

NORTHERN TERRITORY OF AUSTRALIA

ELLIOTT DISTRICT COMMUNITY GOVERNMENT SCHEME

As in force at 22 April 1988

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Community Government Scheme as in force at 22 April 1988. Any amendments that commence after that date are not included.

ELLIOTT DISTRICT COMMUNITY GOVERNMENT SCHEME

Community Government Scheme under the *Local Government Act*

Part I Council

1 Name of scheme

This scheme shall be called the *Elliott District Community Government Scheme*.

2 Commencement

This scheme shall come into operation on 22 April 1988.

3 Continuance of existing council and area

- (1) This scheme repeals and replaces the *Elliott District Community Government Scheme* approved for the community of Elliott District on 6 November 1985 by the Minister for Community Development under section 436(1)(a) of the *Local Government Act* as then in force (which approval was notified in the *Gazette* on the same day).
- (2) The Elliott District Community Government Council established by the repealed scheme is hereby continued by that name for the community government area constituted by that scheme and described in subclause (3); and the President and other members of the council immediately before the commencement of this scheme shall continue in office as such as if declared or elected under this scheme.
- (3) The Elliott District Community Government area is an area the boundaries of which are as follows – commencing at a point 303° 28' 30" for 21.265 metres from the northernmost corner of the Town of Elliott as described at page 281 of the *Northern Territory Government Gazette* No. 35 dated 30 August 1950 thence southeasterly by a line from that point to the northernmost corner of the said Town thence southeasterly by the northeastern boundary of the said Town to its intersection with the westernmost corner of

Northern Territory Portion No. 1462 thence northeasterly southeasterly and southwesterly by the northwestern northeastern and southeastern boundaries of the said Portion to its intersection with the northeastern boundary of the said Town as described in the said *Gazette* thence southeasterly southwesterly and northwesterly by the said northeastern southeastern and southwestern boundaries of the said Town to the westernmost corner of the said Town thence northwesterly by the prolongation of the said southwestern boundary of the said Town to its intersection with the eastern boundary of Pastoral Lease No. 849 (Newcastle Waters) thence northerly by the said boundary to its intersection with a line bearing 330° 43' from the point of commencement thence southeasterly by the last-mentioned line to the point of commencement – being all the area outlined in black on the plan in Schedule 1, being all that parcel of land situated in and near the Town of Elliott in the Northern Territory of Australia containing an area of 312.3 hectares more or less.

4 Definitions

In this scheme, unless the contrary intention appears:

candidate means a person who has been nominated and accepted, under clause 18, as a candidate for election to the council and who has not withdrawn his consent to the nomination before the close of nominations.

Chief Electoral Officer has the same meaning as in the *Electoral Act*.

clerk for the purposes of Part III except clauses 39 and 40, also includes the Chief Electoral Officer and a person appointed to conduct an election under clause 39.

council means the Elliott District Community Government Council.

election day means a day specified in or fixed under clause 15 for the holding of an election.

election notice means a notice under clause 16(1) that an election is to be held.

member means a member of the council and includes its President.

ordinary member means any member of the council except its President.

polling official means an official appointed under clause 24.

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

5 Common seal

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

6 Members, including President and Vice-President

(1) The council shall consist of:

- (a) the President; and
- (b) 6 ordinary members,

who shall be declared or elected in the manner provided by this scheme for a term of office expiring immediately before the next election day.

- (2) The council shall have 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.
- (3) Subject to subclause (4), the Vice-President shall hold office during the pleasure of the members of the council.
- (4) The Vice-President may resign at any time by giving notice in writing to the clerk, and shall vacate office if he ceases to be a member of the council.
- (5) 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.

7 Eligibility for membership

- (1) A person is not eligible for nomination as a member of the council unless he:
 - (a) is enrolled as a voter under clause 14; and
 - (b) lives in the community government area, and has lived there continuously for a period of not less than 6 months immediately before his nomination.
- (2) The office of a member becomes vacant if he ceases to be so enrolled, or if he ceases to live ordinarily in the community government area.

