

**NORTHERN TERRITORY OF AUSTRALIA**

**LTYENTYE APURTE COMMUNITY GOVERNMENT SCHEME**

As in force at 19 May 2004

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Ltyentye Apurte Community Government Scheme as in force at 19 May 2004. Any amendments that commence after that date are not included.

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## LTYENTYE APURTE COMMUNITY GOVERNMENT SCHEME

### Community Government Scheme under the *Local Government Act*

#### Part I Preliminary

##### 1 Name of scheme

The name of this scheme is the *Ltyentye Apurte 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person who has been nominated and accepted, under clause 18, as a candidate for election to the council and who has not withdrawn his consent to the nomination before the close of nominations.

***clerk***, for the purposes of Part 3, except clauses 39 and 40, includes the Electoral Commission and a person appointed to conduct an election under clause 39.

***council*** means the Ltyentye Apurte 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.

***elector*** means a person enrolled or entitled to be enrolled on the electoral roll.

***electoral roll*** means the roll prepared in accordance with clause 14.

**member** means a member of the council and includes its Chairman and Vice-Chairman and a person authorised under clause 8(7).

**ordinary member** means a person, other than the Chairman or Vice-Chairman, elected or appointed to the council.

**polling official** means an official appointed under clause 24.

**polling place** means a place set aside under clause 22 for the purpose of an election.

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

### **3 Community government area**

The community government area to which this scheme applies is all that parcel of land at Santa Teresa in the Northern Territory of Australia outlined on the plan in Schedule 1, containing an area of 1242 km<sup>2</sup> more or less being Northern Territory Portion 317 and including the road between the northern boundary of Pastoral Lease 627 (Allambi) and the eastern boundary of Pastoral Lease 595 (Deep Well) and being more particularly delineated on Compiled Plan 4196 lodged with the Surveyor-General, Darwin.

## **Part 2 Council**

### **4 Community government council**

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

### **5 Common seal**

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

### **6 Members of council**

- (1) The council shall consist of:
  - (a) a Chairman;
  - (b) a Vice-Chairman; and
  - (c) 12 other members, 6 of whom shall be men and 6 of whom shall be women,

who shall be declared, elected or appointed in the manner provided by this scheme.

- (2) Subject to this scheme, the term of office of a member expires upon the declaration of the results of the next election (other than a by-election).
- (3) The office of a member becomes vacant if the member ceases to be enrolled as a voter, or if he or she (not being a traditional owner in respect of land in the community government area) ceases to be ordinarily resident in the area.

## **7 Chairman and Vice-Chairman**

- (1) Subject to clause 40, the Chairman and the Vice-Chairman shall be declared or elected in accordance with clause 19.
- (2) The Vice-Chairman (or, in the absence of the Vice-Chairman, a member elected by the council to act temporarily) shall act as Chairman during any vacancy in that office and shall also perform the functions, exercise the powers and discharge the duties of the Chairman when the Chairman is absent from the community government area or a meeting of the council.

## **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 authorised by the Minister for that purpose.
- (3) The Chairman may call a special meeting of the council by giving at least 2 days notice to the members.
- (4) By giving the Chairman 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 Chairman to call a special meeting of the council, and the Chairman 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 the office of the council and at the store within the community government area, with a copy to

be forwarded to the Media Unit or communications centre (if any) established within the community government area.

- (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 of the same sex 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.

## **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 Chairman, or, where the Chairman is absent, by the Vice-Chairman, 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.

## **Part 3                      Functions and powers of council**

### **11                      Functions**

The council may perform the following functions:

- (a) the establishment, development, operation and maintenance of communication, television and radio broadcasting facilities for the community government area, and for this purpose the council may, for reward, act as agent for any provider of those facilities;
- (b) the establishment and maintenance of parks, gardens and recreational areas and the carrying out of landscaping and other associated works;
- (c) the establishment and maintenance of sports facilities, swimming pools, libraries and museums, cinemas, community halls, public toilets, ablution blocks and laundry facilities;
- (d) 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;
- (e) the collection, as an agent and for reward, of electricity, water and sewerage charges;
- (f) the receipt of money, grants or gifts of property paid or made to the council;
- (g) the provision of adult education and vocational and other training;
- (h) the provision and maintenance of housing for residents and their families on such terms and conditions as the council thinks fit;
- (i) the management of community employment programs and the carrying out as agent (whether or not for reward) of activities relating to the provision of social security services or benefits;
- (j) the promotion and provision of community welfare, health and care facilities for all age groups;
- (k) the prevention and control of substance abuse;
- (l) the provision and maintenance of cemeteries;

