

Berowra Sustainability Co-op Ltd

(a non-distributing co-operative without share capital)

Rules

CERTIFICATION:

We the undersigned, certify that this is a copy of the rules which were presented to the formation meeting on ____ / ____ / _____ for the purpose of forming a co-operative to be known as Berowra Sustainability Co-op Ltd.

Chairperson of formation meeting

Signature

Secretary of formation meeting

Signature

1 Name

The name of the co-operative is Berowra Sustainability Co-op Ltd.

2 Definitions

(1) In these rules:

Berowra refers to all areas within the postcode areas 2081 and 2082.

the Law means the Co-operatives National Law as applying in New South Wales.

the National Regulations means the Co-operatives National Regulations as applying in New South Wales.

(2) 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, from time to time, in the Law or relevant provisions of the Law.

3 Mission and values

(1) The mission of the co-operative is to promote a sustainable Berowra community via a range of practical projects, initiatives, events and education.

(2) The co-operative will be inclusive and community-driven, and all opportunities will be offered in a fair and equitable manner to all members.

4 Active membership provisions

(1) Primary activity

For the purposes of Part 2.6 of the Law, the primary activity of the co-operative is to develop and implement community sustainability projects.

(2) Active membership requirements

A member must

- a) subscribe to the co-operative's communications service; and
- b) participate in at least one meeting, event or initiative of the co-operative each calendar year; and
- c) pay the annual membership in accordance with rule 6;

to establish and maintain active membership of the co-operative.

5 Qualifications for membership

- (1) A person qualifies for membership of the co-operative if there are reasonable grounds for believing they will be an active member.
- (2) There are no corporate members.

6 Entry fees and regular subscriptions

- (1) There is no entry fee for an application for membership.
- (2) The annual (calendar year) subscription is:
 - (a) determined from time to time by the board; and
 - (b) payable in advance and non-refundable; and
 - (c) cannot exceed \$200.

7 Membership applications

- (1) Applications for membership must be approved by the board, and should be accompanied by payment of any applicable entry fee or subscription set under rule 6.
- (2) Every application 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 must be refunded within 28 days without interest.

8 Cessation of membership

A person ceases to be a member in either of the following circumstances if:

- (a) the membership ceases in any circumstances specified in section 117 of the Law;
- (b) the member no longer qualifies for membership under rule 5.

9 Expulsion of members

- (1) A member may be expelled from the co-operative by board resolution to the effect:
 - (a) that the member has seriously or repetitively failed to discharge the member's obligations to the co-operative under these rules or a contract entered into with the co-operative under section 125 of the Law; 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 as described in section 10 of the Law and has caused the co-operative harm.

(2) Written notice of the proposed resolution must be given to the member at least 14 days before the date of the meeting at which the resolution is to be moved, and the member must be given a reasonable opportunity of being heard at the meeting.

(3) Expulsion of one joint member means expulsion of all members holding membership jointly with the expelled member.

10 Resignation of members

A member may resign their membership of the co-operative by giving notice in writing in a form approved by the board.

11 Monetary consequences of expulsion or resignation

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.

12 Suspension of members

(1) The board of the co-operative by resolution 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 or a contract;
- (c) acts detrimentally to the interests of the co-operative.

(2) Written notice of the proposed resolution must be given to the member at least 7 days before the date of the meeting at which the resolution is to be moved, and the member must be given a reasonable opportunity of being heard at the meeting.

(3) 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 for membership fees paid, or payable, to the co-operative.

13 Disputes and mediation

(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 (including a former 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 a person 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 Co-operative Federation Ltd.
- (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 conducting 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.

14 Fines

The co-operative will not impose fines on its members in any circumstances.

15 Liability of members to co-operatives

- (1) A member is liable to the co-operative for the amount, if any, unpaid by the member in respect of entry fees and regular subscriptions, together with any charges, payable by the member to the co-operative under these rules.
- (2) Joint members are jointly and severally liable for any amount unpaid in respect of items mentioned in subrule (1).

16 Forfeiture and cancellations—inactive members

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

- (a) the whereabouts of the member are not presently known to the co-operative and have not been known to the co-operative for a continuous period of at least 2 years; or
- (b) the member is not presently active and has not been active within the meaning of rule 4 in the past 2 calendar years.

17 Value of interest of deceased member

The value of the interest of a deceased member is nil.

18 Rights and liabilities of members under bankruptcy or mental incapacity

- (1) If a person's membership ceases because of bankruptcy, the value of the person's membership interest is also nil.
- (2) A person appointed under a law of a State or Territory to administer the estate of a member who, through mental or physical infirmity, is incapable of managing his or her affairs, may be registered as the holder of the member's interest in the co-operative and the rights and liabilities of membership vest in that person during the period of the appointment.
- (3) Upon application by a person appointed to manage the affairs of a member referred to in subrule (2), the board may decide to suspend some or all active membership obligations if there are grounds to believe that the member's physical or mental infirmity is temporary.

