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RULES
OF
COLEAMBALLY IRRIGATION MUTUAL
CO-OPERATIVE LIMITED

Registered under the Co-operatives Act 1992 (NSW)

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1 DEFINITIONS

1.1 In these Rules, unless the context otherwise requires:

Access Fee is the ongoing Contributions payable to the Mutual for the continuing right to access the irrigation water delivery assets that reflects the renewals annuity associated with those assets.

active member means a member who is in active membership within the provisions of **Rule 13**.

alter or similar word or expression used in relation to an amendment includes “add to”, “substitute”, and “rescind”.

Act means the Co-operatives Act 1992;

Auditor means an auditor or auditors for the time being of the Mutual appointed in accordance with **Rule 68**.

Banking Account includes an account with a credit union or building society into which the Mutual's monies may be paid.

Board means the whole or any number of the directors assembled at a meeting of the directors or transacting business in accordance with **Rule 51**, being not less than a quorum or a majority, as the case may be.

Business Day means a day that is not a Saturday or Sunday or a public holiday or bank holiday in New South Wales.

By-laws are those by laws made by the Board in accordance with **Rule 19A**.

CCU means Co-operative Capital Unit issued in accordance with these Rules.

CICL means Coleambally Irrigation Limited (ACN 090 619 953) or Coleambally Irrigation Co-operative Limited as the circumstances may require.

Coleambally Irrigation Infrastructure means the assets of CICL.

Contribution means an amount of money determined by the Board under **Rule 20**.

Delivery Entitlement is the entitlement to have water delivered by CICL at specified times, rates and locations under specified circumstances, and upon which the Contributions to be paid to the Mutual by each member, other than CICL, shall be calculated.

director means any director of the Mutual for the time being and any deputy director acting in the absence of a nominating director under **Rule 59**.

Existing Area of Operations has the meaning given to that term by the Operating Licence granted to CICL under section 39 of the Irrigation Corporation Act 1994 (NSW) .

financial year means the financial year of the Mutual as specified in **Rule 65**.

may or a similar word or expression used in relation to a power of the Board indicates that the power may be exercised or not exercised at the Board's discretion.

member means a member of the Mutual.

month means calendar month.

Mutual means Coleambally Irrigation Mutual Co-operative Limited.

Non-member Funds are funds that have not been raised from members and are non-mutual funds.

Postal Ballot includes a special postal ballot.

Prescribed means prescribed by the Act or under the Act by Regulation.

Provision in relation to the Act, means words or other matter that form or forms part of the Act, and includes:

- (a) a chapter, part, division, subdivision, section, subsection, paragraph, subparagraph, sub-subparagraph or schedule of or to the Act; and
- (b) a section, clause, subclause, item, column, table or form of or in a schedule to the Act; and
- (c) the long title and any preamble to the Act.

Regulation means a regulation made under the Act, and any regulation that applies to a co-operative by way of a transitional regulation made under the Act.

Relevant Interest has the same meaning as given in Schedule 2 of the Act.

Registrar means the Registrar of Co-operatives or any person delegated the Registrar's functions.

Rules mean the registered Rules of the Mutual as amended from time to time and reference to particular Rules has a corresponding meaning.

secretary means any person appointed by the Board as Secretary of the Mutual pursuant to **Rule 63**.

shall or a similar word or expression used in relation to a power of the Board indicates that the power must be exercised, subject to the Act or the Rule granting the power.

Sinking Fund means the Fund established under **Rule 20.5(b)(i)**.

Sinking Fund Levy means the levy raised for the Sinking Fund.

Special Resolution means a resolution which is passed in accordance with **Rule 41**.

State means the State of New South Wales.

Termination Fee a fee payable to the Mutual by a member on the reduction of Contributions payable by the member as a result of the surrender of Delivery Entitlement with the corresponding removal of the rights and obligations associated with that Delivery Entitlement by CICL.

The Law means the Corporations Law.

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

Year means the financial year of the Mutual.

1.2 Words:

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

1.3 A reference in these Rules to "the Act" includes a reference to:

- (a) the Act as originally enacted, and as amended from time to time since its original enactment; and
- (b) if the 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.

1.4 References to the Law are as adopted by the Act.

1.5 A reference in these Rules to a provision in "the 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, or paragraph of a Rule, the interpretation that will best achieve the purpose of the Rule is to be preferred to any other interpretation.

1.7 This provision applies whether or not the purpose is expressly stated in the Rule or paragraph of the Rule.

1.8 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 of the Mutual have the effect of a contract under seal:

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

- 2.2 Under the contract, each of those persons agrees to observe and perform the provisions of the Rules as in force for the time being so far as those provisions are applicable to that person.
- 2.3 The Rules may be altered by a special resolution, by a resolution of the Board in accordance with Section 112 of the Act or as otherwise permitted by the Act. No alteration to these Rules takes effect until the alteration is registered by the Registrar.
- 2.4 Where any Rule is altered, by way of a Board resolution under Section 112, the Mutual 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 Mutual, following the registration of the alteration.
- 2.5 A person shall be entitled on demand to a copy of the Rules upon payment of a sum not exceeding \$20, or such other amount as the Board may from time to time determine.
- 2.6 A person may inspect a copy of these Rules free of charge at the office where the registers are kept, during all reasonable hours.
- 2.7 In these Rules, unless the context indicates a contrary intention, headings are for convenience and do not affect interpretation.

3 NON-TRADING CO-OPERATIVE

- 3.1 The Mutual is a non-trading co-operative within the meaning of Section 15 of the Act.

4 NAME

- 4.1 The name of the Co-operative shall be:

COLEAMBALLY IRRIGATION MUTUAL CO-OPERATIVE LIMITED

- 4.2 The Mutual may, in accordance with Section 259, change its name by way of a special resolution to a name approved of by the Registrar.

5 CHANGE OF REGISTERED OFFICE

- 5.1 The Board shall notify the Registrar of any change of address of the registered office of the Mutual within 28 days after the change, and on the form approved by the Registrar.

