

NORTHERN TERRITORY OF AUSTRALIA

COX PENINSULA COMMUNITY GOVERNMENT SCHEME

As in force at 17 March 2004

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NORTHERN TERRITORY OF AUSTRALIA

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COX PENINSULA COMMUNITY GOVERNMENT SCHEME

Regulations under the *Local Government Act*

Part 1 Preliminary

1 Name of scheme

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who has been nominated and accepted, under clause 18, as a candidate for election to the council and who has not withdrawn his or her consent to the nomination before the close of nominations;

clerk, for the purposes of Part 4, except clauses 38 and 39, includes the Electoral Commission and a person appointed under clause 38 to conduct an election;

council means the Cox Peninsula Community Government Council;

election day means a day specified in or fixed under clause 15;

election notice means a notice under clause 16(1);

electoral roll means the roll maintained in accordance with clause 14;

member means a member of the council and includes its President and Vice-President and a person authorised under clause 8(1);

polling official means an official appointed under clause 21;

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

public place includes:

- (a) every place to which free access is permitted to the public with the express or tacit consent of the owner or occupier of the place;
- (b) every place to which the public is admitted on payment of money, the test of the admittance being the payment of the money only;
- (c) every road, street, footway, court, alley, thoroughfare or cul-de-sac which the public is allowed to use notwithstanding that the road, street, footway, court, alley, thoroughfare or cul-de-sac may be formed on private property; and
- (d) land reserved under a law of the Territory for the use of the public or a member of the public;

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 comprises all those parcels of land near Mandorah in the Hundred of Bray Northern Territory of Australia indicated in the Schedule containing a total area of 562 hectares more or less and bounded by lines described as follows:

Firstly, commencing at the southeastern corner of Section 35; thence westerly by part of the southern boundary of the said section to a northeastern corner of section 40; thence generally southeasterly, southwesterly and northwesterly by northeastern, a southeastern and part of the southwestern boundary of the said section to the most eastern corner of Section 43; thence northwesterly, generally southwesterly, westerly and northerly by a southwestern, southeastern, a southern and a western boundary of the said section to its northwestern corner; thence northerly across Charles Point Road and again northerly by part of the western boundary of Section 44 to the most southern southeastern corner of Section 45; thence westerly and northerly by the southern and western boundaries of the said section to its northwestern corner; thence westerly by part of the southern boundary of Forsyth Road to the eastern boundary of Wagait Tower Road, being a northwestern corner of Section 81(A); thence southerly, westerly, northerly, generally northeasterly and again northerly by a western, a northern, an eastern, southeastern and part of an eastern boundary of the said section to the northwestern corner of lot 34 of Plan LTO 62/02, being the southwestern corner of Section 104(A); thence generally northeasterly, easterly and southeasterly by

southeastern, southern and southwestern boundaries of the said section to the most eastern corner of lot 28 of Plan LTO 66/01; thence southwesterly and generally westerly by the southeastern and southern boundaries of the said lot to the northeastern boundary of De Lissa Drive; thence southwesterly by the southeastern boundary of De Lissa Drive to the most eastern corner of Section 77; thence southwesterly by the southeastern boundary of the said section and its southwesterly prolongation to intersect the northern boundary of Section 45; thence generally easterly by the northern boundaries of Section 45 to the most northern northwestern corner of Section 44; thence generally easterly, southeasterly, southerly and again southeasterly by the northern, northeastern, eastern and northeastern boundaries of Section 44 to the most western southwestern corner of Section 50; thence northerly and easterly by the western and northern boundaries of the said section to its most northern northeastern corner; thence easterly and generally southeasterly by northern and northeastern boundaries of Charles Point Road to the northern corner of Section 26; thence generally southeasterly by the northeastern boundary of the said section to the northern boundary of Section 39; thence easterly, southerly and westerly by part of the northern, the eastern and the southern boundaries of the said section to the eastern boundary of Section 26; thence generally southeasterly and southwesterly by northeastern and southeastern boundaries of Section 26 to its southwestern corner; thence westerly by part of the southern boundary of Charles Point Road to the northeastern corner of Section 56; thence generally southwesterly by southeastern boundaries of Section 56 to the northern boundary of Section 35; thence easterly and southeasterly by part of the northern and the northeastern boundary of Section 35 to the point of commencement; and

secondly, the whole of Section 9 being more particularly delineated on Survey Diagram Book 4 Folio 186 lodged with the Surveyor General, Darwin, and

thirdly, the whole of Section 40 being more particularly delineated on Survey Plan S80/19 lodged with the Surveyor General, Darwin.

