

NORTHERN TERRITORY OF AUSTRALIA

BELYUEN COMMUNITY GOVERNMENT SCHEME

As in force at 17 March 2004

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Community Government Scheme as in force at 17 March 2004. Any amendments that commence after that date are not included.

BELYUEN COMMUNITY GOVERNMENT SCHEME

Community Government Scheme under the *Local Government Act*

Part I Council

1 Name of Scheme

This scheme shall be called the *Belyuen 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person who has been nominated and accepted, under clause 19, as a candidate for election to the council and who has not withdrawn his or her consent to the nomination before the close of nominations.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 III except clauses 39 and 40, also includes the Electoral Commission and a person appointed to conduct an election under clause 39.

council means the Belyuen Community Government Council.

election day means a day specified in or fixed under clause 16 for the holding of an election.

election notice means a notice under clause 17(1) that an election is to be held.

electoral roll means a roll prepared in accordance with clause 15.

polling official means an official appointed under clause 24.

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 Belyuen in the Northern Territory of Australia shown on the plan in the Schedule and containing an area of 4091 hectares more or less being section 25 Hundred of Bray and being more particularly delineated on survey plan OP1413 lodged with the Surveyor General, Darwin.

4 Name of Community Government Council

The name of the community government council which shall administer the community government area is the Belyuen Community Government Council.

5 Common Seal

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

6 Members of council

- (1) The council shall consist of 8 members, 4 male and 4 female, who shall be declared or elected 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 result of the next election (other than a by-election).
- (3) The office of a member becomes vacant if he or she ceases to be enrolled as a voter, or ceases to be ordinarily resident in the community government area.

7 Eligibility for membership

A person is eligible for nomination as a member of the council if he or she:

- (a) is enrolled as a voter under clause 15; and
- (b) is ordinarily resident in the community government area, and has been so for a period of not less than 3 years immediately before nomination.

8 Chairperson and Vice-Chairperson of Council

- (1) The Council shall have a Chairperson and a Vice-Chairperson, who shall be elected by the members from among their own number at the council's first meeting after its election and after that, as occasion may require.

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- (2) Subject to subclause (3), the Chairperson and Vice-Chairperson shall each hold office during the pleasure of the members of the council.
 - (3) The Chairperson or Vice-Chairperson may resign from that office at any time by giving notice in writing to the clerk, and that office shall become vacant from the date on which notice is given.
 - (4) The office of the Chairperson or Vice-Chairperson shall become vacant if its holder ceases to be a member of the council.
 - (5) The Vice-Chairperson shall act as Chairperson 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 Chairperson when the latter is absent from the community government area or any meeting of the council.

9 Meetings of council

- (1) The council shall meet to transact its business not less than once each month.
- (2) The day and time of a council meeting shall be as decided by a previous council meeting or, in default of that, by the clerk or, where necessary, the Minister or a person authorised by the Minister for the purpose.
- (3) The Chairman may call a special meeting of the council by giving at least 2 days notice to the other members.
- (4) By giving the Chairperson 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 persons, each of whom has attained the age of 18 years and has lived in the community government area for not less than 3 months,

may require the Chairman to call a special meeting of the council; and the Chairperson shall call that meeting for a date not later than 7 days after the day on which notice is received and 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 a written notice of the special meeting to be prominently displayed in a place which he or she considers likely to be frequented by residents.

- (6) A notice under subclause (5) shall specify:
 - (a) the date, time and place of; and
 - (b) the reason for the calling of,
the special meeting.
- (7) A member proposing to be absent from a meeting of the council may authorize in writing any person who has attained the age of 18 years and has lived continuously in the community government area for not less than 3 years to attend the meeting in the member's place and, subject to and in accordance with any restrictions or instructions specified in the authorization, to exercise that member's powers at the meeting (including the power to vote) on the member's behalf.
- (8) Where a member is absent in person from 3 consecutive meetings of the council:
 - (a) without the prior consent of the council; or
 - (b) for reasons which the council does not accept as satisfactory,
the council may declare that person to be no longer a member, and his or her office to be vacant, and the clerk shall cause notice of that declaration to be 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 declaration.

