

# RULES OF Haystacks Solar Garden Co-operative Limited

## Distributing Co-operative

### New South Wales

Approved by the Registrar on:

Adopted by the co-operative on:

These rules have been prepared using the Co-op Builder. There have been no alterations to the standardised rule content.

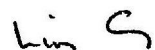
Submitted by.  
*(Signature)*



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Thomas Nockolds  
*(name in block letters)*

23 JULY 2020



# CATEGORY ONE - Co-operative name, primary activities and active membership

## 1.1 CO-OPERATIVE NAME

The name of the co-operative is **Haystacks Solar Garden Co-operative Limited**.

## 1.2 DEFINITIONS

In these rules:

Either of the words Law or Act means the co-operatives legislation applying in this jurisdiction.

***Co-operatives legislation applying in this jurisdiction*** means:

The Co-operatives National Law or CNL.

**Year** means the co-operative's financial year as defined in these rules.

Except so far as the contrary intention appears in these rules, words and expressions used in these rules have the same meanings as they have in the co-operatives legislation applying in this jurisdiction, unless they are specifically defined elsewhere in these rules.

## 1.3 PRIMARY ACTIVITIES

The primary activities of the co-operative are:

1. To establish and operate one or more solar gardens, where a solar garden is defined as a solar PV electricity generator connected to the National Energy Market which is collectively owned by multiple electricity customers who each receive a credit on their electricity bill for the value of electricity produced by their plot, and
2. To provide plots in the solar garden to members who are electricity consumers, and

3. To establish and maintain contractual relationships with one or more electricity retailers on behalf of the members. The purpose of those contractual relationships is to achieve an outcome whereby the value of electricity produced by each members' plot is received at regular intervals as a credit on their electricity bill.

## **1.3B ACTIVE MEMBERSHIP**

In order to establish and maintain active membership of the co-operative a member must:

1. Participate in at least one meeting in relation to a proposed solar garden each financial year,

OR

- 2 Purchase electricity from a retailer approved by the Co-op.

## **1.4 CANCELLATION OF MEMBERSHIP FOR INACTIVITY**

The board must declare the membership of a member cancelled if:

- 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 3 years; OR
- the member is not presently active and has not been active within the meaning of rule 1.3B in the past 3 years.

# **CATEGORY TWO - Membership status, rights and obligations**

## **2.1 MEMBER QUALIFICATIONS**

A member must be able to meet the requirements for active membership, along with the following conditions.

- A resident of New South Wales, or otherwise living within the service area of a retailer approved by the Co-op
- Responsible for paying the electricity bill at your normal place of residence (at your home)
- Committed to paying for a plot in a solar garden
- Willing to change to an electricity retailer offering an approved solar garden product

## **2.2 MEMBER APPLICATIONS, FEES AND ANNUAL SUBSCRIPTIONS**

1. Applications for membership must be lodged at the registered office of the co-operative using the application form approved by the board, and should be accompanied by payment of
  - a. any application fee as determined by the board from time to time and published at the registered office,
  - b. payment for the allotment of the minimum number of shares in the co-operative required under rule 3.1 and
  - c. payment of the annual subscription under rule 3.1A, if any.
2. Every application for membership must be considered by the board.
3. If the board approves of the application, the applicant's name and any other information required under the Law must be entered in the register of members within 28 days of the board's approval.
4. The applicant must be notified in writing of the entry in the register and the applicant is then entitled to the privileges attaching to membership
5. The board may, at its discretion, refuse an application for membership
6. The board need not assign reasons for the refusal. On refusal, any amounts accompanying the application for membership, other than the application fee referred to in paragraph 1a of this rule, must be refunded within 28 days without interest.

## **2.3 WHEN MEMBERSHIP CEASES**

1. A person will cease to be a member of the co-operative in each of the following circumstances and as otherwise provided by the Law if:
  - a. the member's membership is cancelled in accordance with these rules or the Law;
  - b. the member is expelled or resigns under these rules;
  - c. the contract of membership is rescinded on the ground of misrepresentation or mistake;

- d. for a member that is a corporation—the corporation is deregistered;
  - e. for a member who is a natural person and not a joint member with other persons—the member dies;
  - f. the member’s total shareholding is transferred or sold to another person under these rules and the name of the transferee is entered in the register of members in respect of the shareholding;
  - g. the member’s total shareholding is forfeited under the Law or these rules;
  - h. the member’s total shareholding is purchased by the co-operative under the Law; or
  - i. the amount paid up on the member’s shares is repaid to the member under these rules.
2. Except as otherwise provided by the Law a member will not cease to be a member of a cooperative if the member:
- a. is an individual and becomes bankrupt and their property is subject to control under laws relating to bankruptcy, or
  - b. the member is a corporate member that becomes insolvent and subject to control under laws relating to the insolvency.

## **2.4 MEMBER RESIGNATION**

A member may resign from a co-operative by giving one month’s notice in writing or such lesser period of time approved by a resolution of the board in a particular case.

## **2.5 EXPELLING A MEMBER**

1. A member may be expelled from the co-operative by special resolution to the effect:
  - a. that the member has seriously or repeatedly failed to discharge the member’s obligations to the co-operative under these rules, or any contract or memorandum of understanding entered into by the member with the co-operative; or
  - b. that the member has acted in a way that has:
    - i. prevented or hindered the co-operative in carrying out its primary activity or one or more of its primary activities; or
    - ii. brought the co-operative into disrepute; or
    - iii. been contrary to one or more of the co-operative principles and has caused the co-operative harm.
2. Written notice of the proposed special resolution must be given to the member at least 28 days before the date of the meeting at which the special

resolution is to be moved, and the member must be given a reasonable opportunity of being heard at the meeting.