8 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 authorized 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 has lived in the community government area for not less than one month, may require the President to call a special meeting of the council.
- (5) Where, under subclause (3) or (4), a special meeting is to be held, the clerk shall notify the members and shall cause a written notice of the special meeting to be prominently displayed in a place which he 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) Where a special meeting is requested under subclause (4), it shall be held within 7 days after the day upon which notice requesting it is received by the President.
- (8) Where a member is absent 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 to be no longer a member, and his office as such to be vacant, and shall instruct the clerk to give notice to that effect accordingly.

9 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.

10 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 the standing orders determined, from time to time, by the council.
- (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.

Part II Functions and powers of council**11 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 Telecommunications 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 it thinks fit;
- (k) the provision of relief work for unemployed persons;
- (m) the promotion and provision of community welfare 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 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 Elliott airstrip and other 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, within 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 fire-fighting 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; and
- (zc) the support and encouragement of artistic, cultural and sporting activities.

12 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 reasons 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 contract with the Territory or other person in order to perform any of its functions.

Part III Elections

13 Eligibility to vote

A person is eligible to vote at a council election, and entitled to be enrolled as a voter under clause 14, if he is:

- (a) enrolled as an elector within the meaning of the *Electoral Act*; and
- (b) ordinarily resident in the community government area immediately before the date on which the election notice is given.

14 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 22 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 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.

15 Date of election

- (1) For the purposes of this clause, ***election*** does not include a by-election.
- (2) The first election after the commencement of this scheme shall be held on Saturday 28 May 1988, and subsequent elections shall be held on a Saturday in May to be fixed by the council in every third calendar year after the end of that year.

16 Notice of elections

- (1) The clerk shall give not less than 28 days notice before an 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.

17 Content of election notice

An election notice shall specify:

- (a) the date of the closure of the electoral roll;
- (b) the persons who may nominate persons, and be nominated, as candidates;
- (c) the date and time by which nominations of candidates must be lodged with the clerk;
- (d) the manner in which nominations shall 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.

18 Nominations

- (1) A person who is enrolled as a voter under clause 14 may, by lodging a written nomination with the clerk, nominate another person as a candidate for election to the council as its President, as an ordinary member, or in both of those capacities.
- (2) The clerk shall not accept a nomination unless he 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 has consented to the nomination,

and he is supplied with a recent photograph of the proposed candidate which, in his opinion, is suitable for display in accordance with subclause (6).

- (3) A person shall not nominate more than one person as a proposed candidate in an election.
- (4) A candidate may withdraw his consent to his nomination at any time before the close of nominations.
- (5) Nominations of candidates for election shall close at 12 noon on the Friday 15 days before election day.
- (6) 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.

19 Declaration or election of President

- (1) Where at the close of nominations under clause 18(5) only one person has been nominated for election as President:
 - (a) the clerk shall, by a notice displayed in the same places as the election notice, declare that person to be President; and
 - (b) by virtue of that declaration, any nomination of that person for election as an ordinary member shall lapse for all purposes.
- (2) Where at the close of nominations more than one person has been nominated for election as President, an election to decide between them shall be held on election day.

20 Declaration or election of ordinary members

- (1) Where at the close of nominations under clause 18(5) the number of candidates nominated for election as ordinary members of the council (disregarding any nomination that has lapsed by virtue of clause (19)(1)(b)) does not exceed 6, then:
 - (a) if they have all been nominated only for election as ordinary members, the clerk shall declare them all to be ordinary members; or
 - (b) if one or more of them has also been nominated for election as President, the clerk shall, after the holding of the election for that office under clause 19(2), declare the others of them to be ordinary members together with such (if any) as have failed to be elected President.
- (2) Where at the close of nominations the number of candidates nominated for election as ordinary members (disregarding any nomination that has lapsed by virtue of clause 19(1)(b)), exceeds 6, an election to decide 6 ordinary members shall, subject to subclause (3), be held on election day.
- (3) Subclause (2) shall not require the holding of an election to decide ordinary members if:
 - (a) the candidates include candidates who have also been nominated for election as President; and
 - (b) the number of them remaining as candidates for ordinary membership will not exceed 6 after the holding of the election for the office of President under clause 19(2),but, after the holding of the election under clause 19(2), the clerk shall instead declare those so remaining to be ordinary members.

- (4) A declaration by the clerk under this clause shall be made by a notice which shall be displayed in the same places as the election notice.