Part 2 Council

4 Name of Council

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

5 Members of council

- (1) The council shall consist of 7 members, 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 (not being a by-election).
- (3) The office of a member becomes vacant if the member ceases to be enrolled as an elector.

6 President and Vice-President

- (1) The Council shall have a President and a Vice-President, who shall be chosen in that order by the members from amongst their own number at the council's first meeting after its election and, after that, as occasion may require.
- (2) Subject to subclause (3), the President and Vice-President each hold office during the pleasure of the council.
- (3) The President and Vice-President may resign from office at any time by giving notice in writing to the clerk, and the office of either becomes vacant if he or she ceases to be a member of the council.
- (4) The office of the President or the Vice-President shall become vacant if the holder ceases to be a member of the council.
- (5) The Vice-President (or, in the absence of the Vice-President, a member chosen 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 or is unable to perform the functions of office.

7 Meetings of council

- (1) The council shall meet to transact its business not less than once each month.
- (2) The date and time of a council meeting shall be as decided by a previous meeting or, in default of that, by the clerk or, where necessary, the Minister or a person authorised by the Minister for that purpose.
- (3) The President may call a special meeting of the council by giving at least 2 days notice to the other members.

- (4) By giving the President notice in writing requesting a special meeting of the council and stating the reasons for the request, 3 or more members or 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 cause 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 the date, time and place of the special meeting and the reason for it being called.
- (7) 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.

8 Proxies

- (1) A member proposing to be absent from a meeting of the council may authorise in writing an elector 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.
- (2) An authorisation under subclause (1) is valid for one meeting only, and –
 - (a) an authorisation relating to 2 or more consecutive meetings, in respect of the second and subsequent meetings; or
 - (b) an authorisation for a meeting next after a meeting already attended by an authorised person,has no effect.

9 Meetings to be open

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

10 Procedure at meetings of council

- (1) Meetings of the council shall be presided over by the President or, in the President's absence, by the Vice-President or, in the absence of both the President and the Vice-President, by a member chosen by the other members present.
- (2) The council shall determine its own procedure at meetings subject to any standing orders it may make from time to time.
- (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 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, public toilets and ablution blocks;
- (c) the provision of services for the collection and disposal of garbage, the provision and maintenance of particular places where garbage may 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 establishment and operation of any commercial agency for reward;
- (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 management of community employment programs;
- (h) the promotion and provision of community welfare, health and care facilities for all age groups;
- (i) the prevention and control of substance abuse;
- (j) the provision and maintenance of cemeteries;
- (k) the control, prohibition or impounding of animals;
- (l) 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;
- (m) the provision and maintenance of airstrips, wharves, barge landings and related facilities;
- (n) 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;
- (o) 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;
- (p) the establishment and operation of commercial enterprises;
- (q) 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;

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- (r) the promotion and development of tourist attractions, the provision and maintenance of tourist facilities and the production and selling of artifacts and souvenirs;

the management and control of sites of historic interest, and the support and encouragement of artistic, cultural and sporting activities; and

the control of public places.

12 Powers

- (1) Subject to subclause (2), 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.
- (2) Land is not ratable if it is land of a description which would be exempt from rating by a council of a municipality under section 58(2) of the Act.
- (3) Without limiting the powers of charging conferred on the council by section 122(3) 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 being a registered proprietor of an interest in real property in the area, whether or not that person uses any service provided.
- (4) The council may exempt land or persons, or any class of land or persons, from all or part of the rates or charges for which they would otherwise have been liable by virtue of this clause.
- (5) 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.

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) during the 3 month period immediately before the close of the roll under clause 14(4):

- (i) has ordinarily resided in the community government area; or
- (ii) is a registered proprietor of an interest in real property 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 an electoral 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 elector may inspect the electoral roll at the office of the council when the office 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 22 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 a Saturday to be determined by the Minister, within 2 months after the date of gazettal of the scheme, and subsequent elections shall be held on a day in the same month as the first election was held, to be fixed by the council, in each third year after the end of the year in which the first election was held.
- (3) Where an election is held as required by clause 39, subsequent elections shall be held every third calendar year in the same month as the first election under subclause (2).

16 Notice of elections

- (1) The clerk shall give not less than 28 days notice before an election day that an election is to be held.

- (2) An election notice shall be:
- (a) 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; and
 - (b) published in a newspaper circulating in the Northern Territory.

17 Content of election notice

An election notice shall specify:

- (a) the date and time 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 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 is eligible to vote under clause 13.
- (2) A person who is enrolled under clause 14 may, by lodging a written nomination with the clerk, nominate for election to the council another person or persons eligible for nomination under subclause (1).
- (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 day occurring 15 days before election day.