3. At the general meeting when the special resolution for expulsion is proposed the following procedures apply:
  - a. at the meeting, the member must be afforded a full opportunity to be heard and is entitled to call witnesses and cross-examine witnesses called against the member;
  - b. if the member fails to attend at the time and place mentioned, without reasonable excuse, the member's alleged conduct must be considered and the co-operative may decide on the evidence before it, despite the absence of the member;
  - c. once the alleged conduct is considered, the co-operative may decide to expel the member concerned;
  - d. the co-operative must not make a decision on the alleged conduct or on expulsion, except by vote by secret ballot of the members present, in person or represented by proxy or by attorney, and entitled to vote;
  - e. a motion for the decision is not taken to be passed unless two-thirds of the members present, in person or represented by proxy or by attorney, vote in favour of the motion.
4. Expulsion of one joint member means expulsion of all members holding membership jointly with the expelled member.
5. An expelled member must not be re-admitted as a member unless the re-admission is approved by special resolution.
6. A member re-admitted must not have restored to them any shares that were cancelled on their expulsion.

## 2.6 FINANCIAL CONSEQUENCES OF RESIGNATION OR EXPULSION

1. In this rule: **deficiency** means the amount of accumulated loss, deficiency or significant change disclosed in the last balance sheet of the co-operative, or later reported, before expulsion.
2. If a member is expelled or resigns from the co-operative, all amounts owing by the former member to the co-operative become immediately payable in full.
3. The shares of an expelled or resigning member must be cancelled as at the day of expulsion or resignation, and the cancellation must be noted in the register of shares.
4. Subject to paragraph 5 of this rule and the written terms of the class of shares issued, the cooperative must pay to the expelled or resigning member the

amount of capital paid up on the former member's shares at the time of expulsion or resignation (less any amount owing by the former member to the co-operative).

5. If a deficiency exists, an appropriate proportion of the loss, deficiency or significant change may be deducted from the amount of capital paid up on the shares of the expelled or resigning member. This is done having regard to the number of shares held by the expelled or resigning member immediately before expulsion or resignation in relation to the number of shares in the co-operative.
6. Subject to s128 of the CNL payment to the expelled or resigning member of any amount owing by the co-operative to the former member:
  - a. must be made at the time decided by the board but within one year from the date of expulsion or resignation; or
  - b. may be applied as a donation or may be substituted with another security at the time decided by the board, but within one year from the date of expulsion or resignation, if there is agreement by the board and former member or if the board considers that repayment would adversely affect the financial position of the co-operative.
7. If a member has prepaid an annual subscription, and
  - a. the amount of the annual subscription is less than \$200 the co-operative may retain the whole of the prepaid annual subscription; or
  - b. the amount of the annual subscription is greater than \$200 the co-operative must refund a pro-rated amount for the remainder of the subscription period less any reasonable costs incurred in administering a refund.

## **2.7 SUSPENDING A MEMBER**

1. The board of the co-operative may suspend a member for not more than one year, who does any of the following:
  - a. contravenes any of these rules;
  - b. fails to discharge obligations to the co-operative, whether under these rules, a contract or memorandum of understanding; or
  - c. acts detrimentally to the interests of the co-operative.
2. In order to suspend a member, the board must give written notice to the member of its intention to suspend membership. Such written notice must include the grounds for suspension and allow the member a reasonable time and opportunity to respond in writing to the notice.

3. The board may, of its own motion or on the request of the member, convene a board meeting to consider suspension of the member.
4. If the board resolves to suspend a member then it must provide the member with written notice of such suspension, the terms of the suspension and the reasons for suspension.
5. During the period of suspension, the member:
  - a. loses any rights (except the right to vote) arising as a result of membership; and
  - b. is not entitled to a refund, rebate, relief or credit amounts paid or payable to the co-operative under these rules.
6. A member may appeal against the decision of the board to suspend membership within 14 days of the board's decision.
7. An appeal against suspension may be dealt with at a general meeting of the co-operative called to consider a special resolution to confirm or overturn the suspension decision by the board.
8. An appeal against suspension shall follow the same procedure set out for the expulsion of a member under rule 2.5.3.
9. A decision by the board to suspend a member does not take effect until the time for appeal has expired or the appeal against such suspension has been determined.

## **2.8 DISPUTE RESOLUTION**

1. The grievance procedure set out in this rule applies to disputes under these rules between:
  - a. a member and another member; or
  - b. a member and the co-operative.
2. If a dispute arises, a party cannot commence any court or arbitration proceedings relating to the dispute unless it has complied with the provisions of this rule, except where a person seeks urgent interlocutory relief.
3. The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days of:
  - a. the dispute coming to the attention of each party; or
  - b. a party giving notice, to each of the other parties involved, of the dispute or grievance.
4. If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, the parties must, as soon as is practicable, hold a meeting in the presence of a mediator.
5. The mediator is, where possible, to be chosen by agreement between the parties, but in the absence of agreement between the parties:



- a. for a dispute between a member and another member, a person appointed by the board; or
  - b. for a dispute between a member (including a former member) and the co-operative, a person appointed by the Australian Mediation Association or a similar organisation that provides alternative dispute resolution services.
6. The mediator may (but need not) be a member of the co-operative, unless the member is a party to the dispute.
7. The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
8. The mediator, in concluding the mediation, must:
  - a. give the parties to the mediation process every opportunity to be heard; and
  - b. allow due consideration by all parties of any written statement submitted by any party; and
  - c. ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
9. The mediator cannot determine the dispute.
10. The mediation must be confidential and without prejudice.
11. The costs of the mediation are to be shared equally between the parties unless otherwise agreed.
12. Nothing in this rule applies to any dispute as to the construction or effect of any mortgage or contract contained in any document other than these rules.
13. Nothing in this rule applies to any dispute involving the expulsion or suspension of a member or the imposition of a fine.
14. If the mediation process does not result in the dispute being resolved, each party may seek to resolve the dispute in accordance with the Law or otherwise at law.
15. In this rule the word member includes any person who was a member not more than 6 months before the dispute occurred.

