

NORTHERN TERRITORY OF AUSTRALIA

DAGURAGU COMMUNITY GOVERNMENT SCHEME

As in force at 15 March 2004

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Community Government Scheme as in force at 15 March 2004. Any amendments that commence after that date are not included.

DAGURAGU COMMUNITY GOVERNMENT SCHEME

Community Government Scheme under the *Local Government Act*

Part 1 Council

1 Name of scheme

This scheme shall be called the *Daguragu Community Government Scheme*.

2 Commencement

This scheme shall come into operation on the date on which notice of approval of the scheme is published in the *Gazette*.

3 Repeal and replacement of existing scheme

This scheme repeals and replaces the *Daguragu Community Government Scheme* approved on 11 October 1988 by the Minister for Labour, Administrative Services and Local Government under section 250(1)(a) of the *Local Government Act* (which approval was notified in the *Gazette* on 14 October 1988).

4 Council to continue for same area

- (1) The Daguragu Community Government Council established by the repealed scheme is hereby continued by that name for the administration of the community government area constituted by that scheme, being the area described in subclause (3).
- (2) The members of the council in office immediately before the commencement of this scheme shall continue in office for terms expiring immediately before the first election day under this scheme as if this scheme provided for a council of 18 members and each of them had been elected in accordance with this scheme; and the President and Vice-President of the council immediately before the commencement of this scheme shall thereafter continue in office as

such as if elected under this scheme.

- (3) The Daguragu community government area comprises all that parcel of land in and around the Town of Kalkarindji in the Northern Territory of Australia shown on the plan in Schedule 1, containing an area of 4,320 hectares more or less and bounded by lines commencing at the most northern northeastern corner of the Town of Kalkarindji as proclaimed in the *Northern Territory Gazette* No. 42 of 15 October 1976; thence southerly, southeasterly and generally southwesterly by eastern, northeastern and southeastern boundaries of that Town to its most southern corner; thence northwesterly, northerly and westerly by southwestern, western and southern boundaries of that Town to a southwestern corner of that Town; thence due west by a line for 5,000 metres; thence due north by a line for 8,100 metres; thence due east by a line to its intersection with the western boundary of an unnamed road; thence generally southeasterly by that southwestern road boundary to its intersection with the northern boundary of the Town of Kalkarindji; thence easterly by that northern boundary to that point of commencement.

5 Definitions

In this scheme, unless the contrary intention appears:

candidate means a person who has been nominated and accepted, under clause 20, as a candidate for election to the council and who has not withdrawn his or her consent to the nomination before the close of nominations.

clerk, for the purposes of Part 4 except clauses 37 and 38, also includes the Electoral Commission and a person appointed to conduct an election under clause 37.

council means the Daguragu Community Government Council.

election day means a day specified in or fixed under clause 17(2) for the holding of an election.

election notice means a notice under clause 18(1) that an election is to be held.

polling official means an official appointed under clause 24.

voter means a person intending and entitled to vote at an election.

Part 2 The council

6 Members of council

The council shall consist of 12 members who shall be declared, elected or appointed in the manner provided by this scheme for a term of office expiring immediately before the next election day.

7 Eligibility for membership

- (1) A person is eligible for nomination as a member of the council if he or she:
 - (a) is enrolled as a voter under clause 16, and both lives in the community government area and has lived there continuously for a period of not less than 2 years immediately before his or her nomination; or
 - (b) is a non-resident traditional owner of the area.
- (2) The office of a member becomes vacant if the member ceases to be enrolled as a voter under clause 16 or (not being a traditional owner thereof) ceases to live ordinarily in the community government area.

8 President and Vice-President of Council

- (1) The Council shall have a President and a Vice-President, who shall be elected by the members from among their own number at the council's first meeting after its election and thereafter as occasion may require.
- (2) Subject to subclause (3), the President and Vice-President shall each hold office during the pleasure of the members of the council.
- (3) The President and Vice-President may resign at any time by giving notice in writing to the clerk, and the office of either shall become vacant if its holder ceases to be a member of the council.
- (4) The Vice-President shall act as President during any vacancy in that office and, subject to any contrary intention in this scheme, shall also perform the functions, exercise the powers and discharge the duties of the President when the latter is absent from the community government area or any meeting of the council.