- (6) As soon as practicable after nominations have closed, the clerk shall display a list of the names of the candidates in the same places as the election notice and have the list published in a newspaper circulating in the Northern Territory.

19 Declaration or election of members

- (1) Where, at the close of nominations under clause 18(5), not more than 7 persons have been nominated as candidates (disregarding any nomination that has lapsed) the clerk shall, by a notice displayed in the same places as the election notice and published in a newspaper circulating in the Northern Territory, declare those persons to be the members of the council.
- (2) Where at the close of nominations there are more than 7 persons as candidates, an election to decide among them shall be held on election day.
- (3) If a candidate dies between the close of nominations and election day and the effect of the death is to reduce the number of candidates to not more than 7 persons, subclause (1) shall apply instead, as if the candidate had withdrawn before the close of nominations.

20 Ballot-papers

- (1) Where as required by clause 19(2) an election is to be held, the clerk shall cause ballot-papers to be printed in sufficient numbers for the purposes of the election.
- (2) The clerk shall determine, by lot, the order of names of candidates on a ballot-paper.

21 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 or 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.

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 permitted under clause 29(8) to accompany the voter into the polling booth) 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 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.

25 Hours of polling

The clerk shall ensure that the polling place is open and remains open for voting between the hours of 8 am and 4 pm on the day of an election.

26 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.
- (3) A scrutineer shall not disclose to any person anything relating to the vote of a voter.

27 Entitlement to vote

- (1) Subject to subclause (2), a person whose name appears on the electoral roll shall vote, and a person whose name does not appear on the roll is not entitled to vote, at an election.
- (2) A person whose name does not appear on the electoral roll may vote if he or she makes a statutory declaration that he or she –
- (a) is eligible to vote under clause 13; and
- (b) has made an application for enrolment before the closure of the rolls under clause 14(4).

- (3) The clerk or a polling official must, after receiving a statutory declaration from a voter under subclause (2):
 - (a) initial the back of a ballot-paper; and
 - (b) hand to the voter the ballot-paper and an envelope marked with the voter's name and the words "Ballot-paper".
- (4) A voter who has made a statutory declaration under subclause (2) must vote in accordance with clause 29(2) to (8) (inclusive) but, instead of placing the ballot-paper in the ballot-box, must:
 - (a) place the folded ballot-paper in the envelope marked with the voter's name and the words "Ballot-paper" and seal the envelope; and
 - (b) return the envelope to the clerk or a polling official.
- (5) The clerk or polling official who receives an envelope from a voter under subclause (4) must, in the presence of the voter and, if a scrutineer is present, a scrutineer, place the envelope in the ballot-box.

28 Presence in polling place

A voter, and any person assisting the voter under clause 29(8), other than the clerk, a polling official or scrutineer, shall remain in the polling place only for the time necessary for the voter to vote.

29 Voting procedure

- (1) A voter, other than a person entitled to vote under clause 27(2) shall state his or her name to the clerk or polling official, who shall:
 - (a) check that the name appears on the electoral roll;
 - (b) if a line has not been drawn through that name, draw a line through the name or, where the clerk has provided for or prescribes another method of indicating that a ballot-paper has been issued, and that method has not been complied with, comply with that method; and
 - (c) initial the back of a ballot-paper and hand it to the voter.
- (2) The voter shall take the ballot-paper into an unoccupied polling booth and, subject to subclause (8), secretly vote by indicating the 7 candidates of the voter's choice by marking "X" in the boxes opposite the names of those candidates.

- (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 35.
- (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 polling booth and mark the ballot-paper in accordance with the voter's instructions and deposit it in the ballot-box.

30 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.

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- (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 "Postal Ballot-paper"; and
 - (b) write the letters "PBP" against the name of the applicant on the electoral roll or, where the clerk has provided for or prescribed another method of indicating that a postal ballot-paper has been issued, comply with that method.
 - (4) An applicant who has received a postal ballot-paper shall vote in accordance with clause 29(2) (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 31.
 - (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.
 - (8) The clerk must retain envelopes marked "rejected" to be dealt with under clause 35.