## **2.9 FINES PAYABLE BY MEMBERS**

No fines are to be imposed on members in any circumstances.

## **2.10 LIABILITY OF MEMBERS**

1. A member is liable to the co-operative for the amount, if any, unpaid on the shares held by the member, together with any charges, including entry fees

and regular subscriptions, payable by the member to the co-operative under these rules.

2. Joint members are jointly and severally liable for any amount unpaid on shares and to any such charges mentioned in paragraph 1 of this rule.

## **2.11 DEATH OF A MEMBER**

The legal personal representative of a deceased member may apply to the board for a transfer of the deceased member's shares in a form approved by the board.

## **2.12 RIGHTS AND LIABILITIES OF MEMBERS WHO ARE BANKRUPT, INSOLVENT OR OTHERWISE INCAPABLE**

1. The shares of an individual member who becomes bankrupt or a corporate member who becomes insolvent may be transferred to the member's trustee, administrator or liquidator, as the case may be, in accordance with the laws dealing with such events.
2. A person appointed under a law of a State or Territory to administer the estate of a person who, through mental or physical incapacity, is incapable of managing their affairs, may be registered as the holder of the member's shares and the rights and liabilities of membership vest in that person during the period of the appointment.
3. The liabilities attaching to the shares of a member under bankruptcy, insolvency, mental incapacity continue in accordance with the Law.
4. Upon application by a person appointed to manage the affairs of a member referred to in paragraph 2 of this rule, the board may decide to suspend some or all active membership obligations if there are grounds to believe that the member's mental or physical incapacity is temporary.

## **2.13 ENTITLEMENTS AND LIABILITIES OF PERSONS REGISTERED AS TRUSTEE, ADMINISTRATOR ETC**

1. A person becoming entitled to be a shareholder because of the death, bankruptcy, insolvency or incapacity of the holder is entitled to the dividends and other advantages to which the person would be entitled if they were the registered holder of the share or shares. However, before being registered as

a member, the person is not entitled to exercise any right conferred by membership in relation to meetings of the co-operative.

2. A person registered as holder of the shares of a member who has died, or is bankrupt, insolvent or incapable of managing their affairs, has the same liabilities in relation to the share or shares as those to which the deceased, bankrupt, insolvent or incapable person would have been liable if they had remained a member with full legal capacity.
3. The board has the same right to decline or to suspend registration of a share as it would have had for a transfer of a share by the bankrupt, insolvent or incapacitated person before the bankruptcy, insolvency or incapacity.

## **CATEGORY THREE - Capital and finance**

### **3.1 SHARE CAPITAL AND MINIMUM SHAREHOLDING FOR MEMBERSHIP**

1. The initial capital of the co-operative must be raised by the issue of **member shares** of nominal value of \$1.
2. A member must hold a minimum of 1 fully paid member shares in the co-operative and must not hold or have a relevant interest in more than 20% of the nominal value of issued share capital of the co-operative unless permitted to do so under the Law.
3. A share in the co-operative does not carry a vote.
4. The right to vote in the co-operative is attached to membership.

#### **3.1A ANNUAL SUBSCRIPTIONS**

There is no annual subscription.

### **3.2 ADDITIONAL MEMBER SHARES**

1. A member may subscribe for additional member shares above the minimum required under rule 3.1.
2. Additional member shares may be fully or partly paid provided that the member does not hold or have a relevant interest in more than 20% of the nominal value of issued share capital of the co-operative.

### 3.3 CALLS ON SHARES

1. The board may from time to time make calls on the members for any amounts unpaid on the shares of the members (whether on the nominal value of the shares or by way of premium), regardless of the share subscription amount (if any) specified in the terms of issue of the shares.
2. Each member must, on receiving at least 14 days' notice of the time and place of payment, pay to the co-operative, at the time and place specified, the amount called on the shares.
3. The directors may revoke or postpone a call.
4. A call is taken to have been made when the resolution of the directors authorising the call was passed and may be required to be paid by instalments.
5. The joint holders of a share are jointly and severally liable to pay all calls for the share.
6. If an amount called for a share is not paid before or on the day fixed for payment of the amount, the person from whom the amount is due must pay interest on the amount from the day fixed for the payment of the amount to the time of actual payment at the rate, not more than 16% per annum, the directors decide, but the directors may waive payment of all or part of the interest.
7. An amount that, under the terms of issue of a share, becomes payable on allotment or at a fixed date, whether on account of the nominal value of the share or by way of premium, is for these rules taken to be a call made and payable on the day that, under the terms of issue, the amount becomes payable. If the amount is not paid, all relevant provisions of these rules about payment of interest and expenses, forfeiture or otherwise apply as if the amount had become payable under a call properly made and notified.
8. The board may, in relation to the issue of shares, differentiate between the holders in the amount of calls to be paid and the times of payment.
9. The board may accept from a member all or part of the money uncalled and unpaid on shares held by the member.
10. The board may authorise payment by the co-operative of interest on all or part of an amount accepted under paragraph 9 of this rule until the amount becomes payable, at a rate of no more than the interest rate published by the Commonwealth Bank for domestic savings accounts at call.