6 OBJECTS

- 6.1 The objects of the Mutual shall be:

- (a) to replace and refurbish Coleambally Irrigation Infrastructure for the benefit of members;

- (b) to protect the Coleambally Irrigation Infrastructure by providing financial security and a separate legal structure for the Sinking Fund and the assets acquired with the Sinking Fund;
- (c) to annually bill members and collect the Sinking Fund Levy;
- (d) to provide members with an annual report detailing the structure and security of investments and a summary of information relating to any major asset maintenance and renewal expenditure to be incurred;
- (e) to develop and implement a business plan and investment strategy that manages risk and sets financial investment objectives which provide future funding for the timely replacement and refurbishment of Coleambally Irrigation Infrastructure; and
- (f) to enter into agreements with CICL, or such other party as the Board thinks fit, for the collection of the Sinking Fund Levy and for the provision of an asset maintenance and renewal schedule and the implementation of the recommended works.

7 POWERS

7.1 The Mutual has, both within and outside the State:

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

7.2 The powers of the Mutual to:

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

shall be exercised subject to the Act, but otherwise unlimited by the Rules.

8 LOANS BY MEMBERS TO THE CO-OPERATIVE

8.1 The Mutual may, in accordance with Section 268 of the Act, require its members to lend money to the Mutual, with or without security, in accordance with a proposal approved by the members by special resolution.

8.2 The approved proposal shall be binding on all members at the date of the passing of the special resolution other than a member who has given notice of their intention to cease active membership in accordance with Section 268(3)(c) and on all persons who become members of the Mutual after that date and before the total amount of the loan to be raised has been raised.

9 DEALINGS OF MEMBERS WITH CO-OPERATIVES

9.1 The Mutual may, in accordance with Section 78 of the Act, make a contract with a member requiring the member to have specified dealings with the Mutual for a fixed period.

9.2 The provisions of the contract may require a member:

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

9.3 The sum, if any, specified as liquidated damages is to be considered as a debt due to the Mutual and in respect of such debt, the Mutual has, pursuant to Section 80 of the Act, a charge on each of the following:

- (a) the credit balance and deposits of the member or past member; and
- (b) any entry and periodic fees required to be repaid to a member when the member ceases to be a member.

9.4 The charge created pursuant to Section 80 of the Act shall be enforced in accordance with that section.

9.5 Nothing in this Rule shall be interpreted as restricting the powers of the Mutual to enter into contracts with a member or members other than pursuant to the provisions of this Rule.

10 SEAL

10.1 The name of the Mutual 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 shall direct.

10.2 The Mutual may, pursuant to Section 49 of the Act, have for use in place of its common seal outside the State, one or more official seals. Each of the additional seals must be a facsimile of the common seal with the addition on its face of the name of the place where it is to be used.

10.3 The common seal of the Mutual shall 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 while they are present.

10.4 The person affixing the official seal must certify in writing on the instrument to which it is affixed, the date and place at which it is affixed.

11 CO-OPERATIVE MAY AUTHORISE AGENT OR ATTORNEY TO EXECUTE DEEDS

11.1 The Mutual may, by writing under its common seal, empower its agent or attorney (either generally or in respect of a specified matter or specified matters) to execute deeds on its behalf.

11.2 A deed signed by such an agent or attorney on behalf of the Mutual and under the agent's or attorney's seal, or under the appropriate official seal of the Mutual, binds the Mutual and has effect as if it were under the common seal of the Mutual.

11.3 The authority of such an agent or attorney, as between the Mutual and a person dealing with the agent or attorney, continues during the period (if any) mentioned in the instrument conferring the authority or, if no period is so mentioned, until notice of the revocation or termination of the agent's or attorney's authority has been given to the person dealing with the agent or attorney.

11.4 Where an agent or attorney affixes an official seal to an instrument, the person must comply with **Rule 10.4**.

12 CUSTODY AND INSPECTION OF RECORDS AND REGISTERS

12.1 The Mutual 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 Act and the regulations;
- (b) a copy of the Rules of the Mutual;
- (c) a copy of the minutes of each general meeting of the Mutual;
- (d) a copy of the last annual report of the Mutual under section 252;
- (e) the register of directors and members;
- (f) the register of names of persons who have given loans or deposits to or hold securities or debentures given or issued by the Mutual; and
- (g) such other registers as the Regulation provides are to be open for inspection.

12.2 A member is entitled to make a copy of entries in a register specified in **Rule 12.1** and to do so free of charge. The Mutual may charge an amount per page for photocopies to a maximum of \$50.

12.3 The Mutual 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 Act and the Regulation;
- (b) a copy of the Rules of the Mutual; and
- (c) a copy of the last annual report of the Mutual under section 252 of the Act.

13 ACTIVE MEMBERSHIP PROVISIONS

13.1 In accordance with Part 6 of the Act the replacement and refurbishment of Coleambally Irrigation infrastructure and the provision of a professional investment service that will collect, manage and report on the Sinking Fund Levies paid by each member is a primary activity of the Mutual; and

13.2 A member shall:

- (a) except for CICL, be an active member of CICL; and
- (b) pay a contribution each Year of not less than \$1.00,

in order to establish active membership of the Mutual.

14 CANCELLATIONS RELATING TO INACTIVE MEMBERS

14.1 The Board shall, after giving notice in accordance with Section 132 of the Act, declare the membership of a member cancelled if:

- (a) the whereabouts of the member are not presently known to the Mutual and have not been known to the Mutual for a continuous period of no more than 2 years before the date of cancellation; 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 immediately before the date of cancellation.

14.2 The Mutual shall, in a form approved of by the Registrar, keep a register of memberships cancelled pursuant to **Rule 14.1** of this Rule, which shall specify the particulars prescribed in Clause 6 of Schedule 1 of the Co-operatives Regulation 1997.

15 QUALIFICATIONS FOR MEMBERSHIP

15.1 A person is not qualified to be admitted to membership of the Mutual unless:

- (a) the Board has reasonable grounds for believing that the person will be an active member under **Rule 13**; and
- (b) a Contribution as determined by the Board has been paid.

16 APPLICANTS FOR MEMBERSHIP TO BE GIVEN NOTICE OF CONTRIBUTIONS

16.1 The Mutual must supply, with each application for membership, a written notice of contributions that a person will be liable to pay on becoming a member of the Mutual.

17 APPLICATION FOR MEMBERSHIP

17.1 The Board must provide each person intending to become a member of the Mutual with:

- (a) a consolidated copy of the Rules of the Mutual;
- (b) a copy of all special resolutions applicable to the member passed by the members of the Mutual, except special resolutions providing for an alteration of the Rules of the Mutual; and
- (c) a copy of the last annual report of the Mutual under section 252.