19 Transfer and transmission of debentures

- (1) On the written request of the transferor (the giver) of a debenture, the co-operative must enter in the appropriate register the name of the transferee (the receiver) in the same way and on the same conditions as if the application for entry were made by the transferee.
- (2) If the co-operative refuses to register a transfer of debentures, 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) An instrument of transfer of a debenture must be executed by or on behalf of the transferor and the transferee. The transferor is taken to remain the holder of the debenture until the debenture in the name of the transferee is entered in the register of debentures.
- (4) The board may decline to recognise an instrument of debenture and may decline to register a debenture unless:
 - (a) a fee (as determined from time to time by the board) is paid to the co-operative for the transfer of registration; and
 - (b) the instrument of transfer is accompanied by the relevant debenture(s) and any other evidence the board reasonably requires (in particular, evidence showing the right of the transferor to make the transfer); and
 - (c) any government stamp duty payable is paid.
- (5) Debentures must be transferred using a form approved by the board.

20 Annual general meeting

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

21 Members' power to requisition a general meeting

- (1) The board must call a general meeting of the co-operative on the requisition in writing by 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.
- (2) The provisions of section 257 of the Law apply to a meeting requisitioned by members.

22 Notice of general meetings

- (1) At least 14 days' notice of a general meeting (not including the day on which the notice is served or taken to be served, but including the day for which notice is given) must be given.
- (2) Notice must be given to each member of the co-operative and any other persons who are, under these rules or the Law, entitled to receive notices from the co-operative.
- (3) The notice must state the place, day and hour of the meeting and include ordinary business as specified in rule 23 and, for special business, the general nature of any special business.

- (4) The notice must also include any business members have notified their intention to move at the meeting under subrule (6) (but only if the members' notification has been made under these rules and within time).
- (5) The notice must be served in the manner provided in the Law or rule 47.
- (6) 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 to submit to a general meeting must give written notice of it to the co-operative at least 45 days before the day of the meeting.

23 Business of general meetings

- (1) The ordinary business of the annual general meeting must be:
 - (a) to confirm minutes of the last preceding general meeting (whether annual or special); and
 - (b) to receive from the board, auditors (if engaged) or officers of the co-operative as appropriate:
 - (i) the financial reports of the co-operative for the financial year; and
 - (ii) a report on the state of affairs of the co-operative; and
 - (iii) if required, a directors' solvency resolution as to whether or not, in their opinion, 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 elect directors to fill any vacancies on the board.
- (2) The annual general meeting may also transact other business of which notice has been given to members, if required, under the Law or these rules.

24 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) Unless these rules state otherwise, 8 members present, each being entitled to exercise a vote, constitute a quorum.
- (3) 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.
- (4) If a quorum is not present within half an hour after the time appointed for an adjourned meeting, the members present constitute a quorum.

25 Chairperson at general meetings

- (1) The chairperson, if any, of the board may preside as chairperson at every general meeting of the co-operative.

- (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 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. However, 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. When a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given just as for the original meeting. Apart from this it is not necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting.

26 Attendance and voting at general meetings

- (1) The right to vote attaches to membership.
- (2) Joint members have only one vote between them.
- (3) Every joint member is entitled to attend and be heard at a general meeting.
- (4) In the event of a dispute between joint members as to which member will vote (subject to the grant of any power of attorney), the joint member whose name appears first in the register of members is entitled to vote.
- (5) A resolution, other than a special resolution, must be decided by simple majority.
- (6) Subject to subrules (7) and (8), a question for decision at any general meeting must be decided on a show of hands of members present at the meeting.
- (7) A poll may be demanded on any question for decision.
- (8) 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 demand a poll, the question for decision must be determined by a poll.
- (9) The poll must be taken when and in the manner that the chairperson directs.
- (10) A poll on the election of a chairperson or on the question of adjournment must be taken immediately and without debate.
- (11) Once the votes on a show of hands or on a poll have been counted then, subject to subrule (8), a declaration by the chairperson that a resolution has been carried (unanimously or by a particular majority) or lost is evidence of that fact.

27 Determining the outcome where equality of votes

- (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 of an equality of votes is taken to have been decided in the negative.

28 Proxy votes

Voting by proxy is not permitted at a general meeting.

29 Postal ballots (other than special postal ballots)

- (1) A postal ballot must be held in respect of a special resolution 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 may requisition the board to conduct the special resolution by postal ballot.
- (2) If a postal ballot is requisitioned by members under subrule (1), the requisition should specify whether the postal ballot is to be a secret ballot.
- (3) A postal ballot requisitioned under subrule (1) is to be conducted in accordance with the National Regulations and in the form and manner determined by the board.
- (4) The board may determine in a particular case whether the special resolution by postal ballot should be a secret ballot and whether votes may be returnable by fax or other electronic means or both.
- (5) If the board decides to conduct a secret postal ballot, it must ensure that the method used to conduct the ballot will ensure that votes can be counted without identifying the way each member has voted.
- (6) 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.
- (7) 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 (assuming standard postal times) at least 21 days before the closing date of the postal ballot.
- (8) This rule does not apply in relation to special postal ballots.

30 Special postal ballots

- (1) This rule applies where a special postal ballot is required.