### **3.4 SHARE FORFEITURE**

1. If a member fails to pay a call or instalment of a call by the day appointed for payment, the board may, at any time that any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of so much of the call or instalment as is unpaid, together with any interest that may have accrued.
2. The notice must name a further day (not earlier than 14 days after the date of the notice) on or before which the payment required by the notice is to be made and must state that, in the event of non-payment at or before the time appointed, the shares for which the call was made will be liable to be forfeited.
3. If the requirements of the notice served under this rule are not complied with, any share in respect of which the notice has been given may at any time (but before the payment required by the notice has been made) be forfeited by a resolution of the board.
4. Forfeiture of shares includes forfeiture of all dividends declared for the forfeited shares and not actually paid before forfeiture.
5. Forfeited shares must be cancelled.
6. A person whose shares have been forfeited under these rules stops being a member if membership is conditional on the holding of the shares or membership has otherwise been cancelled under the Law. The person nevertheless remains liable to pay to the co-operative all amounts that are (as at the date of forfeiture) payable by him or her to the co-operative for the shares.
7. A statutory declaration in writing by a director, the chief executive officer or secretary of the co-operative stating that a share in the co-operative has been forfeited and cancelled on a date stated in the declaration, is proof of that fact as against all persons claiming to be entitled to the share.
8. The co-operative has set-off rights against share capital as specified in the Law.

### **3.5 REPURCHASE OF SHARES**

1. A co-operative may, if requested by a member, purchase the member's shares and repay some or all of the capital subject to any restrictions under the Law or the terms of issue of the shares.
2. The co-operative must cancel any shares that have been repurchased.

### **3.6 SHARE TRANSFERS**

1. A share may not be sold or transferred except:
  - a. with the consent of the board, and to a person who is qualified to be admitted to membership of the co-operative; or
  - b. as otherwise provided by these rules or the Law.
2. The instrument of transfer of a share must be signed by or for the transferor and the transferee.
3. The board may decline to register a transfer of shares if to do so would be contrary to the terms of issue of the shares.
4. The board may decline to register a transfer of shares to a person not qualified to be a member.
5. The board may decline to register a transfer of shares on which the co-operative has a lien or charge.
6. If the board refuses to register a transfer of shares it must send notice of the refusal to the transferee within 28 days after the day the board declined to register the transfer.
7. The board of the co-operative must not consent to the sale or transfer of shares that would result in a member having an interest (including a beneficial interest) in more than 20% of the issued share capital of the co-operative.
8. The transferor is taken to remain the holder of the share until the name of the transferee is entered in the register of members.
9. The board may decline to recognise an instrument of transfer unless:
  - a. a transfer fee is paid to the co-operative in an amount equal to or less than the application fee as determined in accordance with Rule 2.2, and
  - b. the instrument of transfer is accompanied by any evidence the board may require to show the right of the transferor to make the transfer.
10. The board must maintain a record of all transfers made in the books of the co-operative.
11. The board may suspend the registration of transfers during the 45 days immediately before the annual general meeting in each year.

### **3.7 EFFECT OF SALE, TRANSFER OR DISPOSAL OF SHARES**

A member who has sold, transferred, or disposed of the beneficial interest in some or all of their shares, so that they no longer hold the minimum number of member shares required by the cooperative, or has agreed to do any of those things, is not entitled to vote at any meeting of the cooperative.

### **3.8 TRANSFER OF SECURITIES OTHER THAN SHARES**

1. Securities other than shares may be transferred using an instrument or form approved by the board that is executed by or on behalf of the transferor and the transferee.
2. The transferor is taken to remain the holder of the security until the transferee's name is entered in the register that records the holders of these securities.
3. The board may decline to register an instrument or form transferring a security other than a share:
  - a. if the transfer would be contrary to the terms of issue of such security, or
  - b. if the transfer fee (as noted on the transfer form or instrument) is not paid to the cooperative for the transfer of registration.
4. The board of the co-operative may require the instrument or form of transfer to be accompanied by:
  - a. the relevant security certificate(s) and any other evidence the board reasonably requires (in particular, evidence showing the right of the transferor to make the transfer) and
  - b. evidence of the payment of any government duty where such duty is payable.
5. If the co-operative refuses to register a transfer of securities under this rule, it must, within 28 days after the date on which the transfer was lodged with it, send to the transferee notice of the refusal.

### **3.9 ISSUE OF CO-OPERATIVE CAPITAL UNITS (CCUs)**

1. The board may confer an interest in the capital of the co-operative by issuing CCUs in accordance with the Law.
2. At a meeting of CCU holders, each CCU holder is entitled to one vote per CCU held.

3. The rights of the holders of CCUs may be varied only in the way and to the extent provided by their terms of issue and only with the consent of at least 75% of those holders of CCUs who, being entitled to do so, cast a formal vote to accept the variation at a meeting.
4. The holder of a CCU has, in the person's capacity as a holder of a CCU, none of the rights or entitlements of a member of the co-operative.
5. The holder of a CCU is entitled to receive notice of all relevant meetings of the cooperative and all other documents in the same manner as the holder of a debenture of the co-operative.

