

NORTHERN TERRITORY OF AUSTRALIA

MARNGARR COMMUNITY GOVERNMENT SCHEME

As in force at 15 March 2004

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Schedule 1

Schedule 2

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NORTHERN TERRITORY OF AUSTRALIA

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

MARNGARR COMMUNITY GOVERNMENT SCHEME

Community Government Scheme under the *Local Government Act*

Part 1 Council

1 Name of scheme

The name of this scheme is the *Marngarr Community Government Scheme*.

2 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person who has been nominated and accepted, under clause 20, as a candidate for election to the council and who has not withdrawn his or her consent to the nomination before the close of nominations.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 3, except clauses 41 and 42, includes the Electoral Commission and a person appointed to conduct an election under clause 41.

council means the Marngarr Community Government Council.

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

election notice means a notice under clause 18(1).

elector means a person enrolled or entitled to be enrolled for a ward.

electoral roll means a roll prepared in accordance with clause 16.

member means a member of the council and includes its President and Vice-President and a person authorised under clause 9(7).

ordinary member means a person, other than the President, elected or appointed to the council.

polling official means an official appointed under clause 26.

polling place means a place set aside under clause 24 for the purpose of an election.

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

ward means a ward named in clause 5.

3 Community government area

The community government area to which this scheme applies comprises the wards named in clause 5, being all those parcels of land on Gove Peninsula in the Northern Territory of Australia outlined on the plan in Schedule 1, containing an area of 267.82 ha more or less, and being Northern Territory Portions 1175, 1176, 1177, and that part of Northern Territory Portion 1646 situated south of latitude 12° 12' 5" S and known as Drimmie Peninsula, the above portions being more particularly delineated on Survey Plans B599, A777 and Compiled Plan 4181 lodged with the Surveyor General, Darwin.

4 Community government council

The name of the community government council which administers the community government area is the Marngarr Community Government Council.

5 Wards

The wards which together constitute the community government area are:

- (a) the Marngarr ward; and
- (b) the Galupa ward,

each of which is more particularly described in Schedule 2.

6 Common Seal

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

7 Members of council

- (1) The council shall consists of:
 - (a) the President;
 - (b) 6 members to represent the Marngarr ward; and
 - (c) 1 member to represent the Galupa ward,who shall be declared, elected or appointed in the manner provided by this scheme.
- (2) The council shall also have a Vice-President who shall be elected in accordance with clause 8(1)(b).
- (3) Subject to this scheme, the term of office of a member expires upon the declaration of the result of the next election (other than a by-election).
- (4) The office of a member becomes vacant if the member ceases to be enrolled as an elector or, unless the member is a traditional owner, ceases to be ordinarily resident in the community government area.

8 President and Vice-President

- (1) Subject to clause 39(a):
 - (a) the President shall be declared or elected in accordance with clause 21; and
 - (b) the Vice-President shall be elected by the council from amongst its members at the first meeting of the council after its election and, after that, as occasion may require.
- (2) Subject to subclause (4), the Vice-President holds office during the pleasure of the members of the council, but may resign that office at any time by giving notice in writing to the clerk.
- (3) The President may resign in accordance with section 264 of the *Local Government Act*.
- (4) The office of the Vice-President shall become vacant if its holder ceases to be a member of the council.
- (5) The Vice-President (or, in the absence of the Vice-President, a member elected by the council to act temporarily) shall act as President during any vacancy in that office and shall also perform the functions, exercise the powers and discharge the duties of the

President when the President is absent from the community government area or a 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 members.
- (4) By giving the President notice in writing requesting a special meeting of the council and stating the reasons for the request:
 - (a) 3 or more members; or
 - (b) 6 or more electors,may require the President to call a special meeting of the council, and the President shall call that meeting for a date not later than 7 days after the day on which the notice 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 notify the members and shall cause written notice of the special meeting to be displayed at a place in each ward which the clerk considers likely to be frequented by residents.
- (6) A notice under subclause (5) shall specify the date, time and place of the special meeting and the reason for it being called.
- (7) A member proposing to be absent from a meeting of the council may authorise in writing an elector from that member's ward to attend the meeting in his or her 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 the member's behalf.
- (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 clerk shall declare that person to be no longer a member, and the office to be vacant.