21 Ballot-papers

- (1) Where an election is to be held, the clerk shall cause ballot-papers to be printed in sufficient numbers for the purposes of the election.
- (2) The clerk shall determine, by ballot, the order of names of candidates on a ballot-paper.

22 Polling place

- (1) The clerk shall set aside a place as the polling place for an election.
- (2) A polling place shall have separate polling booths constructed so as to screen a voter from observation while he marks his ballot-paper.

23 Ballot-box

The clerk shall provide within the polling place a ballot-box which shall be securely fastened and have a slit in the upper side by which ballot-papers may be put into the ballot-box.

24 Polling officials

- (1) Subject to subclause (2), the clerk may, by notice in writing, appoint such persons as he thinks fit as polling officials to assist him 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 of candidate.
- (3) The clerk and polling officials shall conduct voting at the polling place.

25 Scrutineers

- (1) Each candidate may, by notice in writing, appoint such persons as he thinks fit to be his scrutineers for the purposes of the election.
- (2) One scrutineer for each candidate shall be entitled to remain in the polling place with the clerk or officials to observe the conduct of the voting and counting of votes.

26 Hours of polling

The clerk shall ensure that the 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) Subject to subclause (2), a person whose name appears on the electoral roll shall vote and a person whose name does not appear on the electoral roll shall not be entitled to vote at an election.
- (2) Where the clerk is satisfied that a person has complied with clause 13, but his name has not been entered on the roll, the clerk shall, upon the person signing a declaration that he made a claim for enrolment before the closure of the roll under clause 14(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 ballot-box

- (1) The clerk shall, immediately before the polling place is opened for voting and in the presence of a person who is eligible to vote but is not a candidate, exhibit the ballot-box empty, and shall then securely fasten its cover.
- (2) The clerk shall ensure that the ballot-box remains securely fastened during the hours that the polling place is open for voting.

29 Presence in polling place

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

30 Voting procedure

- (1) A voter shall state his 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 his name and hand the voter ballot-papers for the election of the President and the ordinary members.
- (3) Immediately before the clerk or official hands a voter ballot-papers, the clerk or official shall initial the back of those ballot-papers.

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- (4) After the clerk or official hands the ballot-papers to a voter, the voter shall go into an unoccupied booth and secretly vote by placing:
 - (a) the figure "1" in the square on the ballot-paper opposite the name of the candidate for whom he votes as his first preference; and
 - (b) consecutively increasing numbers in the squares opposite the names of the other candidates appearing on the ballot-paper in the order of his preference until a number is placed against the names of all candidates appearing on the ballot-paper.
 - (5) Where the voter spoils a ballot-paper or marks it in a way that he did not intend, he may return it to the clerk or official who shall write **spoilt** across the front of it and give the voter (after initialling it on the back) a new ballot-paper.
 - (6) The clerk shall, in accordance with clause 36, retain each spoilt ballot-paper until after the election.
 - (7) When the voter has completed his ballot-papers he shall fold them to conceal the names of the candidates and place them in the ballot-box.
 - (8) Each voter shall vote only once at each election.
 - (9) Subject to subclause (11), a voter shall enter a booth alone.
 - (10) Subject to subclause (11), no person, other than a voter who has been issued with a ballot-paper, shall vote on the ballot-paper.
 - (11) Where the clerk or official in charge of the polling place is satisfied that the voter is, for any reason, unable to vote without assistance, the voter may appoint a person to assist him and the clerk or official shall permit that person to accompany the voter into a booth and mark the ballot-papers and deposit them in the ballot-box for him.

31 Postal voting

- (1) A person whose name appears on the electoral roll who:
 - (a) is ill, infirm or for religious reasons unable to vote; or
 - (b) will be absent from the community government area during the hours when the polling place will be open,may apply in person or in writing to the clerk for postal ballot-papers.