## **CATEGORY 4 - Board of directors and board meetings**

### **4.1 BOARD OF DIRECTORS**

1. The business of the co-operative is to be managed by or under the direction of the board of directors, and for that purpose the board has and may exercise all the powers of the cooperative that are not required to be exercised by the co-operative in general meeting.
2. The board must have 3 directors.
3. The board may, by resolution, delegate any of the board's powers (other than this power of delegation) provided that the delegation,
  - a. is in writing,
  - b. is only a delegation of power to a committee that includes a minimum of 2 directors, and
  - c. the instrument of delegation clearly describes the power delegated and any limitations on the exercise of such delegated power.

### **4.2 QUALIFICATIONS OF DIRECTORS**

1. A person is not qualified to be a director of the co-operative unless the person is an individual over the age of 18 years and is either:
  - a. an active member of the co-operative or a representative of a corporation that is an active member of the co-operative; or
  - b. not an active member but who possesses special skills in management or other technical areas of benefit to the co-operative as specified by the board from time to time.
  - c. A person qualified to be a director under paragraph 1.a of this rule is known as a "member director". A person qualified under paragraph 1.b



of this rule is known as a “non-member director” or “independent director”.

2. The board of directors must have a majority of member directors.

### **4.3 FIRST DIRECTORS AND TERMS OF OFFICE**

1. The first directors are those directors who are elected by poll at the formation meeting.
2. The term of office for a director (other than a first director) is three years ending on the day of the third annual general meeting after that director’s election.
3. The term of office of the first directors shall be determined at the formation meeting in order to enable their retirement by rotation and in any event shall be no more than three years ending on the day of the third annual general meeting after the formation meeting.

### **4.4 ELECTION OF DIRECTORS**

1. The members of the board are to be elected in the manner specified in this rule.
2. At an annual general meeting at which there are vacancies in the office of director as a result of retirement or due to a casual vacancy, the vacated office may be filled in the following manner:
  - a. At least 6 weeks before the annual general meeting, the board must:
    - i. notify all members of the number of directors retiring at the annual general meeting and any casual vacancies to be filled; and
    - ii. advise the members of:
      - A. their eligibility to nominate as a director; and
      - B. the duties and responsibilities of a director; and
      - C. the anticipated remuneration (if any); and
      - D. the nomination and election procedures.
3. A notice must also be displayed at the place of business of the co-operative inviting nominations of nominees to serve as directors.
4. A nomination for election of a member director must:
  - a. be signed by 2 or more members; and
  - b. provide details of the qualifications and experience of the person nominated; and
  - c. be accompanied by a notice in writing signed by the nominee consenting to their nomination.

5. A nomination for election of a non-member or independent director must:
  - a. be signed by 2 member directors; and
  - b. provide details of the qualifications and experience of the person nominated; and
  - c. be accompanied by a notice in writing signed by the nominee consenting to their nomination.
6. The nomination and the notice of consent must be lodged with the secretary of the cooperative at least 30 days before the annual general meeting.
7. The secretary, or an officer nominated by the board, must give details of each person who has been nominated to members with the notice of the annual general meeting. Details to be provided to members must include:
  - a. the nominee's name; and
  - b. the nominee's qualifications and experience; and
  - c. the nominee's length of any previous service as a director of the co-operative or with any other co-operative.
8. If the number of nominees equals the number of vacancies, the nominees must be declared elected at the annual general meeting.
9. If there are insufficient nominees to fill all vacancies, the nominees must be declared elected at the annual general meeting and any remaining vacancies will become casual vacancies.
10. If the number of nominees exceeds the number of vacancies, the election of directors must be conducted at the meeting by ballot as follows:
  - a. A returning officer is elected at the meeting. The directors, the secretary and anyone who has an interest in the election are not eligible to be the returning officer.
  - b. All nominees are to be listed on the ballot form in alphabetical order.
  - c. The returning officer is responsible for determining the validity of and counting of the votes.
  - d. If there is an equality of votes, there must be a new ballot.
  - e. The returning officer is to declare the election results.

## **4.5 REMOVAL OF A DIRECTOR**

1. The co-operative may by resolution under the Law, with special notice, remove a director before the end of the director's period of office, and may by a simple majority appoint another person in place of the removed director. The person appointed must retire when the removed director would otherwise have retired.

2. For the purposes of this rule, 'special notice' is a notice required under the Law to be given 2 months prior to the meeting at which the resolution is to be considered.

## **4.6 WHEN A DIRECTOR VACATES OFFICE AND CASUAL VACANCIES**

1. In addition to the circumstances set out s179 of the CNL, a director vacates office if the director dies or becomes unable to manage their affairs by reason of mental illness.
2. The board may appoint a qualified person to fill a casual vacancy in the office of director that arises because of an event referred to in paragraph 1 of this rule or because there were insufficient nominees for election at an annual general meeting.
3. A person appointed to fill a vacancy under paragraph 2 of this rule is appointed until the next annual general meeting.

## **4.7 ALTERNATE OR DEPUTY DIRECTORS**

1. The board may appoint a person to act as a director (an alternate director or deputy director) in the place of an absent director (the principal director).
2. A person is not qualified to be appointed as an alternate or deputy director for:
  - a. a member director—unless the person is qualified for appointment as a member director; or
  - b. a non-member director—unless the person is qualified for appointment as a nonmember director.
3. An alternate or deputy director holds office until the next annual general meeting or until the next general meeting held to elect directors to fill any vacancies (whichever is earlier).
4. An alternate or deputy director for a director (the principal director) vacates office:
  - a. in similar circumstances or cases to those in which the principal director would vacate office under these rules or
  - b. if the or deputy alternate director is removed from office by the board as alternate or deputy director for failure, without its leave, to attend a meeting of the board at which the principal director is absent.