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, where the President is absent, by the Vice-President, or, where both persons are absent, by a member chosen by the other members present.
- (2) Subject to any standing orders made from time to time by the council, the council shall determine its own procedure for meetings.
- (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 Committees

Nothing in this scheme prevents the council establishing committees under sections 61, 62 or 63 of the *Local Government Act* (by virtue of section 267A of that Act).

Part 2 Functions and powers of council

13 Functions

The council may perform the following functions:

- (a) the establishment and maintenance of parks, gardens and recreational areas and the carrying out of landscaping and other associated works;
- (b) the establishment and maintenance of sports facilities, swimming pools, libraries and museums, cinemas, community halls, mortuaries, public toilets and ablution blocks;

- (c) the provision of services for the collection and disposal of garbage, the maintenance of particular places where garbage is to be dumped, the control of litter generally, the provision and maintenance of sanitation, sewerage, drainage and water supply facilities and the removal of health hazards;
- (d) the collection, as an agent and for reward, of electricity, water and sewerage charges;
- (e) the receipt of money, grants or gifts of property paid or made to the council;
- (f) the provision of adult education and vocational and other training;
- (g) the provision and maintenance of housing for residents and their families on such terms and conditions as the council thinks fit;
- (h) the management of community employment programs;
- (j) the promotion and provision of community welfare, health and care facilities for all age groups;
- (k) the prevention and control of substance abuse;
- (m) the provision and maintenance of cemeteries;
- (n) the control or prohibition of animals;
- (p) 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;
- (q) the provision and maintenance of barge landings, airstrips (including helipads) and related facilities;
- (r) the hiring out, for reward, of any vehicle, plant, appliance or equipment belonging to the council and the repair and maintenance, for reward, of any vehicle, plant, appliance or equipment not owned by the council;
- (s) the contracting of works projects (including the provision of services and the maintenance of capital works and undertakings) within or outside the community government area;
- (t) the establishment and operation of commercial enterprises;

- (u) 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;
- (v) the promotion and development of tourist attractions, the provision and maintenance of tourist facilities and the production and selling of artefacts and souvenirs;
- (w) the management and control of sites of historic interest; and
- (x) 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 rateable, 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 rateable 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 *Local Government 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 made under it shall, to the extent that they are capable of doing so and with any necessary changes, apply to and in relation to rates so declared.
- (5) Without prejudice to the powers of charging conferred on the council by section 272(2) of the Act, charges are payable by reason of a person's residence in the community government area, or his or her carrying on a business in the area or having an interest in rateable land in the area, whether that person uses any service provided or not, and all other provisions with respect to charges contained in the Act or regulations made under it shall, to the extent that they are capable of doing so and with any necessary changes, apply to and in relation to charges so declared.
- (6) The council may exempt persons, or any class of persons, from all or part of the charges for which they would otherwise have been liable by virtue of this clause.

- (7) The council may, where a group gives its consent, take control of and manage activities of that group which are consistent with the council's functions.
- (8) The council may contract with the Territory or other person in order to perform any of its functions.
- (9) In the exercise of its powers or performance of its functions, the council should observe the established traditions and customs of the community in consulting with clan leaders on matters of customary importance.

Part 3 Elections

15 Eligibility to vote

A person is eligible to vote at a council election in respect of the ward in which he or she resides or is a traditional owner at the close of the electoral rolls if that person:

- (a) is enrolled or is eligible to be enrolled as an elector within the meaning of the *Electoral Act*; and
- (b) either:
 - (i) has ordinarily resided in the community government area for not less than 1 year continuously immediately before the closure of the rolls under clause 16(4); or
 - (ii) is a traditional owner in respect of land in the ward, whether or not ordinarily resident in the community government area.

