supplied for the purpose of priority pumping to a Landholding to water stock in accordance with section 52 Chapter 3 part 1 Division 1 of the Water Management Act of 2000 (NSW) and the Access Licence.

Meter must be installed at the Customer's Outlet to gain access. Meter readings must be supplied to the Co-operative to continue access.

A Customer must place an order for water on the Co-operative's water ordering system no less than seven days prior to the date on which the customer wishes the water to be made available.

A minimum total daily ordered volume, in the West Coleambally Channel, of Class G Water Supply of 124 ML will apply to the delivery of Class G Water.

Class G Water Supply will only be made available, in the West Coleambally Channel, during the months of November and February, or any other mutually agreed time and, if made available, will be supplied over a period of 14 consecutive days during each of those months.

The Co-operative will provide transmission losses to make Class G Water Supply available to the member/customer in the West Coleambally Channel.

Any unutilised Class G Water Nominal Water Entitlements held by West Coleambally Channel members, at the end of February may, at the discretion of the Co-operative, be utilised to service transmission losses.

Overdraws and continuous accounting Rules will not apply to Class G Water Supply.

Access to Class F water in the West Coleambally Channel will be suspended during periods where Class G Water Supply deliveries are being made by the Co-operative. The Co-operative may waive this condition during a period of high flow in the West Coleambally Channel.

The provision of Class G Water Supply shall otherwise be at the discretion of the Co-operative having regard to the effect (if any) which such supply may have on the Nominal Water Entitlement in respect of the Landholding.

Annual Operating Rules for the West Coleambally Channel will be mutually agreed between West Coleambally Water Management Association (WCWMA) and the Co-operative and the member agrees to be bound by such Rules.

Class T Water Supply

High security volumetric allocation water to be supplied for town use, as noted in the Irrigation Corporation Licence and recorded in the Register for an individual member.

An approved Meter must be installed and functioning in the Member's Outlet to gain access.

An advance (as determined from time to time) water order must be placed on the Co-operative's water ordering system prior to gaining access.