## **4.8 DIRECTOR REMUNERATION**

Directors' remuneration must be approved at a general meeting.

## **4.9 BOARD MEETINGS**

1. Meetings of the board are to be held as often as may be necessary for properly conducting the business of the co-operative and must be held at least every 3 months.
2. A meeting may be held with one or more of the directors participating by using a form of communication that allows reasonably contemporaneous and continuous communication between the directors taking part in the meeting.
3. Questions arising at a meeting must be decided by a majority of votes.
4. If votes are equal, the chairperson, if a member director, has a second or casting vote.
5. Other than in special circumstances decided by the chairperson, at least 48 hours' notice must be given to the directors of all meetings of the board, without which the meeting cannot be held.

## **4.10 BOARD QUORUM**

1. The quorum for a meeting of the board is 50% of the number of directors (or if that percentage of the number of directors is not a whole number, the whole number next higher than 50%).
2. For a quorum, the number of member directors must outnumber the non-member directors by at least one.

## **4.11 CHAIRPERSON OF THE BOARD**

1. The chairperson of the board is to be elected by the board and may be removed by resolution of the board. On a resolution to remove the chairperson, the chairperson is not entitled to cast a vote.
2. If no chairperson is elected or the chairperson is not present within 15 minutes after the time fixed 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 the chairperson attends and is willing to act as chairperson.

## **4.12 MINUTES OF BOARD AND OTHER MEETINGS**

1. The board must keep minutes of meetings and, in particular, of:
  - a. all appointments of officers and employees made by the directors; and
  - b. the names of the directors present at each meeting of the board and of a committee of the board; and
  - c. all resolutions and proceedings at all meetings of the co-operative and of directors and of committees of directors.
2. Minutes must be entered in the appropriate records within 28 days of the meeting to which they relate was held.
3. The minutes are to be signed and confirmed by the chairperson within a reasonable time after the meeting to which they relate was held.
4. Members do not have access to the minutes of board or committee meetings, but may request access to any such minutes in writing addressed to the board.

## **CATEGORY 5 - Member meetings**

### **5.1 GENERAL MEETINGS**

1. An annual general meeting must be held on a date and at a time decided by the board within 5 months of the end of the co-operative's financial year or within any further time allowed by the Registrar.
2. The board may, whenever it considers appropriate, call a special general meeting of the cooperative.
3. General meetings may be held using technology that permits a member to participate contemporaneously in the meeting and enables the member to hear proceedings, ask questions of the board or the auditor and to cast a vote.

### **5.2 NOTICE OF GENERAL MEETINGS AND MEMBER RESOLUTIONS**

1. At least 14 days' notice of a general meeting must be given.
2. The period of notice is calculated by starting from the day after the notice is served or taken to be served, and is taken to include the day on which the meeting is to be held.

3. Notice must be served on each member of the co-operative and any other persons who are entitled to receive such notices under the Law.
4. The notice must state the place, day and hour of the meeting and if the meeting is to be conducted using technology, the notice must include instructions about how to attend the meeting.
5. The notice must state what ordinary business is to be considered, and, if there is to be any special business, the general nature of any special business.
6. The notice must also include any business that members have notified their intention to move at the meeting provided that paragraph 7 of this rule has been complied with.
7. Members who together are able to cast at least 20% of the total number of votes that are able to be cast at a meeting of the co-operative, and who have a resolution that requires a decision by the members at a general meeting, must serve written notice of it on the cooperative.
8. If the co-operative has been served with notice under paragraph 7 the resolution is to be considered at the next general meeting that occurs more than 2 months after the notice is served or taken to be served.

## **5.3 BUSINESS OF THE ANNUAL GENERAL MEETING**

1. The ordinary business of the annual general meeting of the co-operative must be:
  - a. to confirm minutes of the last preceding general meeting (whether annual or special); and
  - b. to receive from the board, auditors or officers of the co-operative:
    - i. the financial reports or financial statements of the co-operative for the financial year;
    - ii. a report on the state of affairs of the co-operative; and
    - iii. the board's solvency resolution stating whether or not there are reasonable grounds to believe that the co-operative will be able to pay its debts as and when they become due and payable; and
  - c. to approve any payments of fees to directors, and
  - d. to elect directors to fill any vacancies on the board.
2. The annual general meeting may also transact special business of which notice has been given to members under these rules.
3. All business of a general meeting, other than business of the annual general meeting that is ordinary business, is special business.

## **5.4 QUORUM AT GENERAL MEETINGS**

1. An item of business cannot be transacted at a general meeting unless a quorum of members is present when the meeting is considering the item.
2. If the number of active members is less than or equal to 10, the quorum is 5 active members.
3. If the number of active members is more than 10, then the greater of
  - a. 6 active members, or
  - b. 20% of the active membership, constitutes a quorum.
4. A member is present for the purpose of these rules if the member is entitled to vote and
  - a. is physically present,
  - b. is represented by their attorney or authorised nominee, or
  - c. is attending via video link or other technology that enables the member to participate in the proceedings.
5. A proxy given to another member does not entitle the person giving the proxy to be counted as a member who is present for the purposes of paragraph (2) of this rule.
6. If a quorum is not present within half an hour after the appointed time for a meeting, the meeting, if called on the requisition of members, must be dissolved. In any other case it must be adjourned to the same day, time and place in the next week.
7. If a quorum is not present within half an hour after the time appointed for an adjourned meeting, the members present constitute a quorum.