17.2 The Board may comply with **Rule 17.1** by:

- (a) giving the person intending to become a member notice that the documents referred to in that sub-Rule may be inspected by that person at the registered office of the Mutual; and
- (b) making those documents available for inspection.

- 17.3 Applications for membership shall be lodged at the registered office, in or to the effect of the form approved by the Board.
- 17.4 Every application shall be considered by the Board.
- 17.5 The Board may, at its discretion, refuse any application for membership and need assign no reasons for such refusal though the Board may choose to give reasons, if the Board considers it appropriate to do so. Upon refusal the applicant's deposit shall be refunded without interest.
- 17.6 In considering an application for membership pursuant to this Rule, the Board must ensure that a person who is not qualified for membership of the Mutual under **Rule 15** is not admitted as a member.
- 17.7 If the application for membership is approved by the Board, the applicant's name, date and any other information required by or under the Act shall be entered in the register of members. The applicant shall be notified in writing of the entry in the register and shall then be entitled to the privileges attaching to membership.

18 MEMBERS OF THE CO-OPERATIVE

- 18.1 The members of the Mutual are:
- (a) those persons who signed the application for registration of the Mutual; and
 - (b) those persons admitted to membership in accordance with **Rule 17**; and
 - (c) those persons who become members by:
 - (i) a transfer of engagements to the Mutual;
 - (ii) a scheme of arrangement; or
 - (iii) operation of law.

19 LIABILITY OF MEMBERS TO THE CO-OPERATIVE

- 19.1 A member shall not, as a member of the Mutual, be under any personal liability to a creditor of the Mutual.
- 19.2 A member shall, in accordance with Section 76 of the Act, be liable to the Mutual for any Contributions or charges, including an annual Access Fee or a one off Termination Fee, payable by the member to the Mutual as required by these Rules.
- 19.3 On the death of a member, the member's estate is subject to the same liability as the member would have been until the member's personal representative or some other person is registered in the member's place.
- 19.4 Joint members are jointly and severally liable in respect of any amount due to the Mutual in respect of that membership.

19A BY-LAWS

- 19A.1 The Board may make by-laws not inconsistent with these Rules, the Act or the Water Management Act 2000, setting out the Board's policy in relation to its conduct and dealings with members and third parties.

20 CONTRIBUTIONS

- 20.1 The Board may determine Contributions due from applicants for membership and members of the Co-operative.
- 20.2 The Board must in June of each Year determine the Contributions due from each member and notify members of that determination.
- 20.3 The Contributions due from each member, other than CICL, shall be calculated on the basis of the number of Delivery Entitlements that member has in CICL.
- 20.4 If the Contributions due from any member, as calculated in accordance with **Rule 20.3**, are reduced as a result of an External Permanent Transfer of that member's Delivery Entitlements held in CICL, the Board may require that member pay the Mutual an annual Access Fee or a one off Termination Fee.
- 20.5 In determining Contributions for a Year the Board must calculate Contributions so as to cover costs and expenses and overheads of the Mutual in carrying out its primary activities, including, but not limited to:
- (a) costs of repairs, refurbishment, maintenance and construction in relation to the assets of the Mutual;
 - (b) amounts sufficient to allow accumulation of reserves at rates sufficient to meet anticipated expenses and liabilities of the Mutual in future Years, including:
 - (i) a fund to be known as the "Sinking Fund" to cover capital expenditure for the construction, refurbishment and replacement of future or existing irrigation assets in the Existing Area of Operations of CICL; and
 - (ii) such other reserves as the Mutual may from time to time determine are prudent and reasonable to permit the Mutual to carry out its objects.

21 ESTABLISHMENT OF MANAGEMENT RESERVES

- 21.1 The Board must cause separate accounts to be kept for the reserves established under **Rule 20.5(b)**.
- 21.2 Moneys to the credit of the reserves may only be utilised for the purposes stated (in respect of each particular reserve) in **Rule 20.5(b)**.
- 21.3 The Board must establish a separate fund for the purpose of separating Contributions from Non-member Funds. All Non-member Funds must be held in the Non-member Income Fund and must be identifiable in the Mutual's accounts.

22 ONE MEMBER ONE VOTE

- 22.1 An active member of the Mutual shall have one vote only in respect of any question or motion arising at a general meeting of the Mutual.

22.2 In the case of joint membership, the joint members shall have 1 vote only between them and that vote may only be exercised (subject to the grant of any proxy in accordance with **Rule 23** or power of attorney) by the joint member whose name appears first in the register of members.

23 PROXY VOTES

23.1 The instrument appointing a proxy shall be in writing under the hand of the appointer, or of the appointer's attorney, duly authorised in writing and in the form contained in Schedule 1 or otherwise approved by the Board.

23.2 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.

23.3 No person shall act as a proxy unless the person is an active member under **Rule 13**.

23.4 Subject to **Rule 23.7** no person shall act as proxy for more than 2 persons.

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

23.6 Where an instrument of proxy is signed by all of the joint members, the vote of the proxy so appointed shall be accepted as the vote of the joint member whose name appears first in the register of members.

23.7 **Rule 23.4** of this Rule does not apply if the person acts under an instrument of proxy which specifies the manner in which the person is to vote in respect of a particular resolution.

23.8 An instrument appointing a proxy is not valid unless:

- (a) the instrument; and
- (b) if the instrument is signed by the appointer's attorney - the authority under which the form was signed, or a notarially certified copy of the authority,

is deposited at the registered office of the Mutual.

23.9 The documentation required to be given under this Rule must be deposited at the registered office:

- (a) at least 48 hours before the meeting at which the proxy may be used; or
- (b) in the case of a poll - at least 24 hours before the taking of the poll.

23.10 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 Mutual at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

24 RESTRICTION ON VOTING ENTITLEMENT UNDER POWER OF ATTORNEY

24.1 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.

25 EFFECT OF RELEVANT SHARE AND VOTING INTEREST ON VOTING RIGHTS

25.1 A member is not entitled to vote if another person (whether or not a member of the Mutual) has a Relevant Interest in the right to vote of a member.

25.2 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.

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

26 NOTICE TO BE GIVEN OF VOTING INTEREST

26.1 A person (whether or not a member of the Mutual) must give notice in writing to the Mutual 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 Mutual.