16 Electoral rolls

- (1) The clerk shall maintain for each ward, by such means as is thought fit (including by electronic means or the use of a roll under the *Electoral Act*), an electoral roll of the full names and addresses of persons who are eligible to vote at elections.
- (2) A resident or a traditional owner may inspect the electoral rolls at the office of the council when it is open.
- (3) A person who is otherwise eligible but is not enrolled may apply for enrolment in such manner as the clerk approves and, in an application, a traditional owner not ordinarily resident in the community government area shall select the ward for which he or she wishes to be enrolled.

- (4) The clerk shall close the electoral rolls at 12 noon on the Friday occurring 21 days before election day.
- (5) Except as provided by clause 29(3) or to correct an oversight in the making up of an electoral roll, the clerk shall not add any name to the roll in the period between its closure and the conclusion of the election.

17 Date of elections

- (1) For the purposes of this clause, ***election*** does not include a by-election.
- (2) The first election shall be held on Friday 30 July 1993, and subsequent elections shall be held on a Friday in July to be fixed by the council in every second calendar year after the end of that year or, where an election is held under clause 42, in July in every second calendar year after the date of that election.

18 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.

19 Content of election notice

An election notice shall specify:

- (a) the date of the closure of the electoral rolls;
- (b) the persons who may nominate other persons, and who may be nominated, as candidates for President or for an ordinary member for a ward;
- (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 places of polling,

and shall also contain a statement that only persons whose names are on an electoral roll are entitled to vote at the election.

20 Nominations

- (1) A person is eligible for nomination as President or an ordinary member of the council if he or she is enrolled for a ward under clause 16.
- (2) A person who is enrolled for a ward under clause 16 may, by lodging a written nomination with the clerk:
 - (a) nominate another enrolled person (whether enrolled for the same ward or not) for election to the council as its President; or
 - (b) nominate the same or another person or persons, if enrolled for the same ward as the nominator, for election to the council as an ordinary member.
- (3) The clerk shall not accept a nomination unless satisfied:
 - (a) that it sufficiently identifies the proposed candidate; and
 - (b) that the proposed candidate is eligible under subclause (1) to be nominated and has consented to the nomination.
- (4) A candidate may withdraw consent to his or her nomination at any time before the close of nominations.
- (5) Nominations of candidates for election shall close at 12 noon on the Friday occurring 14 days before election day.
- (6) As soon as practicable after nominations have closed, the clerk shall display in each ward, in the same places as the election notice, a list showing the names of the candidates for President and the names of the candidates for ordinary member for each ward.

21 Declaration or election of President

- (1) Where, at the close of nominations under clause 20(5), only one person has been nominated as a candidate for President of the council:
 - (a) the clerk shall, by a notice displayed in the same places as the election notice, declare that person to be President of the council; and
 - (b) by virtue of that declaration, any nomination of that person for election as an ordinary member of the council shall lapse for all purposes.

- (2) Where at the close of nominations there are 2 or more candidates for President, an election to decide between them shall be held on election day.
- (3) If a candidate dies between the close of nominations and election day and the effect is to reduce the number of candidates to 1, subclause 1(a) shall apply as if the candidate had died before the close of nominations.

22 Declaration or election of ordinary members

- (1) Where at the close of nominations under clause 20(5), no more than 6 persons in the case of Marngarr ward or 1 person in the case of Galupa ward have been nominated for election as ordinary members of the council (disregarding any nomination that has lapsed) then:
 - (a) if they have all been nominated only for election as ordinary members, the clerk shall declare those persons to be members of the council for their respective wards; or
 - (b) if one or more of them has also nominated for election as President, the clerk shall, after the holding of the election for that office under clause 21(2), declare all persons nominated, other than the person who has been elected President, to be members for their respective wards.
- (2) A declaration by the clerk under this clause shall be made by notice which shall be displayed in the same places as the election notice.
- (3) Where at the close of nominations the number of candidates for election as ordinary members (disregarding any nomination that has lapsed) exceeds 6 for the Marngarr ward or 1 for the Galupa ward an election for those candidates for that ward to decide between them shall be held on election day.
- (4) 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 the number of members required (disregarding any nomination that has lapsed), subclause 1(a) shall apply as if the candidate has died before the close of nominations.