## **5.5 CHAIRPERSON AT A GENERAL MEETING AND ADJOURNMENTS**

1. The chairperson of the board may preside as chairperson at every general meeting of the cooperative.
2. If there is no chairperson, or if at a 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, the members present must choose someone from their number to be chairperson (until the chairperson attends and is willing to act).
3. The chairperson may, with the consent of a meeting at which a quorum is present (and must if directed by the meeting) adjourn the meeting from time to time and from place to place.

4. The only business that can be transacted at an adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
5. It is not necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting unless the meeting is adjourned for 14 days or more, in which case notice of the adjourned meeting must be given just as for the original meeting.

## **5.6 ATTENDANCE AND VOTING AT GENERAL MEETINGS**

1. The right to vote attaches to membership and not shareholding.
2. Each active member has only one vote at a meeting of the co-operative.
3. In the case of a joint membership
  - a. Joint members have only one vote between them,
  - b. Every joint member is entitled to attend and be heard at a general meeting, and
  - c. In the event of a dispute between joint members as to which member will vote (subject to the grant of any proxy or power of attorney), the joint member whose name appears first in the register of members is entitled to vote.
4. A resolution, other than a special resolution, must be decided by simple majority.
5. Subject to paragraphs 6 and 7 of this rule, a question for decision at any general meeting must be decided on a show of hands of members attending the meeting.
6. A poll may be demanded on any question for decision.
7. If before a vote is taken or before or immediately after the declaration of the result on a show of hands:
  - a. the chairperson directs that the question is to be determined by a poll; or
  - b. at least 5 members present in person or represented by proxy demand a poll, the question for decision must be determined by a poll.
8. The poll must be taken when and in the manner that the chairperson directs.
9. A poll on the election of a chairperson or on the question of adjournment must be taken immediately and without debate.
10. Once the votes on a show of hands or on a poll have been counted a declaration by the chairperson that a resolution has been carried (unanimously or by a majority) or lost is evidence of that fact.
11. The result of the vote must be entered in the minute book.



## 5.7 VOTING ON A SHOW OF HANDS OR ON A POLL

1. On a show of hands at a general meeting, each member who is present in accordance with rule 5.4.4 may only exercise one vote.
2. On a poll called at a general meeting, each member
  - a. who is present in accordance with rule 5.4.4 or
  - b. who is represented by a proxy (but only if proxies are allowed under rule 5.9) may only exercise one vote.

## 5.8 DETERMINING THE OUTCOME WHEN VOTES ARE EQUAL

1. This rule applies where the votes in favour and against a resolution are equal.
2. If the chairperson of the meeting is a member of the co-operative, he or she may exercise a second or casting vote.
3. If the chairperson is not a member of the co-operative or decides not to exercise a second or casting vote, the outcome when votes are equal is that the resolution fails.

## 5.9 PROXY VOTING

Voting by proxy is not permitted at a general meeting.

## 5.10 POSTAL BALLOTS

1. For the purposes of this rule:
  - a. a **postal ballot** includes a ballot conducted by the use of technology such as email or other voting software, and
  - b. a **ballot paper** means a ballot paper in paper or electronic form.
2. A postal ballot may be held in respect of any matter that may be decided by the members at general meeting, under rule 5.3.
3. In determining whether to hold a postal ballot on a matter for decision by members, the board must take into consideration the following matters:
  - a. whether a postal ballot would facilitate a more democratic decision by members, and
  - b. whether a postal ballot is time and cost effective.
4. A postal ballot must be held in respect of a matter that may be decided by members, where 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, requisition the board to conduct the vote by postal ballot.

5. The board may determine in a particular case whether the matter to be decided by postal ballot should be a secret ballot and whether votes may be returnable by fax or other electronic means or both.
6. if fax or electronic means for voting are used, members who have limited or no access to the fax or electronic means, must not be prejudiced in any way and must have opportunity to be advised of postal ballot, to consider, record and return their vote.
7. The board is to appoint a returning officer to conduct the postal ballot. In default of such an appointment, the secretary is the returning officer.
8. Ballot papers (in such form and with such content as the board may approve) must be sent to all voting members giving:
  - a. particulars of the business in relation to which the postal ballot is being conducted; and
  - b. an explanation of how to lodge a valid vote and the majority required to pass the vote; and
  - c. notice of the closing date and closing time of the postal ballot;and must be sent to members so that they arrive at least 21 days before the closing date of the postal ballot.
9. This rule does not apply in relation to special postal ballots.

## **5.11 SPECIAL POSTAL BALLOTS**

1. For the purposes of this rule:
  - a. A special postal ballot includes a ballot conducted by the use of technology such as email or other voting software, and
  - b. A ballot paper means a ballot paper in paper or electronic form
2. Where a special postal ballot is required under the Law, the board may determine in a particular case whether the special postal ballot should be a secret ballot and whether votes may be returnable by fax or other electronic means or both.
3. if fax or electronic means for voting are used, members who have limited or no access to the fax or electronic means, must not be prejudiced in any way and must have opportunity to be advised of postal ballot, to consider record and return their vote.
4. The board is to appoint a returning officer to conduct the special postal ballot. In default of such an appointment, the secretary is the returning officer.
5. Ballot papers (in such form and with such content as the board may approve) providing:

- a. particulars of the business in relation to which the postal ballot is being conducted;
  - b. all documents required for special postal ballots as set out under the Law; and
  - c. an explanation of how to lodge a valid vote and the majority required to pass the vote; and
  - d. notice of the closing date and closing time of the postal ballot;
6. must be sent to all voting members so that they arrive at least 28 days before the closing date of the special postal ballot.