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

27 EXPULSION OF MEMBERS

27.1 A member may be expelled from the Mutual by special resolution to the effect:

- (a) that the member has failed to discharge the member's obligations to the Mutual, whether prescribed by these Rules or arising out of any contract; or
- (b) that the member has been guilty of conduct detrimental to the Mutual.

27.2 In either case written notice of the proposed resolution shall be forwarded to the member not less than 14 days before the date of the meeting at which the special resolution is to be moved, and the member shall be given a reasonable opportunity of being heard at the meeting.

27.3 Expulsion of a member shall not be effective, until the special resolution expelling the member is registered.

28 CEASING MEMBERSHIP

28.1 A person shall cease to be a member in any of the following circumstances :

- (a) if the member's membership is cancelled under **Rule 14**;
- (b) if the member is expelled in accordance with **Rule 27**;
- (c) if the member ceases to be a member of CICL;

- (d) if the member becomes bankrupt and the membership vote by special resolution that the membership of the bankrupt must cease on the passing of the resolution;
- (e) on death of the member;
- (f) in the case of a member that is a body corporate if the body is dissolved;
- (g) if the contract of membership is rescinded on the ground of misrepresentation or mistake; or
- (h) on the expiration of one months notice in writing of the member's intention to resign from membership given by the member, to the Secretary.

29 ANNUAL GENERAL MEETINGS

- 29.1 The first annual general meeting of the Mutual must be held at any time within 19 months (or such other period as may be permitted under the Act) after the incorporation of the Mutual.
- 29.2 A general meeting of the Mutual to be known as the "annual general meeting" shall, as provided in Section 198 of the Act, be held each year on a date and a time determined by the Board as long as it is within five (5) months after the close of the financial year of the Mutual, or within such further time as may be allowed by the Registrar.
- 29.3 All general meetings of the Mutual other than the annual general meeting shall be special general meetings.
- 29.4 If an annual general meeting is not held in accordance with **Rule 29.1** or **Rule 29.2** of this Rule, the members may, in accordance with Section 202 of the Act and **Rule 31**, requisition such a meeting.

30 CONVENING GENERAL MEETINGS

- 30.1 The Board may, whenever it thinks fit, convene a special general meeting of the Mutual.

31 REQUISITION OF GENERAL MEETINGS

- 31.1 The Board must convene a general meeting of the Mutual on the requisition in writing by active members who together are able to cast at least 20% of the total number of votes to be cast at a meeting of the Mutual.
- 31.2 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 Mutual by being lodged at the registered office of the Mutual.

32 REQUISITIONED MEETING MUST BE CONVENEED AS SOON AS PRACTICAL

- 32.1 A meeting requisitioned by members in accordance with **Rule 31** must be convened and held as soon as practicable and, in any case, must be held within 2 months after the requisition is served.
- 32.2 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 Mutual 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 Mutual; and
 - (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 Mutual; and
 - (f) any such amount required to be paid by the Mutual is to be retained by the Mutual out of any money due from the Mutual by way of fees or other remuneration in respect of their services to such of the directors as were in default.

33 NOTICE OF GENERAL MEETINGS

- 33.1 Subject to **Rule 34**, 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) shall be given of any general meeting in the manner stipulated in **Rule 34**.
- 33.2 Notice must be given to those persons who are, under these Rules entitled to receive such notices from the Mutual, but the non-receipt of the notice by any member shall not invalidate the proceedings at such general meeting.
- 33.3 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.
- 33.4 Any member who has a resolution to submit to a general meeting must give written notice of the terms of the resolution to the Mutual not less than 28 days prior to the date of the meeting.
- 33.5 The Board shall have inserted in any notice convening a general meeting any business which a member has notified of intention to move and for which notification has been given in accordance with this Rule.
- 33.6 Notice of every general meeting shall be given in same manner as authorised in **Rule 74** to:

- (a) every member of the Mutual, except those members who have not supplied to the Mutual an address or facsimile number for the giving of notices to them; and
- (b) the auditor or auditors of the Mutual.

33.7 Except as provided in this Rule, no other persons shall be entitled to receive notices of general meetings.

34 NOTICE OF SPECIAL RESOLUTIONS

34.1 Notice of a special resolution shall be given to those persons, entitled to receive notice under **Rule 33**, at least 21 days before the general meeting and shall specify the intention to propose the resolution as a special resolution at that meeting and specify the terms of the special resolution, the reasons for making the special resolution and the effect of the special resolution being passed.

35 BUSINESS OF GENERAL MEETINGS

35.1 The ordinary business of the annual general meeting shall be:

- (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 Mutual reports upon the transactions of the Mutual during the financial year, including balance sheet, trading account, profit and loss account, statement of source and application of funds, and the state of affairs at the end of that year and the annual report specified in paragraph 6.1 (d);
- (c) to elect and determine the remuneration of directors; and
- (d) to elect (if necessary) an auditor, or to determine the auditor's remuneration, or both.

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

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

36 QUORUM AT GENERAL MEETINGS

36.1 No item of business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting is considering that item.

36.2 Except where these Rules state otherwise 20 active members, or all the active members of a lesser number, present in person and entitled to vote constitute a quorum.

36.3 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.

36.4 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, or all the active members of a lesser number, are present.

37 CHAIRPERSON AT GENERAL MEETINGS

37.1 The chairperson, if any, of the Board shall preside as chairperson at every general meeting of the Mutual.

37.2 If there is no such chairperson, or if at any meeting the chairperson 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 shall choose someone from their number to be chairperson until such time as the chairperson attends or is willing to act.

37.3 The chairperson may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place. 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. Where a meeting is adjourned for 14 days or more notice of the adjourned meeting shall be given just as in the case of the original meeting. Apart from this requirement it shall not be necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

38 STANDING ORDERS AT GENERAL MEETINGS

38.1 The following standing orders shall be observed at the Mutual's meetings:

- (a) the mover of a motion 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 motion is proposed, no second amendment shall be considered until the first amendment is disposed of;
- (c) if an amendment is carried, the motion as so amended shall displace the original motion and may itself be amended;
- (d) if an amendment is defeated, then a further amendment may be moved to the original motion. However, only one amendment shall be submitted to the meeting for discussion at one time;
- (e) the mover of every original motion, but not of an amendment, shall have the right to reply. Immediately after this the question shall be put from the chair. 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) motions and amendments shall be submitted in writing, if requested by the chairperson;

- (g) any discussion on a motion or amendment 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 chairman provided that the permission may be conditional; and
- (i) standing orders may be suspended for any period by ordinary resolution.