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 Chairperson, or, where the Chairperson is absent, by the Vice-Chairperson, 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 at 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 II Functions and powers of council

12 Functions

The council may perform the following functions:

- (a) the establishment and maintenance of parks, gardens and recreational areas, the carrying out of landscaping and other associated works; the establishment and maintenance of sports facilities, libraries, a cinema, community halls and public toilet and ablution blocks and laundry facilities.
- (b) the provision of a service 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;
- (c) the carrying out as agent (whether or not for reward) of activities relating to the provision of social security services or benefits;
- (d) the collection, as an agent and for reward, of electricity charges;
- (e) the provision of adult education and vocational and other training;
- (f) the provision and maintenance of housing for residents and their families on such terms and conditions as the council thinks fit;
- (g) the provision of relief work for unemployed persons;
- (h) the promotion and provision of community welfare, health and care facilities for all age groups and the provision of appropriately trained staff to provide counselling or temporary assistance;
- (j) the maintenance of cemeteries;

- (k) the control or prohibition of animals;
- (m) the development and maintenance of roads and boat ramps within the community government area (including the provision of street lighting and traffic control devices) and, for reward, the development and maintenance of roads and boat ramps outside the community government area;
- (n) the provision and maintenance of an airstrip and related facilities;
- (p) the hiring out, for reward, of any plant, vehicle, appliance or equipment belonging to the council and the repair and maintenance, for reward, of any plant, vehicle, appliance or equipment not owned by the council;
- (q) the contracting of works projects, within or outside the community government area;
- (r) the establishment and operation of pastoral and commercial enterprises;
- (s) 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;
- (t) the promotion and development of tourist attractions, the provision and maintenance of tourist facilities and the production of and selling of artifacts and souvenirs;
- (u) the management and control of sites of historic interest;
- (w) the maintenance and preservation of Aboriginal law and custom;
- (y) the support and encouragement of artistic, cultural and sporting activities; and
- (z) the prevention and control of substance abuse.

13 Powers

- (1) The council has (in addition to the powers conferred on it by the *Local Government Act*, and, in particular, its power under section 292 of that Act to make by-laws with respect to the matters there stated) 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 changes.
- (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 of a business in the area or his or her 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 under the Act shall apply to and in relation to charges so declared to the extent that they are capable of doing so and with any necessary changes.
- (6) The council may exempt persons, or any class of persons, from all or part of the rates or charges for which they would otherwise have been liable by virtue of this clause.
- (7) The council may, by agreement with that body, take over and manage any activity of the Belyuen Council Incorporated consistent with the functions of the council.
- (8) The council may contract with the Territory or other person in order to perform any of its functions.

Part III Elections

14 Eligibility to vote

A person is eligible to vote at a council election if that person:

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

15 Roll of electors

- (1) The clerk shall maintain an electoral roll of the full names and addresses of persons who are eligible to vote at elections.
- (2) The clerk shall close the electoral roll at 12 noon on the Tuesday 21 days before election day.
- (3) 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 names to that 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.

16 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 Tuesday 29 September 1992, and subsequent elections shall be held on a day in September to be fixed by the council in every third calendar year after the end of that year.

17 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.

18 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 elections.

19 Nominations

- (1) A person who is enrolled as a voter under clause 15 may, by lodging a written nomination with the clerk, nominate another person as a candidate for election as a member of the council.
- (2) The clerk shall not accept a nomination unless satisfied that:
 - (a) it sufficiently identifies the proposed candidate; and
 - (b) the proposed candidate is eligible under clause 7(1) to be nominated as a member and has consented to the nomination.
- (3) A candidate may withdraw his or her consent to nomination at any time before the close of nominations.
- (4) Nominations of candidates for election shall close at 12 noon on the Tuesday 14 days before election day.
- (5) The clerk shall display, as soon as practicable after nominations have closed, a list of the names of the candidates in the same places as the election notice.

20 Declaration or election of members

- (1) Where at the close of nominations under clause 19(4) the number of candidates of either sex does not exceed 4, the clerk shall, by a notice displayed in the same places as the election notice, declare all of the candidates of that sex to be members of the council.
- (2) Subject to subclause (4), where at the close of nominations there are more than 4 candidates of either sex, an election to choose 4 members of that sex shall be held on election day.
- (3) In the event of all of the candidates, male and female, being declared members by virtue of subclause (1), the clerk shall, within 7 days, forward a copy of the notice under that subclause to the Minister.
- (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 male or female members required, subclause (2) shall not require the holding of an election for that sex but subclause (1) shall apply instead as if the candidate had withdrawn before the close of nominations.

21 Ballot-papers

- (1) Where an election is to be held under clause 20(2), the clerk shall cause ballot-papers to be printed in sufficient numbers for the purposes of the election.
- (2) The names of all candidates in an election shall be included on one ballot-paper, and shall be listed according to sex.
- (3) 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 that voter marks his or her ballot-paper.

23 Ballot-boxes

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 such persons as he or she thinks fit as polling officials to assist in conducting an election.
- (2) The clerk shall not appoint as a polling official a member of the council, a candidate or a spouse or de facto partner of a member or 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 or she thinks fit to be that candidate's 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 polling 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 shall not be entitled to vote at an election.
- (2) Where the clerk is satisfied that a person is eligible under clause 14 to vote, but that person's name has not been entered on the roll, the clerk shall, upon the person signing a declaration that he or she made a claim for enrolment before the closure of the roll under clause 15(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 locked 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 to vote.