- (m) the control or prohibition of animals;
- (n) 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;
- (o) the provision and maintenance of flood control devices and watercourse crossings;
- (p) the provision and maintenance of airstrips and related facilities;
- (q) 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;
- (r) 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;
- (s) the establishment and operation of pastoral and commercial enterprises;
- (t) 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;
- (u) the promotion and development of tourist attractions, the provision and maintenance of tourist facilities and the production and selling of artifacts and souvenirs;
- (v) the management and control of sites of historic interest; and
- (w) 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 *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 an 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 ratable 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 it 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.

## **Part 4                      Elections**

### **13                      Eligibility to vote**

A person is eligible to vote at a council election 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 2 years immediately before the closure of the rolls under clause 14(4); or
- (ii) is a traditional owner in respect of land in the community government area, whether or not ordinarily resident in the area.

#### **14 Electoral roll**

- (1) The clerk shall maintain, 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 traditional owner may inspect the electoral roll 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.
- (4) The clerk shall close the electoral roll at 12 noon on the day occurring 21 days before election day.
- (5) Except as provided by clause 27(2) or to correct an oversight in the making up of the electoral roll, the clerk shall not add any name to the roll in the period between its closure and the conclusion of the election.

#### **15 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 Thursday 28 July 1994, and subsequent elections shall be held on a Thursday in July to be fixed by the council in every calendar year after the end of that year or, where an election is held under clause 40, in July in every calendar year after the date of that election.

#### **16 Notice of election**

- (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 other persons, and who may 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 are to be lodged; and
- (e) the date of the election and time and place of polling,

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

## **18 Nominations**

- (1) A person is eligible for nomination as a member of the council if he or she:
- (a) is enrolled under clause 14; and
  - (b) has ordinarily resided in the community government area for not less than 5 years immediately before nomination.
- (2) A person who is enrolled under clause 14 may, by lodging a written nomination with the clerk, nominate another enrolled person for election as the Chairman or as the Vice-Chairman or as an ordinary member, or as all of them.
- (3) The clerk shall not accept a nomination unless satisfied:
- (a) that it sufficiently identifies the proposed candidate;
  - (b) that it specifies whether the candidate is male or female; and
  - (c) 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 day occurring 14 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 for Chairman and the names of candidates for Vice-Chairman and the names of the candidates of both sexes for ordinary member, in the same places as the election notice.

## **19 Declaration or election of Chairman and Vice-Chairman**

- (1) Where at the close of nominations under clause 18(5) only one person has been nominated for election as Chairman or, as the case may be, Vice-Chairman:
  - (a) the clerk shall declare that person to be Chairman or Vice-Chairman and display a notice to that effect in the same places as the election notice; and
  - (b) by virtue of that declaration, any nomination of that person for election as a male ordinary member or a female ordinary member shall lapse for all purposes.
- (2) Where at the close of nominations under clause 18(5) more than one person has been nominated for election as Chairman or, as the case may be, Vice-Chairman, an election to decide which of the persons nominated shall be the Chairman or Vice-Chairman 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 for either office to 1, subclause (1)(a) shall apply as if the candidate had died before the close of nominations.
- (4) Where the Chairman or the Vice-Chairman are declared under subclause (1)(a), the clerk shall:
  - (a) display in the same places as a notice under subclause (1)(a) a notice informing voters that no election for Chairman or, as the case may be, Vice-Chairman, will be held on the day specified in the election notice; and
  - (b) within 10 days, send a copy of all notices issued under this clause to the Minister.

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**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 nominations that have lapsed) does not exceed 6 members of the one sex, 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 Chairman or Vice-Chairman, the clerk shall, after the holding of the election for that office under clause 19(2), declare all persons nominated, other than the person who has been elected Chairman or Vice-Chairman, as ordinary members,

on and from the day on which the election is or would have been held.