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

39 ATTENDANCE AND VOTING AT GENERAL MEETINGS

39.1 At any meeting of the Mutual a member, whose membership is required to be forfeited under **Rule 14**, is not entitled to attend.

39.2 A member of the Mutual is not entitled to vote at a meeting of the Mutual:

- (a) if the person is not an active member of the Mutual; and/or
- (b) the person is excluded from voting under the Act or these Rules.

39.3 At any general meeting a resolution put to the vote of the meeting shall (as provided in Section 201 of the Act) be decided on a show of hands. This is unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least 5 members. If no poll is demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the Mutual shall be evidence of the fact. No proof is needed of the number or proportion of the votes recorded in favour of, or against, that resolution.

39.4 If a poll is demanded, in accordance with **Rule 39.3**, 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.

39.5 A poll demanded on the election of a chairperson, or on a question of adjournment, shall be taken immediately.

39.6 A poll demanded in accordance with **Rule 39.3** may be withdrawn.

39.7 On a show of hands, or on a poll, every representative of a body corporate appointed in accordance with Section 68 of the Act, or every member who is present at a meeting in person or represented by proxy or attorney, shall have one vote. However, no member shall have a vote, or be entitled to vote, contrary to the Act.

39.8 In the case of joint membership, the joint members have 1 vote only between them and that vote may be exercised (subject to the grant of any proxy or power of attorney) only by whichever of the joint members is the member whose name appears first in the register of members.

39.9 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, shall be entitled to a second or casting vote.

39.10 All resolutions, except special resolutions, shall be determined by a simple majority.

40 POSTAL BALLOT

40.1 The Mutual 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.

41 SPECIAL RESOLUTION

41.1 A special resolution means a resolution of which notice has been given of the intention to propose the resolution as a special resolution and which is passed either:

- (a) by two-thirds of the members who vote at a general meeting in person or by proxy in accordance with **Rule 23**;
- (b) by two-thirds in a postal ballot; or
- (c) by three quarters of the members who cast votes in a special postal ballot of members.

41.2 A special postal ballot for the purposes of passing a special resolution must be conducted in relation to the following matters:

- (a) a conversion to a trading co-operative;
- (b) transfer of incorporation;
- (c) an acquisition or disposal of assets referred to in section 285;
- (d) takeover;
- (e) merger;
- (f) transfer of engagements; and
- (g) members' voluntary winding up.

41.3 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; and
- (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.

42 BOARD OF DIRECTORS

- 42.1 There shall be a Board of 5 directors each of whom shall be a natural person and at least 18 years old.
- 42.2 The Board:
- (a) Must not consist of more than 1 directors of CICL, and
 - (b) subject to the Act, 1 director may be an independent director.
- 42.3 The business of the Mutual is to be managed by the Board of directors, and for that purpose the Board may exercise all the powers of the Mutual that are not, by the Act or these Rules, required to be exercised by the Mutual in general meeting.
- 42.4 The acts of a director are valid despite any defect that may afterwards be discovered in the appointment or qualification of the director.
- 42.5 All directors shall within 12 months of being elected attend a training course on director's duties unless they have already completed a relevant director's training course. Each director must regularly attend training courses for the purposes of attaining or maintaining skills appropriate to directors of an irrigation mutual with significant funds under management.

43 QUALIFICATIONS OF DIRECTORS

- 43.1 A person is not eligible to be elected as director of the Mutual unless:
- (a) the person is an active member of the Mutual, or a representative of a body corporate which is an active member of the Mutual (active member director); or
 - (b) the a person nominated by the Board as having suitable investment or engineering experience (independent director).

44 FIRST AND SUBSEQUENT DIRECTORS

- 44.1 The first directors are to be elected at the formation meeting of the Mutual.
- 44.2 At the first annual general meeting and the second annual general meeting of the Mutual 2 of the active member directors shall retire.
- 44.3 At the annual general meeting in the subsequent year the independent director shall retire.
- 44.4 At the annual general meeting in each subsequent year the directors shall retire in rotation of 2, 2 and 1 in the proportions set out in **Rules 44.2** and **44.3** respectively.

45 RETIREMENT OF DIRECTORS

- 45.1 The directors to retire in any year shall (subject to the provision as to filling casual vacancies) be those who have been longest in office since their last election. As between persons who became directors on the same day to retire shall (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.

46 ELIGIBILITY FOR RE-ELECTION

46.1 A retiring director shall be eligible for re-election without nomination, subject to the person holding the qualifications specified in **Rule 43**.

47 ELECTION OF DIRECTORS

47.1 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.

47.2 A person elected to fill a casual vacancy under this Rule shall retire at the same time as the director who vacated the office would have done if that director had not vacated it.

47.3 Nominations for candidates to fill the vacant positions shall be sought in such manner as the Board determines.

47.4 The election of directors must be conducted by postal ballot in accordance with **Rule 40** and the results of the election must be announced at the annual general meeting.

48 DIRECTORS' REMUNERATION

48.1 A director shall receive such remuneration for their services as shall be determined in general meeting, and all necessary expenses incurred by them in the business of the Mutual shall be refunded to them.

49 REQUISITION AND NOTICE OF BOARD MEETING

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

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

49.3 Meetings of the Board (including those conducted in accordance with **Rule 51**) must be held at least once every 3 months and may be held as often as may be necessary for properly conducting the business and operations of the Mutual.

50 PROCEEDINGS OF THE BOARD

50.1 Questions arising at any meeting shall be decided by a majority of votes.

50.2 In the case of an equality of votes, the chairperson may have a casting vote.

50.3 A director shall not vote in respect of any contract or proposed contract with the Mutual in which the director is in any way, whether directly or indirectly, interested or in respect of any matter arising out of such a contract or proposed contract other than an interest in a contract referred to in section 241 of the Act and, if the director votes in contravention of this Rule, the director's vote shall not be counted.