- (2) Ballot papers (in such form and with such content as the board may approve) must be sent to all voting members so that they arrive (assuming standard postal times) at least 28 days before the closing date of the special postal ballot.
- (3) The board may determine in a particular case whether the special resolution by postal ballot should be a secret ballot and whether votes may be returnable by fax or other electronic means or both.
- (4) If the board decides to conduct a secret postal ballot, it must ensure that the method used to conduct the ballot will ensure that votes can be counted without identifying the way each member has voted.

31 Special resolutions

- (1) A special resolution is a resolution that is passed:
 - (a) by a two-thirds majority at a general meeting; or
 - (b) by a two-thirds majority in a postal ballot (other than a special postal ballot) of members; or
 - (c) by a three-quarters majority 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' notice 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 reasons for proposing the special resolution; and
 - (c) the effect of the special resolution being passed.

32 Board

- (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 co-operative that are not required to be exercised by the co-operative in general meeting.
- (2) The board must have at least 4 and no more than 7 directors.

33 Qualifications of directors

A person is not qualified to be a director of the co-operative unless they are:

- (a) over the age of 18 years; and
- (b) an active member of the co-operative.

34 Election of directors

- (1) The first directors are elected by poll at the formation meeting of the co-operative.
- (2) At each annual general meeting, all directors retire and an election for the next board is held.
- (3) Retiring directors are eligible for re-election.
- (4) Nominations for candidates are sought at the annual general meeting and must give details of the qualifications and experience of the person nominated.
- (5) Any election of directors must be held by secret ballot.
- (6) If there is an equality of votes, the outcome must be determined by lot.

35 Removal from office of director

The co-operative may by resolution under section 180 of the Law, with special notice as required by that section, 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.

36 Vacation of office of director

In addition to the circumstances set out in the Law, a director vacates office if the director dies.

37 Casual vacancies and alternate directors

The board may appoint a qualified person to fill a casual vacancy in the office of director until the next annual general meeting.

38 Remuneration of directors

There is no remuneration for directors.

39 Proceedings of the board

- (1) Meetings of the board (including meetings conducted outside board meetings pursuant to section 176 of the Law) 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 may have 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.

40 Quorum for board meetings

The quorum for a meeting of the board is 50% of the number of directors (rounded up to the nearest whole number, if necessary).

41 Chairperson of board

- (1) The chairperson of the board is to be elected by the board.
- (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.
- (3) The chairperson may be removed, and a new chairperson elected, by ordinary resolution of the board.

42 Minutes

- (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 within a reasonable time after the meeting to which they relate by either the chairperson of that meeting or the chairperson of the next meeting.

43 Amendments and copies of rules

- (1) Any amendment of the rules must be approved by special resolution.
- (2) A proposal to amend the rules of the co-operative must be made in a form approved by the board which clearly shows the existing rule or rules concerned and any proposed amendment to the rules.
- (3) A member is entitled to a copy of the rules free of charge.

44 Execution of documents

Documents of the co-operative are authenticated or executed by two directors, or a director and the secretary.

45 Board meeting minutes

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.

46 Safe keeping of securities

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

47 Notices to members

- (1) This rule applies in addition to section 611 of the Law regarding how a notice or other document may be given to a member of the co-operative.
- (2) A notice or other document required to be given to a member of the co-operative may be given by the co-operative 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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 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;
 - (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.

48 Financial year

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

49 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) The operation of any electronic accounts must be restricted so that there is a requirement for authorisation by:
 - (a) 2 authorised persons; or
 - (b) 1 authorised person for smaller transactions up to a limit set by the board.
- (4) For the purposes of this rule, an **authorised person** is:
 - (a) a director; or
 - (b) a person approved by the board.

50 Appointing an auditor or reviewer if there is a direction under the Law

- (1) If a small co-operative is directed to prepare a financial report under section 271 or 272 of the Law, the direction requires that the financial report be audited or reviewed, and the co-operative does not already have an auditor or reviewer, the board must appoint an auditor or reviewer (as the case may be) within one month of the direction.
- (2) An auditor or reviewer appointed under this rule holds office until the financial report prepared as a result of the direction has been audited or reviewed and sent to members.

51 Disposal of surplus funds during a financial year

- (1) The board may retain all or part of the surplus arising in any year from the business of the co-operative, to be applied for the benefit of the co-operative.
- (2) No part of the surplus may be paid or transferred directly or indirectly, by way of profit, to members of the co-operative.
- (3) A part of the surplus, but not more than 20%, arising in any year from the business of the co-operative may be applied for charitable purposes.

52 Provision for loss

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

53 Financial reports to members

The co-operative must prepare financial reports and statements in accordance with the Law, the National Regulations and these rules.

54 Winding up

- (1) The winding up of the co-operative must be in accordance with Part 4.5 of the Law.

(2) If, on the winding up or dissolution, there remains any property after the satisfaction of all its debts and liabilities, this must not be paid to or distributed among the members of the co-operative but must be given or transferred to an institution or institutions:

- (a) with objects similar to those of the co-operative; and
- (b) whose constitution prohibits the distribution of its property among its members; and
- (c) chosen by the members of the co-operative at or before the dissolution or, in default, by a judge of the court with jurisdiction in the matter.