30 Voting procedure

- (1) A voter shall state his or her name to the clerk or polling official, who shall check that the name appears on the electoral roll.
- (2) Where a voter's name is on the electoral roll and a line has not been drawn through it, the clerk or official shall draw a line through that name and hand the voter a ballot-paper.
- (3) Immediately before the clerk or official hands a voter a ballot-paper, the clerk or official shall initial the back of the ballot-paper.

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- (4) After the clerk or official hands a ballot-paper to a voter, the voter shall go into an unoccupied booth and vote by placing an "X" on the ballot-paper in the boxes opposite the names of 4 candidates of each sex in respect of which an election is held.
 - (5) Where the voter spoils a ballot paper or marks it in a way that he or she did not intend, the voter 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 retain each spoilt ballot-paper in accordance with clause 36.
 - (7) When the voter has completed his or her ballot-paper, the voter shall fold it to conceal the names of the candidates and place it 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 a voter is, for any reason, unable to vote without assistance, the voter may appoint a person to assist him or her, and the clerk or official shall permit that person to accompany the voter into a booth and mark the ballot-paper 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 vote;
 - (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 booth in person on an 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 the date of the election, 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 which has been initialled by the clerk, together with a self-addressed envelope marked with the words "Ballot-paper"; and
 - (b) draw a line through the name of the applicant on the electoral roll.
- (4) Where a person who has applied for a postal ballot-paper receives the ballot-paper, the person shall vote by placing an "X" on the ballot-paper in the boxes opposite the names of 4 candidates of each sex in respect of which an election is held.
- (5) After an applicant for a postal ballot-paper has voted he or she shall return the ballot-paper in the marked self-addressed envelope to the clerk.
- (6) Where the clerk receives an envelope apparently containing a postal ballot-paper before the close of the poll, he or she 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 a postal ballot-paper after the close of the poll, he or she shall mark the envelope "rejected", and the vote on that ballot-paper 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 on 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 count the votes received by each candidate in the presence of a scrutineer or at least one other person who was eligible to vote.
- (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 be set aside under subclause (3) by reason only that the voter has marked it otherwise than in the manner required by clause 30(4) or 31(4) if, in the opinion of the clerk, the voter has shown clearly the candidate or candidates for whom the voter intended to vote; and a paper shall not be set aside because the voter has voted for less than the required number of candidates, but shall be if the voter has voted for more.
- (5) 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 ballot-papers forwarded 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, declare the result of the election by a notice displayed in the same places as the election notice.
- (2) A notice under subclause (1) shall:
 - (a) list the candidates in the order in which they appeared on the ballot-paper;
 - (b) state the number of votes received by each candidate; and
 - (c) subject to subclause (3), declare the 4 candidates of each sex with the most votes (or, if the election relates to male members only or female members only, the 4 candidates with the most votes) elected as members of the council.
- (3) Where there is an equality of votes between 2 or more candidates, the clerk shall arrange for lots to be drawn to decide which of them shall be declared elected, and the notice under subclause (1) shall state that the successful candidate or candidates was or were selected by lot.

34 Transmission of details to Minister

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

- (a) the certificate signed by the clerk under clause 32(5);
- (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 20(1).

35 Re-count

- (1) The clerk, at any time before a candidate is declared to be elected, may, on the written request of a candidate or if the clerk thinks it necessary, re-count 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 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 beginning with the day of the election.

- (2) The clerk shall take such steps as he or she may consider necessary and practicable to inform persons entitled to vote of an adjournment under subclause (1).
- (3) Where polling has been adjourned under subclause (1), the provisions of clause 32 shall apply as from the time when voting is finally concluded.

38 By-elections

- (1) Subject to clause 39, 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) A vacancy in the office in respect of which a by-election is to be held in accordance with subclause (1) may only be filled by a person of the same sex as the member who vacated that office.
- (3) 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 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 for 2 consecutive meetings of the council is not present at times for meetings of the council under this scheme, the clerk shall be deemed to constitute the council for the purposes of:
 - (a) determining the date of an election of a new council; and
 - (b) exercising a power of the council under this scheme.
- (2) Subject to this scheme, when the clerk determines under subclause (1)(a) the date of an election of a new council, the date which he or she 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 or her assistant.
- (4) A council elected under subclause (2), shall hold office for the remainder of the term for which the previously elected council would have been in office had that previously elected council remained in office for its full term.

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

Belyuen Community Government Scheme

Notified	28 August 1992
Commenced	28 August 1992

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

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

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

Assent date	7 January 2004
Commenced	17 March 2004

3 LIST OF AMENDMENTS

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