51 TRANSACTION OF BUSINESS OUTSIDE BOARD MEETINGS

51.1 The Board may in accordance with Section 210 of the Act transact any of its business:

- (a) by the circulation of papers among all the members of the Board, and a resolution in writing by a majority of those members is to be taken to be a decision of the Board; or
- (b) at a meeting at which Board members (or some Board members) participate by telephone, closed-circuit television or other means, but only if any Board member who speaks on a matter before the meeting, can be heard by the other members of the Board.

51.2 For the purposes of this Rule the chairperson of the Board and each member of the Board have the same voting rights as they have at an ordinary meeting of the Board.

51.3 A resolution approved under **Rule 51.1(a)** is to be recorded in the minutes of the meetings of the Board.

51.4 The Secretary may circulate papers among members of the Board for the purposes of **Rule 51.1(a)** by facsimile or other transmission of the information in the papers concerned.

52 QUORUM FOR BOARD MEETINGS

52.1 The quorum for a meeting of the Board shall be 3 directors, being 50% or more of the number of directors, in accordance with Section 209(4) of the Act.

53 CHAIRPERSON OF BOARD

53.1 The chairperson of the Board may be elected by the Board of the Mutual. However, if no such 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.

53.2 The chairperson may have a casting vote.

54 DELEGATION AND BOARD COMMITTEES

54.1 The Board may (in accordance with Section 213 of the Act) by resolution delegate the exercise of such of the Board's functions (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 Mutual; or
- (d) to a committee of members of the Mutual and other persons if members comprise the majority of persons on the committee.

54.2 The Mutual or the Board may by resolution revoke wholly or in part any such delegation.

- 54.3 A power, the exercise of which has been delegated under this Rule may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.
- 54.4 A delegation under this Rule may be made subject to conditions or limitations as to the exercise of any of the powers delegated, or as to time or circumstances.
- 54.5 Notwithstanding any delegation under this Rule, the Board may continue to exercise all or any of the powers delegated.

55 EXERCISE OF DELEGATED POWER BY DIRECTORS

- 55.1 Where a power is exercised by a director (either alone or with other directors) and the exercise of the power is evidenced in writing, signed by the director in the name of the Board or in the director's own name on behalf of the Board, then the power shall be deemed to have been exercised by the Board. This is so whether or not a resolution delegating the exercise of the power to the director was in force when the power was exercised, and whether or not any conditions or limitations referred to in **Rule 54.4** were observed by the director exercising the powers.
- 55.2 An instrument purporting to be signed by a director as referred to in Section 214(1) of the Act shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Mutual under seal. Furthermore, until the contrary is proved, it shall be deemed to be an instrument signed by a delegate of the Board under Section 213 of the Act.
- 55.3 A committee may elect a chairperson of their meetings. If no such 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.
- 55.4 A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members of the committee present and voting and in case of an equality of votes the chairperson shall have a second or casting vote.

56 REMOVAL OF DIRECTOR FROM OFFICE

- 56.1 The Mutual may, by ordinary resolution, remove any director before the expiration of the director's period of office, and may by a simple majority appoint another person in place of the director. The person so appointed shall retire at the same time as the removed director would have done if not removed.

57 VACATION OF OFFICE OF DIRECTOR

- 57.1 A director vacates office in such circumstances (if any) as are provided in the Rules of the Mutual and in any of the following cases:
- (a) if the person is an insolvent under administration (as defined in the Law);
 - (b) 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;

- (c) if the person has been convicted of an offence and that conviction disqualifies a person from being a director, as provided by Section 208(2) of the Act;
- (d) if the director absents himself/herself from 3 consecutive ordinary meetings of the Board without its leave;
- (e) if the director resigns from office by notice in writing given by the director to the Mutual;
- (f) if the director is removed from office by ordinary resolution of the Mutual;
- (g) if the person ceases to hold the qualification by reason of which the person was qualified to be a director;
- (h) if the director becomes an employee of the Mutual, unless elected under Section 216 of the Act;
- (i) if an administrator of the Mutual's affairs is appointed under Division 6 of Part 12 of the Act;
- (j) as provided by Section 217 of the Act;
- (k) if the director is directly or indirectly interested in any contract or proposed contract with the Mutual and fails to declare his/her interest as required under Section 234 of the Act; and
- (l) if the director is removed from office, by a voluntary administrator of the Mutual appointed under Part 5.3A of the Law, as applying under Section 332 of the Act.

58 CASUAL VACANCY

58.1 The Board may appoint a person to fill a casual vacancy (including a vacancy created under **Rule 57**) in the office of director until the next annual general meeting.

59 DEPUTY DIRECTORS

59.1 Any director may from time to time apply, in writing, for any active member (other than an employee of the Mutual, 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.

59.2 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.

59.3 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.

59.4 An appointment or removal under this Rule must be in writing and notice thereof must be served on the deputy director and the appointment or removal shall take effect forthwith upon the service thereof. Service of any such notice may be effected in accordance with **Rule 74**.

- 59.5 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.
- 59.6 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.
- 59.7 For purposes of this Rule a meeting of the directors shall include a meeting conducted pursuant to **Rule 51**.

60 OTHER COMMITTEES

- 60.1 The Board may by resolution appoint committees comprising of members or other persons or both, to act in an advisory role to the Board and to any committees of directors.
- 60.2 The provisions of **Rules 55.3** and **55.4** apply to committees appointed under this Rule, subject to any variations approved of by the Board.
- 60.3 The quorum for any meeting of the committee shall be 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.

61 MINUTES OF MEETINGS

- 61.1 The Board shall have minutes of meetings made in books provided for the purpose, and, in particular:
- (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; and
 - (c) of all resolutions and proceedings at all meetings of the Mutual and of directors and of committees of directors.
- 61.2 Minutes must be recorded in the minute book within 28 days of the date of the meeting to which they relate.
- 61.3 The confirmation of such minutes, signed by the chairperson, shall be taken as the first business at the next succeeding meeting of the Mutual, Board or committee to which the minutes relate. If it is impracticable for the minutes to be confirmed at that meeting, then the minutes shall be confirmed at the next succeeding meeting.
- 61.4 Every director present at any meeting shall sign their name in a book to be kept for that purpose.
- 61.5 The minutes are to be kept in the English language.

62 OFFICERS

62.1 Without prejudice to the general powers conferred on the Board by the Act or these Rules, the Board shall, subject to any applicable Industrial Award or Agreement, have power to appoint, remove or suspend officers, servants, agents and contractors, and to fix their powers, duties and remuneration.