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- (2) An application in writing for postal ballot-papers shall give an address to which the ballot-papers shall be posted.
 - (3) Where, before the date of the election, the clerk receives an application for postal ballot-papers and the name of the applicant for the postal ballot-papers is on the electoral roll, he shall:
 - (a) hand or send to the applicant ballot-papers, which have been initialled by the clerk, together with a self-addressed envelope marked with the words "Ballot-papers"; and
 - (b) draw a line through the name of the applicant on the electoral roll.
 - (4) Where a person who has applied for postal ballot-papers receives the ballot-papers, he shall vote by placing:
 - (a) the figure "1" in the square on the ballot-paper opposite the name of the candidate for whom he votes as his first preference; and
 - (b) consecutively increasing numbers in the squares opposite the names of the other candidates appearing on the ballot-paper in the order of his preference until a number is placed against the names of all candidates appearing on the ballot-paper.
 - (5) After an applicant for postal ballot-papers has voted he shall return the postal ballot-papers in the marked self-addressed envelope to the clerk.
 - (6) Where the clerk receives an envelope apparently containing postal ballot-papers before the close the poll, he shall, during the hours of polling, place that envelope, unopened, in the ballot-box and the envelope shall be opened and the vote counted in accordance with clause 32.
 - (7) Where the clerk receives an envelope apparently containing postal ballot-papers after the close of the poll, he shall mark the envelope "rejected", place that envelope with the ballot-papers and the votes on those ballot-papers shall not be counted.

32 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, in the presence of a scrutineer or at least one other person who was eligible to vote, open the ballot-box, count the number of ballot-papers, compare that number with the number of names through which a line has been drawn on the electoral roll and prepare a statement which reconciles the number of ballot-papers issued and

counted.

- (2) After a statement under subclause (1) has been prepared, the clerk and officials shall, in the presence of a scrutineer or at least one other person who was eligible to vote, count, in accordance with the procedures specified in Schedule 2, the votes received by each candidate.
- (3) During the counting of votes, the clerk shall, subject to subclause (4), set aside as an informal vote a ballot-paper where the voter has failed to comply with clause 30(4) or 31(4).
- (4) A ballot-paper shall not set aside under subclause (3) as an informal vote for an irregularity in voting where, in the opinion of the clerk, the voter's intention is clearly shown.
- (5) The votes to decide the President of the council shall be counted first, and those to decide its ordinary members second.
- (6) Where the person elected President was also a candidate for election as an ordinary member, that candidacy and the votes cast for him in relation thereto shall be wholly disregarded, and the voters' second and subsequent preferences distributed accordingly, for the purposes of the count for ordinary members.
- (7) The clerk shall, immediately after counting under this clause, sign a certificate stating:
 - (a) the names of the officials who assisted him in the count;
 - (b) the names of the scrutineers who attended the count;
 - (c) the total number of formal votes;
 - (d) the total number of votes received by each candidate for election as President or ordinary member;
 - (e) the number of postal votes forwarded by him and returned to him before the close of the polls; and
 - (f) the total number of informal votes.

33 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 contain:

- (a) a list of the candidates for election as President or ordinary members, arranged in the same order as they appeared on each ballot-paper and stating the number of votes received by each candidate; and
- (b) subject to Part IV of Schedule 2, a statement declaring the candidate for President with the most votes elected as President, and the 6 candidates for ordinary membership with the most votes elected as ordinary members.

34 Transmission of details to minister

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

- (a) any certificate signed by him under clause 32(7);
- (b) a copy of any notice given by him under clause 33(1); and
- (c) details of any declaration made by him under clause 19 or 20.

35 Recount ballot-papers

- (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 own motion, recount the ballot-papers.
- (2) A request under subclause (1) shall contain a statement of the reasons for the request.

36 Retaining ballot-papers

After the counting of the votes has been completed, the clerk shall keep the ballot-papers in a sealed package, unopened for 6 months and, at the end of that time, shall destroy the unopened package containing the ballot-papers.

37 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,

he 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 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), the provisions of clause 32 shall apply as from the time when voting is finally concluded, and clause 6(1) (in relation to members of the former council) and 34 shall have effect as if references to election day were references to the day on which voting is finally concluded.

38 By-elections

- (1) Subject to clause 40, where the office of a member is or becomes vacant for any reason whatever, a by-election shall be held to fill the vacancy unless it arises less than 6 months before the latest day for the holding of the next election.
- (2) The procedure for the calling and conduct of a by-election shall conform, as far as is practicable, with the provisions of this scheme relating to the calling and conduct of an election.