- (2) Where, at the close of nominations under clause 18(5) the number of candidates nominated for election as ordinary members (disregarding any nomination that has lapsed whether by virtue of clause 19(1)(b) or otherwise) exceeds 6 members of the one sex, an election to decide 6 ordinary members of the one sex 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 persons who have also been nominated for election as Chairman or Vice-Chairman; and
  - (b) the number of them remaining as candidates for ordinary membership will not exceed 6 for one sex after holding the election for the office of Chairman or Vice-Chairman under clause 19(2),

but instead, after holding the election or elections under clause 19(2), the clerk shall declare those remaining as candidates for ordinary membership to be ordinary members on and from election day.

- (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.

- (5) Where the male ordinary members or the female ordinary members of the council are declared under subclause (1)(a), the clerk shall:
  - (a) display in the same places as a notice under subclause (4) a further notice informing voters that no elections will be held on the day specified in the election notice; and
  - (b) within 10 days, send a copy of all notices issued under this clause to the Minister.
- (6) Where fewer than 6 candidates of either sex are declared members under subclause (1), the council may appoint as many persons of that sex to be members of the council as are necessary to make up the number to 6, and for this purpose a quorum shall equal the number of members declared under subclause (1)(a) together with the Chairman and Vice-Chairman.
- (7) A person may only be appointed under subclause (6) if he or she is eligible for nomination and agrees to be appointed.
- (8) Where persons have agreed under subclause (7) to appointment to be members of the council, the clerk shall, by a notice displayed in the same places as the election notice, declare those persons to be appointed members of the council.
- (9) 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 male or female members required, subclause (1)(a) shall apply as if the candidate had died before the close of nominations.

## **21 Ballot papers**

- (1) Where an election is to be held under clause 19(2) and/or clause 20(2), the clerk shall cause ballot-papers to be printed in sufficient numbers for the purposes of the election and, where elections are to be held for both male and female ordinary members, there shall be 2 colours of ballot-papers, one in respect of each sex.
- (2) The names of candidates for which an election for ordinary members if required shall be set out, in the order determined by the clerk by ballot, under the heading "male" or "female" (whichever is appropriate) on the ballot-paper.

## **22 Polling place**

- (1) The clerk shall set aside a polling place 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 30(8)) while marking a 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 through 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 polling officials to assist in conducting an election.
- (2) The clerk shall not appoint a member of the council, a candidate, or a spouse or de facto partner of a member or candidate, to be a polling official.
- (3) The clerk and polling officials shall conduct voting at the polling place.

### **25 Scrutineers**

- (1) Each candidate may, by notice in writing, appoint a person to be scrutineer for the candidate for the purposes of the election.
- (2) The 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.
- (3) A scrutineer shall not disclose to any person anything relating to the vote of any voter.

### **26 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 3 pm on the day of an election.

### **27 Entitlement to vote**

- (1) Subject to subclause (2), a person whose name appears on an electoral roll shall vote and a person whose name does not appear on the roll shall not be entitled to vote at an election.

- (2) Where the clerk is satisfied that a person whose name has not been entered on the roll is eligible under clause 13 to vote the clerk shall, upon the person signing a declaration that an application for enrolment was made before the closure of the roll under clause 14(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.

## **28 Exhibition of ballot-box**

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.

## **29 Presence in polling place**

A voter, any person assisting the voter under clause 30(8), other than the clerk, a polling official or scrutineer, shall remain in the polling place only for the time necessary to vote.

## **30 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 must take the ballot-paper or ballot-papers into an unoccupied polling booth and, for each ballot-paper, secretly vote in the manner described in subclauses (2A) and (2B).
- (2A) The voter must record his or her vote by:
- (a) placing the number "1" in the square on the ballot-paper opposite the name of the candidate who is the voter's first preference; and
  - (b) if the ballot is for an election for more than one vacancy – placing the number "2" in the square on the ballot-paper opposite the name of the candidate who is the voter's second

preference and consecutively increasing numbers in the squares opposite the names of the candidates in the order of the voter's preferences, until the voter has placed numbers in the same number of squares as there are vacancies to be filled.