62.2 For the purposes of this Rule:

- (a) "Industrial Award or Agreement" means an Award or Enterprise Agreement made or approved under a State or Federal Act regulating industrial relations; and
- (b) "Enterprise Agreement" includes an Australian Workplace Agreement, Certified Agreement or Enterprise Flexibility Agreement.

63 APPOINTMENT OF SECRETARY

63.1 The Board shall appoint a Secretary who shall perform all the functions and duties required by the Act, the Regulations, the Rules and the law to be performed or undertaken by the Secretary of the Mutual.

63.2 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 removed by the Board, or resignation from office.

64 INSURANCE

64.1 The Board shall arrange insurance against loss, damage to or liability of the Mutual by reason of fire, accident or otherwise.

64.2 The Board shall where possible obtain adequate public liability and occupiers liability insurance and any other insurance the Board considers appropriate for the protection of the Mutual, its assets and funds on behalf of the Mutual.

64.3 Subject to the Act, the Mutual must take out directors' and officers' indemnity insurance.

65 FINANCIAL YEAR

65.1 The financial year of the Mutual shall end on the 30 June.

66 ACCOUNTS

66.1 The Board shall have prepared the accounts, statements and directors' report in accordance with the Corporations Law, as adopted by Clause 15 of the Co-operatives Regulation 1997.

66.2 The Board shall submit those accounts, statements and report, together with the auditors' report on those accounts, to the annual general meeting of the Mutual, in accordance with the Corporations Law as adopted by Clause 15 of the Co-operatives Regulation 1997.

66.3 The Board shall also have a copy of everything required to be submitted under **Rule 66.2** displayed at the registered office of the Mutual for a period of not less than 14 days before the date of the annual general meeting of the Mutual.

66.4 The Board shall send a copy of everything required to be submitted under **Rule 66.2** to each member with the notice of the annual general meeting of the Mutual.

67 BANKING

67.1 The Board shall have a banking account or accounts in the name of the Mutual, into which all moneys received shall be paid as soon as possible after receipt.

67.2 All cheques drawn on such accounts and all drafts, bills of exchange, promissory notes, and other negotiable instruments for and on behalf of the Mutual, shall be signed by 2 directors or by 2 persons authorised by the Board.

68 APPOINTMENT, DUTIES AND RESPONSIBILITIES OF AUDITORS

68.1 One or more auditors shall be appointed, hold office, be remunerated, be removed and have qualifications, duties and responsibilities as provided in these Rules or as otherwise provided in, or permitted by, the Corporations Law as adopted by Clause 15 of the Co-operatives Regulation 1997, or any order made by the Registrar pursuant to that Regulation or Section 244(1) of the Act.

68.2 Within one month after the date on which the Mutual is registered, the directors shall appoint an auditor of the Mutual, unless the Mutual at a general meeting has already appointed an auditor. An auditor appointed under this clause shall hold office until the first annual general meeting of the Mutual.

68.3 The Mutual shall at its first annual general meeting appoint an auditor of the Mutual; and at each subsequent annual general meeting, if there is a vacancy in the office of auditor, the Mutual shall appoint an auditor to fill the vacancy.

68.4 An auditor appointed under **Rule 68.3** of this Rule shall hold office until death or removal or resignation from office or until ceasing to be capable of acting as auditor in accordance with the Corporations Law as adopted by Clause 15 of the Co-operatives Regulation 1997.

68.5 The Board shall fill any vacancy in the office of auditor, other than a vacancy caused by the removal of an auditor from office, within one month of such vacancy occurring, unless the Mutual at a general meeting has already appointed an auditor to fill the vacancy. A person or firm appointed as Auditor of the Mutual pursuant to this paragraph holds office, subject to the Corporations Law as adopted by Clause 15 of the Co-operatives Regulation 1997 until the next Annual General Meeting of the Mutual.

68.6 While a vacancy in the office of auditor continues, the surviving or continuing auditor or auditors (if any) may act.

68.7 The Mutual or the Board shall not appoint as auditor a person who has not consented in writing to the appointment or who has withdrawn such consent, or a person of whose nomination notice has not been given in accordance with the Corporations Law as adopted by Clause 15 of the Co-operatives Regulation 1997.

68.8 A person is not qualified to be appointed auditor of the Mutual if:

- (a) the person is not a registered company auditor;
- (b) the person or corporation in which the person is a substantial shareholder, is indebted to the Mutual (or to a subsidiary corporation of the Mutual) for an amount exceeding \$ 5,000; or
- (c) the person is:
 - (i) an officer of the Mutual;
 - (ii) is a partner, employer or employee of an officer of the Mutual;
 - (iii) is a partner of an employee of an officer of the Mutual; or
 - (iv) is an employee of an employee of an officer of the Mutual.

68.9 A firm is not qualified to be appointed auditor of the Mutual unless:

- (a) at least one member of the firm is a registered company auditor who is ordinarily resident in New South Wales;
- (b) no member of the firm or corporation in which the firm is a substantial shareholder, is indebted to the Mutual (a subsidiary of the Mutual) for an amount exceeding \$5,000; or
- (c) no member of the firm is:
 - (i) an officer of the Mutual;
 - (ii) is a partner employer or employee of an officer of the Mutual;
 - (iii) is a partner of an employee of an officer of the Mutual;
 - (iv) is an employee of an employee of an officer of the Mutual;
 - (v) no officer of the Mutual receives any remuneration from the firm for acting as a consultant to it on accounting or auditing matters.

68.10 All reasonable fees and expenses of the auditor are payable by the Mutual.

68.11 The Board shall enable the auditor to have access to all books, accounts, vouchers, securities and documents of the Mutual, and to be furnished with such information and explanation by the Board members or any other officers as may be necessary for the performance of the duties of the auditor.

68.12 The auditor is entitled to attend any general meeting of the Mutual and to receive all notices of and other communications relating to any general meeting which any member of the Mutual is entitled to receive. The auditor is also entitled to be heard, at any general meeting which the auditor attends, on any part of the business of the meeting of concerns to the auditor.