23 Ballot papers

- (1) Where an election is to be held under clause 21(2) or clause 22(3) or both, 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 the ballot-paper.

24 Polling places

- (1) The clerk shall set aside a polling place in each ward for the purpose of an election.
- (2) A polling place shall have separate polling booths constructed so as to screen a voter from observation (other than by a polling official or a person authorised under clause 32(8)) while marking a ballot-paper.

25 Ballot-box

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

26 Polling officials

- (1) Subject to subclause (2), the clerk may, by notice in writing, appoint polling officials to assist in conducting an election.
- (2) The clerk shall not appoint a member of the council, a candidate, or the spouse of a member or candidate, to be a polling official.
- (3) The clerk and polling officials shall conduct voting at a polling place.

27 Scrutineers

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

28 Hours of polling

The clerk shall ensure that the polling place is open and remains open for voting between the hours of 9 am and 4 pm on the day of an election.

29 Entitlement to vote

- (1) Subject to subclause (3), a person whose name appears on an electoral roll for a ward shall vote at an election for that ward and a person whose name does not appear on the roll for that ward shall not be entitled to vote at an election for that ward.
- (2) A voter may vote at any polling place in the community government area, whether or not it is in the ward for which the voter is enrolled.

- (2) Where the clerk is satisfied that a person whose name has name has not been entered on an electoral roll is eligible under clause 15 to vote, the clerk shall, upon the person signing a declaration that an application for enrolment was made before the closure of that roll under clause 16(4):
- (a) alter the roll by entering the person's name on it;
 - (b) initial the alteration; and
 - (c) then permit that person to vote.

30 Exhibition of ballot-box

- (1) The clerk or polling official 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, securely fasten its cover, and ensure that it remains securely fastened during the hours of polling.

31 Presence in polling place

A voter, and any person assisting the voter under clause 32(8), other than the clerk, a polling official or scrutineer, shall remain in the polling place only for the time necessary to vote.

32 Voting procedure

- (1) A voter shall state his or her name to the clerk or polling official, who shall:
- (a) check that the name appears on an electoral roll; and
 - (b) if a line has not been drawn through that name, draw a line through it, initial the back of the appropriate ballot-paper or ballot-papers and hand them to the voter.
- (2) The voter shall take the ballot-paper or ballot-papers into an unoccupied polling booth and secretly vote by placing:
- (a) on the ballot-paper for the election of the President, an "X" in the box opposite the name of the candidate of the voter's choice; and
 - (b) on the ballot-paper for the election of ordinary members, an "X":
 - (i) in the boxes opposite the names of 6 candidates of the voter's choice where the voter is voting for members for the Marngarr ward; or

- (ii) in the box opposite the name of 1 candidate of the voter's choice where the voter is voting for a member for the Galupa ward.
- (3) Where the voter spoils a ballot-paper or marks it in a way that was not intended, the voter may return it to the clerk or polling official who shall write "spoilt" across the front of it, initial the back of a new ballot-paper and give that ballot-paper to the voter.
- (4) The clerk shall retain spoilt ballot-papers to be dealt with under clause 38.
- (5) Subject to subclause (8), when the voter has completed a ballot-paper the voter shall fold it to conceal the names of the candidates and place it in the ballot-box.
- (6) Each voter shall vote only once at each election.
- (7) Subject to subclause (8), a voter shall enter a booth alone, and shall not mark a ballot-paper issued to another person.
- (8) Where the clerk or polling 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 and the clerk or official shall permit that person to accompany the voter into a booth and mark a ballot-paper in accordance with the voter's instructions and deposit it in the ballot-box.

33 Postal voting

- (1) A person whose name appears on the electoral roll who:
 - (a) is ill, infirm or for religious reasons unable to attend a polling place;
 - (b) will be absent from the community government area during the hours when the polling place will be open; or
 - (c) will be unable to attend a polling place in person on election day,may apply in person or in writing to the clerk for a postal ballot-paper.
- (2) An application in writing for a postal ballot-paper shall give an address to which the ballot-paper may be posted or delivered by hand in a sealed envelope.