- (2B) After complying with subclause (2A), the voter may place consecutively increasing numbers in any or all of the squares opposite the names of the remaining candidates in the order of the voter's preference for them.
- (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 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 36.
- (5) Subject to subclause (8), when the voter has completed the 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 the ballot-paper in accordance with the voter's instructions and deposit it in the ballot-box.

### **31 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 a 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 30 (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 3 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 32.
- (7) Where the clerk, after 3 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.

## **32 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-box, count the number of ballot-papers (including postal ballot-papers), and, after having regard to whether 1, 2, 3 or 4 ballot-papers were issued to voters, prepare a written statement which sets out the number of ballot-papers in the box as compared with the number of names on the electoral roll 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 the procedures specified in Schedule 2.
- (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 30(2A) and (2B) or 31(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 30(2A) and (2B) or 31(4) if, or to the extent that, in the opinion of the clerk, the voter's intention is clearly shown.
- (4) 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;
  - (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.

### **33 Declaration of result**

- (1) The clerk shall, as soon as practicable after the votes have been counted for an election, 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 for election as Chairman, Vice-Chairman or male ordinary members or female 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) a statement declaring:
    - (i) the candidate for Chairman with the most votes elected as Chairman, the candidate for Vice-Chairman with the most votes elected as Vice-Chairman, and the 6 candidates of the male sex and the 6 candidates of the

female sex with the most votes elected as ordinary members; or

- (ii) if a candidate is elected in accordance with clause 5(5) of Schedule 2, that the candidate was elected by the conduct of a lot.

#### **34 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 32(4);
- (b) a copy of the notice given by the clerk under clause 33(1); and
- (c) details of any declarations made by the clerk under clause 19(1)(a) and 20(1)(a).

#### **35 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.

#### **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 shall then destroy the unopened package.

#### **37 Vacancies in membership, by-elections**

- (1) Subject to clause 40, where the office of Chairman or Vice-Chairman 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) Subject to clause 40, where the office of an ordinary member representing a particular sex 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 of that sex; and

(b) is eligible and willing to be a member,  
is, subject to subclause (3), a member of the council.

(3) Where:

- (a) no person fulfills the requirements of subclause (2); or
- (b) 2 or more people of that sex fulfil the requirements of subclause (2),

a by-election for the vacant office shall be held in accordance with this clause unless an election is required, under clause 15, 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 this clause the provisions of this scheme relating to the calling and conduct of an election, with any necessary changes, shall apply to the conduct of the by-election.

### **38 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 from day to day to a maximum of 21 days.

(2) The clerk shall take such steps as the clerk considers necessary and practical to inform persons entitled to vote of an adjournment under subclause (1).

(3) Where polling has been adjourned under subclause (1), clause 31(6) and (7) and clause 32(1) shall have effect as if the reference to election day were a reference to the day on which voting is finally concluded.

**39 Conduct of election 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 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 15(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

**SANTA TERESA**

See hard copy for plan

## Schedule 2

### PROCEDURES FOR COUNTING VOTES

#### 1. Definitions

In this Schedule:

**continuing candidate** means a candidate who is not an elected candidate or excluded candidate.

**elected candidate** means the candidate who under clause 3 or 4:

- (a) receives a majority of votes in an overall count for a vacancy;  
and
- (b) must be declared elected to the vacancy.

**election** means an election to fill a vacancy or vacancies in any of the following offices:

- (a) the office of Chairman;
- (b) the office of Vice-Chairman;

the office of ordinary member (male);

the office of ordinary member (female).

**excluded**, in relation to a candidate, means excluded from subsequent counts of the votes because he or she received the least number of votes or because he or she is excluded under clause 5.

**exhausted**, in relation to a ballot-paper, means not indicating a preference for any continuing candidate.

**majority of votes**, in relation to unrejected ballot-papers, means a number greater than one-half of the ballot-papers that are not exhausted.

**next preference** means the first of the subsequent preferences marked on a ballot-paper that is not given to an elected or excluded candidate.

**overall count** means the procedure of counting ballot-papers and distributing preferences to determine the elected candidate for a vacancy.