## **5.12 SPECIAL RESOLUTIONS**

1. A special resolution is a resolution that is passed:
  - a. by a two-thirds majority of those active members who cast a vote in favour of the resolution at a general meeting or in a postal ballot of members; or
  - b. by a three-quarters majority of those active members who cast a vote in favour of the resolution in a special postal ballot of members.
2. A notice of special resolution is required to be given to members at least 21 days before the vote or ballot time (or 28 days in the case of a special postal ballot).
3. The notice of special resolution must state:
  - a. the intention to propose the special resolution; and
  - b. the wording of the proposed special resolution; and
  - c. the reasons for proposing the special resolution; and
  - d. the effect of the special resolution being passed.

# **CATEGORY SIX - Accounts and other administrative matters**

## **6.1 FINANCIAL YEAR**

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

## **6.2 BANK ACCOUNTS**

1. The board must have at least one financial institution account, electronic or otherwise, in the name of the co-operative, into which all amounts received by the co-operative must be paid as soon as possible after receipt.
2. All cheques drawn on the accounts, and all drafts, bills of exchange, promissory notes and other negotiable instruments of the co-operative must be signed by 2 authorised persons.
3. Subject to paragraph 4 of this rule, the operation of any electronic accounts must be restricted so that there is a requirement for authorisation of any electronic transaction by 2 authorised persons.
4. The board may determine by resolution that the payment of money in respect of transactions conducted in the ordinary course of the co-operative's business may be executed by 1 authorised person subject to a specified monetary limit set out in such resolution.
5. For the purposes of this rule, an authorised person is:
  - a. a director; or
  - b. a person approved by the board.

## **6.3 MEMBER FINANCIAL STATEMENTS AND AUDIT**

1. If the co-operative is directed to prepare a financial report under section 271 or 272 of the CNL and the direction requires that the financial report be audited or reviewed, the board must appoint an auditor within one month of the direction.
2. An auditor appointed under this rule holds office until the financial report prepared as a result of the direction has been audited or reviewed in accordance with the directions and sent to members or the Registrar as the case may be.

## **6.4 PROVISION FOR LOSS**

The board must make appropriate provision for losses in the co-operative's accounts. When reporting to members the board must indicate whether a loss is expected to continue and whether there is any material prejudice to the co-operative's solvency.

## **6.5 DISTRIBUTION OF SURPLUS OR RESERVES**

1. The co-operative may dispose of any reserves or surplus in a financial year arising from the business of the co-operative in accordance with the Law.

2. A part of the surplus, but not more than 10% arising in any year from the business of the cooperative may be applied to support any activity approved by the co-operative.

## **6.6 SAFEKEEPING OF SECURITIES**

Shares, debentures, charges and any other certificates or documents or duplicates of them pertaining to securities owned by the co-operative must be safely kept by the co-operative in the way and with the provision for their security as the board directs.

## **6.7 CO-OPERATIVE SEAL**

1. This rule applies if the co-operative chooses to authenticate a document under its common seal.
2. The co-operative's name and registration number must appear on its common seal and any official seal. The common seal must be kept at the registered office in the custody that the board directs.
3. The co-operative may have one or more official seals for use outside the State or Territory in place of its common seal. 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 the co-operative is registered, and any other requirements under the legislation of that other State or Territory.
4. The seal of the co-operative must not be affixed to an instrument other than under a resolution of the board. Two directors, or one director and the secretary, must be present and must sign all instruments sealed while they are present.

## **6.8 AMENDMENT AND COPIES OF RULES**

1. Any amendment of the rules must be approved by special resolution.
2. A proposal to amend any rules must be made in a form approved by the board which clearly shows the existing rule or rules concerned and any proposed amendment to those rules.
3. A member is entitled to a copy of the rules, including any amendments consolidated into the rules, on payment to the co-operative of the following amount:
  - a. For a hard copy of the rules - \$10.
  - b. For an electronic copy of the rules – Nil.

## 6.9 NOTICES AND OTHER DOCUMENTS TO MEMBERS

1. In addition to any other requirements of the Law regarding notices to members, a notice or other document required to be given to a member of the co-operative may be given by the cooperative to any member by any form of technology (for example, by fax or email), where the member has given consent and notified the co-operative of the relevant contact details.
2. If a notice is sent by post, service is taken to be effected at the time at which the properly addressed and prepaid letter would be delivered in the ordinary course of post. In proving service by post, it is sufficient to prove that the envelope containing the notice was properly addressed and posted.
3. A notice forwarded by some other form of technology is taken to have been served, unless the sender is notified of a malfunction in transmission, on the day of transmission if transmitted during a business day, otherwise on the next following business day.
4. A notice may be given by the co-operative to joint members by giving the notice to the joint member named first in the register of members.
5. 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, and:
  - a. the address should be that supplied for the purpose by the person claiming to be entitled; or
  - b. 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.

## 6.10 WINDING UP

1. The winding up of the co-operative must be in accordance with the Law.
2. If on the winding up or dissolution there remains any property after the satisfaction of all the co-operative's debts and liabilities this must be distributed in the following manner:

- a. first, repayment of amounts paid up on shares or other securities issued, if any, by the co-operative in accordance with their terms of issue, then
  - b. distribution of any remaining surplus to members of the co-operative in proportion to the member's shareholding, subject to the terms of issue of any other securities issued by the co-operative.
3. If on the winding up or dissolution there is a deficiency, members are liable to contribute towards the deficiency to the extent of any amount unpaid on the shares held by the member and any charges payable by the member to the co-operative as required by these rules.