- (3) Where, before election day, the clerk receives an application for a postal ballot-paper and the name of the applicant is on the electoral roll, the clerk shall:
 - (a) hand or send to the applicant the ballot-paper, initialled by the clerk, together with a self-addressed envelope marked with the words "Ballot-paper"; and
 - (b) write letters "PBP" against the name of the applicant on the electoral roll.
- (4) An applicant who has received a postal ballot-paper shall vote in accordance with clause 32 (other than the requirement to enter a booth).
- (5) After an applicant for a postal ballot-paper has voted, the ballot-paper is to be returned in the marked self-addressed envelope to the clerk.
- (6) Where the clerk, on or before 4 pm on election day, receives an envelope apparently containing a postal ballot-paper the clerk 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 34.
- (7) Where the clerk, after 4 pm on election day, receives an envelope apparently containing a postal ballot-paper, the clerk shall mark the envelope "rejected" and the votes on that ballot-paper shall not be counted.

34 Counting of votes

- (1) After 4 pm on election day 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 is eligible to vote but is not a candidate:
 - (a) open the ballot-boxes, count the number of ballot-papers (including postal ballot-papers) and, after having regard to whether 1 or 2 ballot-papers were issued to voters, prepare a written statement which sets out the number of ballot-papers in the boxes as compared with the number of names on the electoral rolls which have lines drawn through them or against which the letters "PBP" have been written; and
 - (b) after the statement has been prepared, count the votes received by each candidate in accordance with this clause.
- (2) During the counting of votes, the clerk shall, subject to subclause (3), set aside as an informal vote a ballot-paper where the voter has failed to comply with clause 32(2) or 33(4).

- (3) A ballot-paper shall not be set aside under subclause (2) by reason only that the voter has marked it otherwise than in the manner required by clause 32(2) or 33(4) if, or to the extent that, in the opinion of the clerk, the voter's intention is clearly shown.
- (4) The votes to decide the President of the council shall be counted first, and those to decide the ordinary members of the council shall be counted after the President has been decided.
- (5) Where the person elected President was also a candidate for election as an ordinary member, that candidacy and the votes cast for the person to be President shall be disregarded for the purposes of the count for ordinary members.
- (6) 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 who attended the count;
 - (c) the total number of formal ballot-papers;
 - (d) the total number of votes received by each candidate for election as President or ordinary member for each ward;
 - (e) the number of postal votes issued by the clerk and the number of them included in the count; and
 - (f) the total number of informal votes.

35 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 is or was displayed.
- (2) A notice under subclause (1) shall contain:
 - (a) a list of the candidates in the order in which they appeared on the ballot-papers for the election of President and ordinary members for each ward stating the number of votes received by each; and
 - (b) subject to subclause (3), a statement declaring the candidate for President with the most votes elected as President, and the 6 candidates for Marngarr ward and the 1 candidate for Galupa ward with the most votes elected as ordinary members of the council.

- (3) If 2 or more candidates for President each receive the highest number of votes, the clerk shall arrange for lots to be drawn to decide which of them shall be declared elected, and the notice under subclause (1) shall state that the successful candidate was selected by lot.
- (4) If by reason of an equality of votes between 2 or more candidates for membership of Marngarr ward the notice under subclause (1) cannot comply with subclause 2(b) by declaring 6 candidates with the most votes elected, the notice shall instead declare as elected:
- (a) and candidate or candidates who receive more votes than the candidates having the equality of votes; and
 - (b) such number of the latter, selected by the clerk by lot, as is required to enable 6 members for Marngarr ward to be declared in all,
- and the notice shall state that the members declared by virtue of paragraph (b) were selected by the clerk by lot from the candidates having the equality of votes.
- (5) If 2 or more candidates for Galupa ward each receive the highest number of votes, the clerk shall arrange for lots to be drawn to decide which of them shall be declared elected, and the notice under subclause (1) shall state that the successful candidate was selected by lot.