39 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.

40 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 members; and
 - (b) exercising a power of the council under this scheme.
- (2) Subject to this scheme, when the clerk determines under subclause (1)(a) the date of an election of members of the council, the date which he determines 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 assistant.
- (4) A council elected under subclause (2), shall hold office for the remainder of the term 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 3(3)

SCHEDULE
TOWN OF ELLIOTT LOCALITY
See hard copy for plan

Schedule 2

clause 32(2)

METHOD OF COUNTING VOTES AT CONTESTED ELECTIONS

Part I

- (1) In this Schedule:

absolute majority of votes means a greater number than one-half of the whole number of ballot-papers other than informal ballot-papers.

continuing candidate means a candidate not already elected or excluded from the count.

next preference includes the first of the subsequent preferences marked on the ballot-paper which is not given to an elected or excluded candidate.

unrejected ballot-papers means all ballot-papers not rejected as informal.

- (2) Where one candidate only is to be elected at an election or by-election, the votes shall be counted and the result of the election ascertained by the clerk, or under his direction and supervision, in accordance with the following provisions:
- (a) the unrejected ballot-papers shall be arranged under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate;
 - (b) the total number of first preferences given for each candidate on each ballot-paper shall then be counted;
 - (c) the candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected;
 - (d) if no candidate has received an absolute majority of first preference votes, a second count shall be made;
 - (e) on the second count the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference;

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- (f) if a candidate then has an absolute majority of votes, he shall be declared elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated until one candidate has received an absolute majority of votes; and
 - (g) the candidate who has received an absolute majority of votes shall be declared elected.

Part II

Where 2 candidates are to be elected at an election or by-election, the votes shall be counted and the result of the election ascertained by the clerk, or under his direction and supervision, in accordance with the following provisions:

- (a) one of the candidates shall be elected in accordance with the provisions of Part I of this Schedule;
- (b) all the unrejected ballot-papers shall be rearranged under the names of the respective candidates in accordance with the first preference indicated thereon, except that each ballot-paper on which a first preference for the elected candidate is indicated shall be placed in the parcel of the candidate next in the order of the voter's preference;
- (c) the number of ballot-papers in the parcel of each candidate shall then be counted and the total number of votes so counted to each candidate shall be ascertained; and
- (d) if a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the count shall proceed as provided in clause (2)(d), (e) and (f) of Part I of this Schedule, until one candidate has received an absolute majority of votes, provided that in the application of clause (2)(d) and (e) of Part I of this Schedule, any reference to first preference votes shall be read as a reference to all the votes counted to a candidate in pursuance of this Part; and
- (e) the candidate who has received an absolute majority of votes shall be elected.

Part III

- (1) Where 3 or more candidates are to be elected at an election or by-election, 2 of the candidates shall be elected in accordance with the provisions of Parts I and II of this Schedule.
- (2) The third and every subsequent candidate shall be elected in the manner provided for the election of the second candidate, provided that a ballot-paper on which a first preference for any elected candidate is marked shall be placed in the parcel of the continuing candidate next in the order of the voter's preference.

Part IV

- (1) Where, on any count at which the candidate with the fewest number of votes has to be excluded, 2 or more candidates have an equal number of votes (that number being fewer than the number of votes that any other candidate has or those candidates being the only continuing candidates):
 - (a) such one of those candidates as had the fewest number of votes at the last count at which they did not have an equal number of votes shall be excluded; or
 - (b) if they had an equal number of votes at all preceding counts, the candidate whose name is on a slip drawn in accordance with clause (2) of this Part shall be excluded.
- (2) For the purposes of clause (1) of this Part, the clerk shall write the names of the candidates who have an equal number of votes on similar slips of paper, fold the slips so as to prevent the names being seen, mix them, and draw at random one of those slips.
- (3) Notwithstanding anything to the contrary in this Schedule, the process of counting each of the ballot-papers of an excluded candidate to the continuing candidate next in the order of the voter's preference shall not be repeated where there is only one continuing candidate, but that one continuing candidate shall be declared elected.

ENDNOTES

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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

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LIST OF LEGISLATION

Elliott District Community Government Scheme

Notified	22 April 1988
Commenced	22 April 1988