9 Meetings of council

- (1) The council shall meet to transact its business not less than once each month.
- (2) The date and time of a council meeting shall be as decided by a previous meeting or, in default of that, by the clerk or, where necessary, the Minister or a person authorised by the Minister for that purpose.
- (3) The President may call a special meeting of the council by giving at least 2 days notice to the other members.
- (4) By giving the President notice requesting a special meeting of the council and stating the reasons for the request, 3 or more members, or 6 or more persons each of whom has attained the age of 18 years and either has lived continuously in the community government area for not less than 3 months or is a non-resident traditional owner of the area, may require the President to call a special meeting of the council; and the President shall call such a meeting for a date not later than 7 days after the request is received, and shall notify the members accordingly.
- (5) Where, under subclause (3) or (4), a special meeting is to be held, the clerk shall cause a written notice of the special meeting to be prominently displayed in a place which he or she considers likely to be frequented by residents.
- (6) A notice under subclause (5) shall specify:
 - (a) the date, time and place of; and
 - (b) the reason for the calling of,the special meeting.
- (7) A member proposing to be absent from a meeting of the council may authorise in writing any person who has attained the age of 18 years and has lived continuously in the community government area for not less than 6 months to attend the meeting in the member's place and, subject to and in accordance with any restrictions or instructions specified in the authorisation, to exercise the member's powers at the meeting (including the power to vote) on his or her behalf.
- (8) Where a member is absent in person from 3 consecutive meetings of the council:
 - (a) without the prior consent of the council; or

(b) for reasons which the council does not accept as satisfactory, the council may declare him or her to be no longer a member, and his or her office as such to be vacant, and shall instruct the clerk to give notice to that effect accordingly.

10 Meetings to be open

Meetings of the council shall be open to persons who are not members or officers of the council unless the council determines that a meeting, or part of a meeting, is to be closed.

11 Procedure at meetings of council

- (1) Meetings of the council shall be presided over by the President, or by the Vice-President in his absence, or by a member chosen by the other members in the absence of both the President and the Vice-President.
- (2) The conduct of meetings of the council shall be in accordance with such standing orders as the council may from time to time determine.
- (3) The council shall keep a record of its proceedings.
- (4) The quorum for a meeting of the council shall be a majority of the members then in office
- (5) Questions before a meeting of the council shall be decided by a majority of the votes of the members then in office and, in the event of an equality of votes, the matter shall be taken to have been defeated.

12 Common seal

The common seal of the council shall contain the words "Daguragu Community Government Council" and "Common Seal".

Part 3 Functions and powers of council

13 Functions

The council may perform the following functions:

- (a) the establishment, development, operation and maintenance of communication facilities for the community government area and in so doing the council may enter into a contract with the Australian Telecommunication Commission to act, for reward, as the agent of the Commission;
- (b) the establishment and maintenance of parks, gardens and recreational areas and carrying out landscaping and other associated works;
- (c) the establishment and maintenance of sports facilities, libraries, a cinema, community halls and public toilet and ablution blocks;
- (d) the provision of a service for the collection and disposal of garbage, the maintenance of a particular place where garbage is to be dumped, and the control of litter generally;
- (e) the provision and maintenance of sanitation facilities and the removal of health hazards;
- (f) the provision and maintenance of sewerage, drainage and water supply facilities;
- (g) the supply of electricity by contracting with a government department or statutory authority responsible for providing electricity, and acting, for reward, as an agent in respect of the collection of electricity charges;
- (h) the provision of adult education and vocational and other training;
- (j) the provision and maintenance of housing for residents and their families on such terms and conditions as the council thinks fit;
- (k) the provision of relief work for unemployed persons;
- (m) the promotion and provision of community welfare, health and care facilities for all age groups within the community government area and the provision of appropriately trained staff to provide counselling or temporary assistance;

- (n) the maintenance of a cemetery;
- (p) the control or prohibition of animals within the community government area;
- (q) the development and maintenance of roads within the community government area (including the provision of street lighting and traffic control devices) and, for reward, the development and maintenance of roads outside the community government area;
- (r) the maintenance of the Kalkgurung airstrip and facilities related thereto;
- (s) the hiring out, for reward, of any plant, appliance or equipment belonging to the council and the repair and maintenance, for reward, of any plant, appliance or equipment not owned by the council;
- (t) the contracting of works projects, without or without the community government area;
- (u) the establishment and operation of pastoral and commercial enterprises;
- (w) the selling of petroleum products;
- (y) the establishment and maintenance of a firefighting service, including the acquisition of property and equipment and training of personnel for the service, and the protection of the community government area from fire;
- (z) the promotion and development of tourist attractions and facilities within the community government area;
- (za) the production of and selling of artifacts and souvenirs;
- (zb) the management and control of sites of historic interest;
- (zc) the maintenance and preservation of Aboriginal law and custom; and
- (zd) the support and encouragement of artistic, cultural and sporting activities.