36 Transmission of details to Minister

Not more than 10 days after an election day, the clerk shall forward to the Minister:

- (a) the certificate signed by the clerk under clause 34(6);
- (b) a copy of the notice given by the clerk under clause 35(1); and
- (c) details of any declarations made by the clerk under clause 21(1) and 22(1).

37 Re-count

- (1) The clerk may, if the clerk thinks it desirable or on the written request of a candidate, re-count the votes at any time before a candidate is declared to be elected.
- (2) A request under subclause (1) shall contain a statement of the reasons for the request.

38 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 shall then destroy the unopened package.

39 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 which, in the opinion of the clerk may temporarily prevent or discourage significant numbers of voters from voting on a day set aside for an election,

the clerk may adjourn polling at an election in either ward or both from day to day to a maximum of 21 days.

- (2) The clerk shall take such steps as the clerk considers 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 clauses 34 and 36 shall apply as from the time when voting is finally concluded, and clause 7(3) (in relation to members of a former council) and clause 33 shall have effect as if references in those clauses to election day were references to the day on which voting is finally concluded in both wards.

40 Vacancies in membership, by-elections

- (1) Subject to clause 42, where the office of President becomes vacant for any reason, 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 (other than a by-election).
- (2) Where a by-election is to be held under subclause (1) the provisions of this scheme, with any necessary changes, shall apply to the conduct of that election.
- (3) Subject to clause 42, where the office of a member of either ward becomes vacant for any reason, a person who:
 - (a) was the highest polling unsuccessful candidate in the most recent election (including a by-election) for a member for the ward; and

(b) is eligible and willing to be a member,
is, subject to subclause (4), a member of the council.

(4) Where:

(a) no person fulfils the requirements of subclause (3); or

(b) 2 or more people fulfil the requirements of subclause (3),

a by-election for the vacant office shall be held in accordance with this clause, unless an election is required, in accordance with clause 17, to be held within the 3 month period following the date the office became vacant.

(5) Where a by-election is to be held under subclause (4) the provisions of this scheme, with any necessary changes, shall apply to the conduct of that election.

41 Conduct of election where clerk a member

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.

42 Resignation of council

(1) If all the members of the council cease to be members, or a quorum is not present on 2 consecutive occasions at the place and within 1 hour after the time specified for a council meeting, 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, when the clerk determines under subclause (1)(a) the date of an election of a new council the date determined 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) Notwithstanding subclause (2), if the period of 3 months referred to in that subclause expires during the month of July in which a general election of members would otherwise be held, the clerk shall determine the date of the election to be on a day of that month.

- (4) The term of office of a council elected under subclause (2) shall expire on the declaration of the result of the next election (not being a by-election) held pursuant to clause 17(2).
- (5) 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 an assistant to the clerk

Schedule 1

clause 3

MARNGARR COMMUNITY GOVERNMENT AREA

See hard copy for plan

Schedule 2

clause 5

MARNGARR COMMUNITY GOVERNMENT COUNCIL WARDS

MARNGARR WARD

All those parcels of land on Gove Peninsula in the Northern Territory of Australia containing an area of 264 ha more or less being Northern Territory Portions 1176, 1177 and that part of Northern Territory Portion 1646 situated south of latitude 12o 12' 5" S and known as Drimmie Peninsula, the above portions being more particularly delineated on Survey Plan A777 and Compiled Plan 4181 lodged with the Surveyor General, Darwin.

GALUPA WARD

All that parcel of land on Gove Peninsula in the Northern Territory of Australia containing an area of 3.82 ha more or less being Northern Territory Portion 1175 and being more particularly delineated on Survey Plan B599 lodged with the Surveyor General, Darwin,

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

2

LIST OF LEGISLATION

Marngarr Community Government Scheme

Notified	23 June 1993
Commenced	23 June 1993

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)

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LIST OF AMENDMENTS

cl 2	amd Act No. 12, 2004, s 7
cl 16	amd Act No. 12, 2004, s 7