31 Counting of votes

- (1) As soon as practicable after voting has finished but before opening the ballot-box, the clerk must consider each statutory declaration made under clause 27(2) and decide whether each person concerned satisfies clause 27(2)(a) and (b).
- (1A) After 4 pm on election day and as soon as voting has finished and subclause (1), if applicable, has been complied with, the clerk and polling officials must, 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; and

- (b) retrieve from the ballot-box each envelope, if any, marked with the name of a voter and containing a ballot-paper relating to a statutory declaration made under clause 27(2).
- (1B) If, in the opinion of the clerk, a voter who made a statutory declaration satisfies clause 27(2)(a) and (b), the clerk or a polling official must:
- (a) alter the roll by writing the voter's name on the roll;
 - (b) draw a line through that name or, where the clerk has provided for or prescribed another method of indicating that a ballot-paper has been issued, and that method has not been complied with, comply with that method;
 - (c) open the envelope containing the voter's folded ballot-paper and place the ballot-paper, without unfolding it, into the ballot-box containing the other folded ballot-papers and postal ballot-papers; and
 - (d) retain the empty envelope to be dealt with under clause 35.
- (1C) If, in the opinion of the clerk, a voter who made a statutory declaration does not satisfy clause 27(2)(a) or (b), the clerk or a polling official must retain the unopened envelope containing the voter's ballot-paper to be dealt with under clause 35 and the votes on that ballot-paper are not to be counted.
- (1D) After complying with as much of subclauses (1), (1A), (1B) and (1C) as is necessary, the clerk and polling officials must, in the presence of a scrutineer and at least one other person who is eligible to vote but is not a candidate:
- (a) count the number of ballot-papers (including postal ballot-papers);
 - (b) prepare a written statement which sets out the number of ballot-papers as compared with the number of names on the electoral roll which have a line drawn through them or against which the letters "PBP" have been written or which are otherwise marked to indicate that a ballot-paper has been issued; and
 - (c) after the statement has been prepared, count the votes received by each candidate.
- (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 29(2) or 30(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 29(2) or 30(4) if, or to the extent that, in the opinion of the clerk, the voter's intention is clearly shown, or fewer than 7 candidates were voted for.
- (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 ballot-papers issued by the clerk and the number of them included in the count; and
 - (f) the total number of informal votes.

32 Declaration of result

- (1) The clerk shall, as soon as practicable after the votes have been counted, declare the result of the election by a notice displayed in the same places as the election notice is or was displayed and published in a newspaper circulating in the Northern Territory.
- (2) A notice under subclause (1) shall –
 - (a) list the names of the candidates in the order in which they appeared on the ballot-paper and state the number of votes received by each; and
 - (b) subject to subclause (3), declare the 7 candidates with the most votes elected as the members of the council.
- (3) To the extent that compliance with subclause (2)(b) is impossible by reason of an equality of votes between any 2 or more candidates, the clerk shall arrange for lots to be drawn to decide which of them shall be declared elected, and the clerk's notice under subclause (1) shall record that the person or persons declared by virtue of this subclause was or were selected by lot.

33 Transmission of details to Minister

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

- (a) the certificate signed by the clerk under clause 31(4);
- (b) a copy of the notice given by the clerk under clause 32(1); and
- (c) details of any declarations made by the clerk under clause 19(1).

34 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.

35 Retaining ballot-papers

After the counting of the votes has been completed, the clerk shall keep the ballot-papers (including empty envelopes retained under clause 31(1B)(d) and envelopes containing ballot-papers retained under clause 31(1C) in a sealed package unopened for 6 months and shall then destroy the unopened package.

36 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 practicable to inform persons entitled to vote of an adjournment under subclause (1).

- (3) Where polling has been adjourned under subclause (1), clause 30(6) and (7) and clause 31(1) shall have effect as if the reference in those clauses to election day were a reference to the day on which voting is finally concluded.

37 Vacancies in membership

- (1) Subject to subclause (2) and clause 39, where the office of a member is or 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.
- (2) The procedure for the calling and conduct of a by-election shall conform, as far as is practicable, with the provisions of this scheme relating to the calling and conduct of an election.

38 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.

39 Resignation of council

- (1) If all the members of the council cease to be members, or a quorum is not present on 3 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 6 months after the event giving rise to the determination.
- (3) Notwithstanding subclause (2), if the period of 6 months referred to in that subclause expires during the month in which a general election of members would otherwise be held under clause 15(2), the clerk shall determine the date of the election to be a day in the month of the general election.
- (4) The term of office of a council elected in pursuance of subclause (2) shall expire on the declaration of the result of the next election held as determined under 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

clause 3

Please see hard copy for Schedule.

ENDNOTES
1 KEY

Key to abbreviations

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

2 LIST OF LEGISLATION***Cox Peninsula Community Government Scheme***

Notified	15 May 1995
Commenced	15 May 1995

Cox Peninsula Community Government Scheme

Notified	11 June 1998
Commenced	11 June 1998

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)

Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 11, 2004)

Assent date	7 January 2004
Commenced	17 March 2004

3 LIST OF AMENDMENTS

cl 2	amd Act. No. 12, 2004
cl 14	amd Act No. 12, 2004,
cl 21	amd Act No. 1, 2004