14 Powers

- (1) The council has power to do all things necessary or convenient for the performance of its functions including the orderly running and control of the community government area.

- (2) Subject to subclause (3), all land within the community government area is ratable, and the council may declare and levy rates in relation to it for the purpose of raising revenue for the performance of its functions.
- (3) Land is not ratable by virtue of subclause (2) if it is land of a description which would be exempt from rating by a council of a municipality under section 97 of the Act.
- (4) Liability for the payment of rates declared by virtue of subclause (2) shall be determined in accordance with section 122 of the Act, and all other provisions with respect to rates contained in the Act or regulations under the Act shall apply to and in relation to rates so declared to the extent that they are capable of doing so and with any necessary modifications.
- (5) Without prejudice to the powers of charging conferred on it by section 272(2) of the Act, the council may for the purpose of raising revenue for the performance of its functions declare charges to be payable by reason of a person's residence in the community government area or his carrying on of a business in the area or his having an interest in ratable land in the area.
- (6) The council may exempt persons, or any class of persons, from all or part of the rates or charges for which they would otherwise have been liable by virtue of this clause.
- (7) The council may, by agreement with that body, take over and manage any activity of the Daguragu Community Council Incorporated consistent with the functions of the council.
- (8) The council may contract with the Territory or other person in order to perform any of its functions.

Part 4 Elections

15 Eligibility to vote

A person is eligible to vote at a council election, and entitled to be enrolled as a voter under clause 16, if he or she:

- (a) is enrolled as an elector within the meaning of the *Electoral Act* and has ordinarily resided in the community government area for not less than one year immediately before the date on which the election notice is given; or
- (b) is a non-resident traditional owner of the area.

16 Roll of electors

- (1) The clerk shall maintain a roll of the full names and addresses of persons who are eligible to vote at elections.
- (2) The clerk shall close the roll at 12 noon on the Friday 21 days before election day.
- (3) Except as provided by clause 27(2) or to correct an oversight in the making up of the roll, the clerk shall not add any names to the electoral roll in the period between its closure and the conclusion of the election.
- (4) A resident may inspect the electoral roll at the offices of the council during the time that the offices are open.

17 Date of election

- (1) For the purposes of this clause, **election** does not include a by-election.
- (2) The first election shall be held on Friday 29 November 1991, and subsequent elections shall be held on a Friday in September to be fixed by the council in every second calendar year after the end of that year.

18 Notice of elections

- (1) The clerk shall give not less than 28 days notice before election day that an election is to be held.
- (2) An election notice shall be prominently displayed at such places in the community government area as the clerk considers likely to reasonably ensure that all residents who are eligible to vote have notice of the election.

19 Content of election notice

An election notice shall specify:

- (a) when the electoral roll will close;
- (b) who may nominate candidates, and who may be nominated as a candidate;
- (c) the date and time by which nominations of candidates must be lodged with the clerk;
- (d) the manner in which nominations are to be lodged; and

(e) the date of the election and time and place of polling,

and shall advise that only persons whose names are on the electoral roll will be entitled to vote at the election.

20 Nominations

(1) A person who is enrolled as a voter under clause 16 may, by lodging with the clerk a written nomination in accordance with the form in Schedule 2, nominate any other person as a candidate for election to the council.

(2) The clerk shall not accept a nomination unless the clerk is satisfied:

(a) that it sufficiently identifies the proposed candidate; and

(b) that the proposed candidate is eligible under clause 7(1) to be nominated as a member,

and unless the clerk is supplied with such number of copies as the clerk may require for the purpose of display in accordance with subclause (5) and clause 23(3) of a recent photograph of the proposed candidate which is, in the clerk's opinion, suitable for that purpose.

(3) A candidate may withdraw his or her consent to nomination at any time before the close of nominations.

(4) Nominations of candidates for election shall close at 12 noon on the Friday 14 days before election day.

(5) As soon as practicable after nominations have closed, the clerk shall display a list of the names of the candidates, together with a photograph of each of them, in the same places as the election notice.

21 Declaration or election of members

(1) Where at the close of nominations under clause 20(4) the number of candidates does not exceed 12, the clerk shall:

(a) by a notice displayed in the same places as the election notice, declare all of the candidates to be members of the council on and from election day; and

(b) within 7 days, forward a copy of the notice to the Minister.

(2) Subject to subclause (3), where at the close of nominations there are more than 12 candidates, an election to decide 12 members shall be held on election day.