69 REMOVAL OF AUDITORS

69.1 The auditor may be removed from office by resolution at a general meeting.

- 69.2 Notice of intention to move the resolution must be given to the Mutual not less than 28 days before the meeting at which the resolution is moved, but if, after notice has been given, a meeting is convened for a date 28 days or less after notice has been given, notice shall be deemed to have been properly given.
- 69.3 Where special notice of a resolution to remove an auditor is received by the Mutual, it shall as soon as possible send a copy of the notice to the auditor and lodge a copy of the notice with the Registrar.
- 69.4 The Mutual shall give notice of a resolution to remove the auditor to persons entitled to be given notice of a meeting of the Mutual at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, shall give notice of the resolution to them in any manner allowed by these Rules not less than 14 days before the meeting.
- 69.5 Within 7 days after receiving a copy of the notice, the auditor may make representations in writing, not exceeding a reasonable length, to the Mutual and request that before the meeting at which the resolution is to be considered, a copy of the representations be sent by the Mutual at its expense to every member of the Mutual to whom notice of the meeting is sent.
- 69.6 Unless the Registrar on the application of the Mutual otherwise orders, the Mutual shall send a copy of the representations in accordance with the auditor's request. The auditor may require that the representations be read out at the meeting and may also speak at the meeting.

70 RESIGNATION OF AUDITOR

- 70.1 The auditor may, by notice in writing given to the Mutual, resign as auditor of the Mutual if:
- (a) the auditor has, by notice in writing given to the Registrar, applied for consent to resign and stated the reasons and, at or about the same time, notified the Mutual in writing of the application; and
 - (b) the auditor has received the consent of the Registrar.
- 70.2 The resignation of the auditor takes effect:
- (a) on the date (if any) specified for the purpose in the notice of resignation;
 - (b) on the date on which the Registrar consents to the resignation; or
 - (c) on the date (if any) fixed by the Registrar for the purpose, whichever last occurs.
- 70.3 Within 14 days after the removal from office of the auditor or after the receipt of a notice of a resignation from an auditor, the Co-operative shall lodge with the Registrar a notice of the removal or resignation on the prescribed form, and, where there is a trustee for the holders of debentures of the Mutual, give to the trustee a copy of the notice lodged with the Registrar.

71 CO-OPERATIVE FUNDS

- 71.1 The income and property of the Mutual however derived shall be applied solely towards the promotion of the objects of the Mutual and no portion thereof shall be paid or transferred directly or indirectly by way of discount, rebate or otherwise by way of profit to the members of the Mutual.
- 71.2 Payment shall be made in good faith of:
- (a) any commensurate remuneration of any member or servant of the Mutual or other person in return for any services actually rendered to the Mutual; or
 - (b) reasonable interest on money lent or reasonable or proper rent for property or premises demised, or let by any member to the Mutual.
- 71.3 Any surplus resulting from the Mutual's operation during a financial year, after providing for depreciation in value of the Mutual's property or for contingent liability for loss, shall be applied to carrying out the Mutual's objects.
- 71.4 An amount not exceeding five percent of the surplus may be applied to any charitable purpose, or for promoting co-operation or any community advancement object.

72 PROVISION FOR LOSS

- 72.1 The Board shall make such provisions for loss which may result from the transactions of the Mutual as the Act requires or allows.

73 DISPUTES

- 73.1 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.
- 73.2 A Disputes Committee may be asked to advise the Board in relation to any Dispute.
- 73.3 The Disputes Committee will comprise of two Independent people, one appointed by each party to the Dispute.
- 73.4 The Disputes Committee 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
- 73.5 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.

73.6 The Disputes Committee 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).

74 NOTICES

74.1 A notice may be given by the Mutual to any member either personally or by sending it by post to the member's registered address, or where the member has notified the Mutual of a facsimile number, by facsimile transmission to the number notified. If the member has no registered address then the notice can be sent to any address supplied by the member to the Mutual for the giving of notices.

74.2 Where a notice is sent by post, service shall be 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 such service it shall be sufficient to prove that the envelope containing the notice was properly addressed and posted.

74.3 If a member has no registered address (and has not supplied to the Mutual an address for the giving of notices) a notice addressed to the member and advertised in the newspaper circulating in the neighbourhood of the registered office of the Mutual shall be deemed to be duly given to the member on the date on which the advertisement appears.

74.4 A notice forwarded by facsimile transmission shall be 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.

74.5 For the purpose of this Rule "registered address" means the address of the member as appearing in the register of members and shares.

75 WINDING UP

75.1 The winding up of the Mutual shall be in accordance with Part 12 of the Act.

75.2 If on the winding up or dissolution of the Mutual there remains after the satisfaction of all its debts and liabilities any property, this shall not be paid or distributed amongst the members of the Mutual but shall be given or transferred to an institution:-

- (a) which has objects similar to those of the Mutual;
- (b) whose constitution prohibits the distribution of its property among its members;
- (c) which has been chosen by the members of the Mutual at or before the time of dissolution or in default thereof by the Chief Judge of such Court as may have or acquire jurisdiction in the matter.

75.3 In **Rule 75.2**, the expression “institution” includes an institution or institutions.

76 FINES PAYABLE BY MEMBERS

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

76.2 A fine exceeding \$20 shall not be imposed on a member pursuant to **Rule 76.1** 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.

77 SCHEDULE OF CHARGES

| | | | |
|------|---------------------|----------------------------|------------------|
| 77.1 | Copy book of Rules: | \$20 (max) | Rule 2.5 |
| 77.2 | Copy of Register: | \$50 (max) | Rule 12.2 |
| 77.3 | Access Fee: | As determined by the Board | Rule 20.4 |
| 77.4 | Termination Fee | As determined by the Board | Rule 20.4 |
| 77.5 | Maximum Fine: \$500 | | Rule 76.1 |

SCHEDULE 1

PROXIES

COLEAMBALLY IRRIGATION MUTUAL CO-OPERATIVE LIMITED

I/We, (Name) of (Address)

being a member/s of the Mutual 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 Mutual,

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 21st December 1999 (date) at the offices of Coleambally Irrigation Limited

Brolga Place, PO Box 103 Coleambally NSW 2707 (location)

for the purpose of forming a Mutual to be known as:

Coleambally Irrigation Mutual Co-operative Limited (name of co-operative)

..... Chairperson of Formation Meeting

Signature

..... Secretary of Formation Meeting

Signature

Note: This certification is signed at the Formation Meeting which is held after the Rules have been approved by the Registry and returned to the sponsors of the proposed co-operative.