**unrejected ballot-paper** means a ballot-paper that has not been rejected as informal under this scheme.

**2. Outline of procedures**

- (1) If there is only one vacancy to be filled, the elected candidate must be determined in accordance with clause 3.
- (2) If there is more than one vacancy to be filled, the elected candidate for each vacancy must be determined by separate overall counts of the ballot-papers in accordance with:

for the first vacancy – clause 3; and

for each remaining vacancy – clause 4.

**3. First or only overall count**

The procedure for the first or only overall count of votes is as follows:

- (a) the unrejected ballot papers must be arranged by placing all the ballot-papers on which a first preference is for the same candidate together in a separate parcel;
- (b) the first preferences given for each candidate must be counted;
- (c) if a candidate received a majority of first preference votes, the candidate must be declared elected;
- (d) if no candidate received a majority of votes:
  - (i) a further count must be made; and
  - (ii) the candidate who received the least number of first preference votes is excluded from the further count and each ballot-paper that was counted to that candidate is counted to the voter's next preference or, if the ballot-paper is exhausted, set aside;
- (e) if, after the further count, a candidate received a majority of votes, the candidate must be declared elected;
- (f) if no candidate received a majority of votes, the process described in paragraph (d) must be repeated until a candidate receives a majority of votes;
- (g) the candidate who, under paragraph (f), receives a majority of votes must be declared elected.

**4. Second and subsequent overall counts**

- (1) The procedure for the second and subsequent overall counts of votes is as follows:
  - (a) all the unrejected ballot papers counted in the previous overall count, including those exhausted by that count, must be gathered and rearranged by:
    - (i) if they are ballot-papers on which the first preference is for a continuing candidate – placing the ballot-papers on which the first preference is for the same candidate together in a separate parcel; and
    - (ii) if they are ballot-papers on which the first preference is for an elected candidate – placing the ballot-papers in the parcel of the candidate who is indicated on the ballot-paper as the voter's next preference;
  - (b) the number of votes for each candidate must be counted;
  - (c) if a candidate received a majority of votes, the candidate must be declared elected;
  - (d) if no candidate received a majority of votes, the procedure of excluding the candidate who has the least number of votes from the count and counting each ballot-paper that was counted to that candidate to the voter's next preference (or, if the ballot paper is exhausted, setting it aside) must be repeated until a candidate receives a majority of votes;
  - (e) the candidate who, under paragraph (d), receives a majority of votes must be declared elected.
- (2) The procedure described in subclause (1) must be repeated until all vacancies for the election are filled.

**5. Candidates who have equal number of votes**

- (1) This clause applies if 2 or more candidates have received the same number of votes which is the lowest number of votes at a count.
- (2) The candidate who had the least number of votes at the last count when the candidates did not have an equal number of votes is excluded from the next count.
- (3) If the candidates had an equal number of votes at all preceding counts, the candidate whose name is on the slip of paper drawn in accordance with subclause (4) is excluded from the next count.

- (4) For subclause (3), the clerk must write the names of the candidates on similar slips of paper, fold the slips of paper in a manner that prevents the names being seen, mix them and draw at random one of the slips.
- (5) If 2 candidates have received the same number of votes at a count and they are the only remaining continuing candidates, the excluded candidate must be determined in accordance with the procedures described in subclauses (3) and (4) and the other candidate must be declared elected.

**6. Exhausted ballot-papers**

A ballot-paper that becomes exhausted in a count must:

- (a) be set aside and not used again in the overall count; and
- (b) be included in subsequent overall counts.

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Ltyentye Purte Community Government Scheme***

Notified	12 January 1994
Commenced	12 January 1994

***Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)***

Assent date	7 January 2004
Commenced	17 March 2004 (s 2 and Gaz G11, 17 March 2004, p 8)

***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)

***Amendments to Ltyentye Purte Community Government Scheme***

Notified	19 May 2004
Commenced	19 May 2004

**3 LIST OF AMENDMENTS**

cl 2	amd Act No. 12, 2004, s 7
cl 14	amd Act No. 12, 2004, s 7
cl 24	amd Act No. 1, 2004, s 63