- (3) If a candidate dies between the close of nominations and election day, and the effect of the death is to reduce the number of candidates to 12, subclause (2) shall not require the holding of an election, but subclause (1) shall apply instead as if the candidate had withdrawn before the close of nominations.

22 Voting tokens

The clerk shall cause voting tokens to be prepared in sufficient numbers for the purposes of an election under clause 21(2).

23 Polling places and voting containers

- (1) The clerk shall set aside 2 places as polling places for an election, one of them at Daguragu and the other at Kalkarindji.
- (2) Each polling place shall have within it a voting area in which a voter is able to cast his or her votes without being observed otherwise than by a polling official.
- (3) The clerk shall provide in a voting area, for each candidate, a container for the casting of voting tokens which shall state the name of the candidate, and shall be placed in front of or below a photograph of the candidate supplied in accordance with clause 20(2).
- (4) the clerk shall also provide in a voting area a receptacle in which voters may place unused voting tokens.

24 Polling officials

- (1) Subject to subclause (2), the clerk may, by notice in writing displayed at each polling place, appoint such persons as he or she thinks fit as polling officials to assist the clerk in conducting an election.
- (2) The clerk shall not appoint as a polling official a member of the council, a candidate, or the spouse of a member or candidate.
- (3) The clerk and polling officials shall conduct voting at the polling places.

25 Scrutineers

- (1) Each candidate may, by notice in writing lodged with the clerk, appoint such persons as the candidate thinks fit to be his or her scrutineers for the purposes of the election.

- (2) One scrutineer for each candidate shall be entitled to remain in each polling place with the clerk or polling officials to observe the conduct of the voting and counting of votes.

26 Hours of polling

The clerk shall ensure that each polling place is open and remains open for voting between the hours of 8 o'clock in the morning and one o'clock in the afternoon on the day of an election.

27 Entitlement to vote

- (1) A person whose name appears on the electoral roll shall vote at an election, and a person whose name does not appear shall not be entitled to vote at an election.
- (2) Where the clerk is satisfied that a person is eligible under clause 15 to vote, but his or her name has not been entered on the roll, the clerk shall, upon the person signing a declaration that he or she made a claim for enrolment before the closure of the roll under clause 16(2):
 - (a) alter the roll by writing the person's name on the roll;
 - (b) initial the alteration; and
 - (c) then permit that person to vote.

28 Exhibition of voting containers

The clerk shall, immediately before a polling place is opened for voting, demonstrate to the satisfaction of at least one person who is eligible to vote but is not a candidate that there are no voting tokens in any of the voting containers.

29 Presence in polling place

A voter, other than the clerk, a polling official or a scrutineer, shall remain in a polling place only for so long as is necessary for the voter to vote.

30 Voting procedure

- (1) A voter shall state his or her name to the clerk or polling official, who shall check that the name appears on the electoral roll.
- (2) Where a voter's name is on the electoral roll and a line has not been drawn through it, the clerk or official shall draw a line through the voter's name and hand the voter 12 voting tokens.

- (3) After the clerk or official hands the voting tokens to a voter, the voter shall go into the voting area and vote for each candidate of the voter's choice by placing one of the tokens in the container relating to the candidate.
- (4) Each voter shall vote only once at each election.
- (5) Subject to subclause (7), a voter shall enter the voting area alone.
- (6) Subject to subclause (7), no person other than a voter who has been issued with a voting token shall vote with the token.
- (7) Where the clerk or official in charge of the polling place is satisfied that a voter is, for any reason, unable to vote without assistance, the voter may appoint a person to assist him or her, and the clerk or official shall permit that person to accompany the voter into the voting area and vote on his or her behalf.
- (8) Before leaving the voting area, a voter shall place any voting tokens that he or she has not used in the receptacle provided for that purpose.

31 Counting of votes

- (1) After one o'clock in the afternoon of the day of the election and as soon as voting has finished, the clerk and polling officials shall count the votes received by each candidate in the presence of a scrutineer or at least one other person (not being a candidate) who was eligible to vote.
- (2) The clerk shall, immediately after counting the votes, sign a certificate stating:
 - (a) the names of the polling officials who assisted in the count;
 - (b) the names of the scrutineers or other persons who attended the count; and
 - (c) the total number of votes received by each candidate.

32 Declaration of result

- (1) The clerk shall, as soon as practicable after the votes have been counted, declare the result of the election by a notice displayed in the same places as the election notice.
- (2) A notice under subclause (1) shall:
 - (a) list the candidates;

- (b) state the number of votes received by each candidate; and
 - (c) subject to subclause (3), declare the 12 candidates with the most votes elected as members of the council.
- (3) To the extent that compliance with subclause (2)(c) is impossible by reason of an equality of votes between 2 or more candidates, the clerk shall arrange for lots to be drawn to decide which of them shall be declared elected, and the notice required by subclause (1) shall state that the successful candidate or candidates was or were selected by lot.

33 Transmission of details to Minister

Not more than 7 days after the holding of an election, the clerk shall forward to the Minister:

- (a) the certificate signed by the clerk under clause 31(2); and
- (b) a copy of the notice given by the clerk under clause 32(1).

34 Re-count

- (1) The clerk, at any time before a candidate is declared to be elected, may, on the written request of a candidate or of his or her own motion, re-count the votes cast for each of the candidates.
- (2) A request under subclause (1) shall contain a statement of the reasons for the request.

35 Adjournment of polling in emergency

- (1) If it appears to the clerk to be necessary or desirable to do so by reason of:
 - (a) riot or open violence;
 - (b) fire, storm, tempest or flood or a similar occurrence; or
 - (c) any other event the consequences of which may hamper the electoral process,

the clerk may adjourn polling at an election from day to day to a maximum of 21 days beginning with the day of the election.

- (2) The clerk shall take such steps as he or she may consider necessary and practicable to inform persons entitled to vote of an adjournment under subclause (1).

- (3) Where polling has been adjourned under subclause (1), clause 31(1) shall apply as from the time when voting is finally concluded, and clauses 4(2), 6 (in relation to members of the former council) and 21(1)(a) shall have effect as if references to election day were references to the day on which voting is finally concluded.

36 Vacancies in membership

- (1) Subject to subclauses (2) and (3) and clause 38, where the office of a member is or becomes vacant for any reason whatever, a by-election shall be held to fill the vacancy.
- (2) It shall not be necessary for a by-election to be held if the vacancy arises less than 6 months before the latest day for the holding of the next election.
- (3) The council may by resolution appoint a person to fill a vacancy in the membership of the council, whenever arising, and in that event subclause (1) shall not apply.
- (4) The procedure for the calling and conduct of a by-election shall conform, as far as is practicable and with the necessary modifications, with the provisions of this scheme relating to the calling and conduct of an election.
- (5) The clerk shall notify the Minister in writing of the making of any appointment under subclause (3).

37 Conduct of elections where Clerk a councillor

Where a new council is to be elected under this scheme and the clerk is also a member of the existing council, the Minister may appoint another person to perform the functions of the Clerk in relation to that election.

38 Resignation of council

- (1) If all the members of the council cease to be members, or a quorum for 2 consecutive meetings of the council is not present at times for meetings of the council under this scheme, the clerk shall be deemed to constitute the council for the purposes of:
- (a) determining the date of an election of a new council; and
- (b) exercising a power of the council under this scheme.

- (2) Subject to this scheme, the date determined by the clerk for the election of a new council shall be as soon as is practicable, and in any case not later than 3 months after the event giving rise to the determination.
- (3) For the purposes of exercising a power of the council in pursuance of subclause (1)(b), the clerk shall appoint a person whose name appears on the electoral roll as his or her assistant.
- (4) A council elected under subclause (2), shall hold office for the remainder of the term for which the previously elected council would have been in office had that previously elected council remained in office for its full term.

Schedule 1

clause 4(3)

DAGURAGU COMMUNITY GOVERNMENT COUNCIL BOUNDARIES

See hard copy for plan

Schedule 2

clause 20(1)

FORM OF NOMINATION OF COUNCILLOR

Daguragu Community Government Council

NOMINATION OF COUNCILLOR

I, _____, being enrolled as a voter for elections to the
Daguragu Community Government Council, nominate _____ to
be a member of the Council.

Dated

Signature of Nominator

I consent to this nomination.

Dated

Signature of Candidate

ENDNOTES
1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

Daguragu Community Government Scheme

| | |
|-----------|-----------------|
| Notified | 14 October 1988 |
| Commenced | 14 October 1988 |

Daguragu Community Government Scheme (Replacement)

| | |
|-----------|-----------------|
| Notified | 21 October 1991 |
| Commenced | 21 October 1991 |

Electoral (Consequential Amendments) Act 2004 (Act No. 12, 2004)

| | |
|-------------|---|
| Assent date | 1 March 2004 |
| Commenced | 15 March 2004 (s 2, s 2 <i>Electoral Act 2004</i> (Act No. 11, 2004) and Gaz S6, 15 March 2004) |

3 LIST OF AMENDMENTS

cl 5 amd Act No. 12, 2004, s 5