

NORTHERN TERRITORY OF AUSTRALIA

JABIRU TOWN DEVELOPMENT (COUNCIL ELECTION) BY-LAWS

As in force at 1 April 1992

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 April 1992

JABIRU TOWN DEVELOPMENT (COUNCIL ELECTION) BY-LAWS

By-laws under the *Jabiru Town Development Act*

Part I Preliminary

1 Citation

These By-laws may be cited as the *Jabiru Town Development (Council Election) By-laws*.

2 Definitions

In these By-laws, unless the contrary intention appears:

candidate means a duly nominated nominee who has not withdrawn his consent under by-law 7(2).

Deputy Returning Officer means a person appointed under by-law 5(1) as Deputy Returning Officer.

election day means:

- (a) in relation to a general election, the last Saturday in May of an election year; or
- (b) in relation to a supplementary election, a day determined by the town clerk under clause 3 of these By-laws to be the election day.

elector, in relation to an election, means a person who is qualified under section 25E(3) of the Act as an elector and whose name appears on the electoral roll for the election.

electoral roll means the roll of electors prepared and maintained under by-law 4 by the Returning Officer.

enrolment day means the Friday 14 days before nomination day.

nomination day means the Friday 15 days before election day.

nominee, in relation to an election, means a person nominated for membership of the Council.

poll clerk means a person appointed under by-law 6(1) as a poll clerk.

scrutineer means a person appointed under by-law 27(1) as a scrutineer.

Part II Pre-election day formalities

3 Notice

- (1) The Returning Officer, in relation to a general election, shall cause notice to be given of the enrolment, nomination and election days, not less than 14 days before enrolment day.
- (2) The town clerk, in relation to a supplementary election, shall, within 7 days after the day on which the council determines that a supplementary election is required:
 - (a) determine a day on which the supplementary election is to be held, being a Saturday no less than 4 weeks, and no more than 6 weeks from the day on which notice of that election day is given under subparagraph (b); and
 - (b) cause notice to be given of that election day and of enrolment and nomination days,

but the election is not invalidated by reason only of the Returning Officer or the town clerk, as the case may be, failing to do so within the prescribed period.

4 Electoral roll

For the purposes of an election, the Returning Officer shall, on enrolment day, prepare and maintain a roll of persons who are qualified under section 25E(3) of the Act as electors.

5 Deputy Returning Officer

- (1) Where the Returning Officer is unable, by reason of absence or illness to perform any of his duties as Returning Officer for an election, he may appoint a person to act as Deputy Returning Officer in his stead.

- (2) The Deputy Returning Officer shall have and may exercise and perform all the rights, powers and duties of the Returning Officer and a reference in these By-laws to the **Returning Officer** includes the Deputy Returning Officer when he is so exercising or performing the rights, powers and duties of the Returning Officer.
- (3) An appointment under clause (1) shall be in accordance with Form 1.

6 Poll clerks

- (1) Subject to clause (2), the Returning Officer may appoint such number of persons, as he thinks fit, as poll clerks to assist him during voting in an election and counting of votes.
- (2) The Returning Officer shall not appoint a person who is:
 - (a) under 18 years of age;
 - (b) a candidate for election; or
 - (c) a member of the Council or Authority,as a poll clerk.

7 Nominations

- (1) A nomination for membership of the Council shall be:
 - (a) in accordance with Form 2;
 - (b) signed by 2 electors, other than the nominee;
 - (c) signed by the nominee in token of his consent to the nomination; and
 - (d) lodged at the office of the Returning Officer before 12 noon on nomination day.
- (2) A nominee may withdraw his consent given under clause (1)(c) by lodging a notice of withdrawal of consent with the Returning Officer before 12 noon on nomination day.

8 Announcement of nominations

On nomination day, the Returning Officer shall as soon as practicable after 12 noon:

- (a) examine the nominations lodged at his office to determine whether each nomination is in order;

- (b) announce to the persons who are present the names of the nominees who have been duly nominated for membership of the Council;
- (c) where there are no more persons duly qualified and nominated for membership of the Council than there are offices required to be filled, declare those nominees to be duly elected as members, with effect from election day; and
- (d) where there are more persons duly qualified and nominated for membership of the Council than there are offices required to be filled, adjourn further proceedings in relation to the election to election day.

9 Announcement of election

- (1) Where the Returning Officer adjourns proceedings in accordance with by-law 8(d), he shall cause all necessary arrangements to be made for the conduct of an election.
- (2) Without limiting the generality of clause (1), the Returning Officer shall:
 - (a) cause public notice to be given of:
 - (i) the purpose of the adjournment;
 - (ii) the full given names and surname of each of the candidates;
 - (iii) the hours on election day during which voting will take place; and
 - (iv) the place at which voting will be held;
 - (b) cause a polling place to be prepared in such a manner as will reasonably be required for the carrying out of polling;
 - (c) under by-law (6), appoint poll clerks; and
 - (d) ensure that on election day there is provided at the polling place:
 - (i) a sufficient number of ballot-papers;
 - (ii) a sufficient number of ballot-boxes, each of which is fixed with a lock or other device for securely fastening the cover to the box and has a cleft in the cover;

- (iii) a sufficient number of separate compartments each of which is constructed so as to screen a person from observation whilst he is marking his ballot-paper; and
- (iv) a copy of the electoral roll for the use of the Returning Officer and poll clerks.

10 Form of ballot-paper

- (1) A ballot-paper shall be in accordance with Form 3.
- (2) The names of the candidates shall be arranged on a ballot-paper and in other papers in relation to the election according to the alphabetical order of the surnames of the candidates.
- (3) Subject to clause (4), where 2 or more candidates have the same surname, the names of those candidates shall be arranged according to the alphabetical order of their given names.
- (4) Where the similarity in the names of 2 or more candidates is likely to cause confusion, the names of those candidates may be arranged with the description or addition, which the Returning Officer thinks fit to ensure that electors may distinguish one candidate from another.

11 Absentee electors

- (1) The Returning Officer shall make provision for the vote of an elector who will be unable to cast a vote on election day to be recorded by requiring the elector to make a declaration in accordance with Form 4 as soon as practicable after nomination day.
- (2) Where an elector completes a declaration under clause (1), he shall be provided with a ballot-paper and, after recording his vote, he shall seal the ballot-paper in the envelope containing his declaration and place the envelope in a locked ballot-box.
- (3) A register of all ballot-papers issued under this by-law shall be kept and the names of all electors so issued with a ballot-paper shall, before the commencement of voting on election day, be clearly marked on the electoral rolls to be used at the polling place.

Part III Polling**12 Conduct of poll**

- (1) On election day:
- (a) the Returning Officer shall, whilst voting is in progress, be present at the polling place;
 - (b) the Returning Officer shall, immediately before voting commences, exhibit opened for inspection, by persons who are present, the empty ballot-boxes and shall then close and securely fasten the cover of each box;
 - (c) subject to by-law 20, the polling place shall be open for the purpose of voting during the hours specified in the notice under by-law 9(2)(a);
 - (d) where a person applies for a ballot-paper, he shall state, in full, his given names and surname and, where required by the Returning Officer or a poll clerk, his residential address and his occupation;
 - (e) where the Returning Officer or poll clerk is satisfied that a person is an elector and entitled to vote, he shall:
 - (i) draw a line through the elector's name on the electoral roll; and
 - (ii) hand to the elector a ballot-paper, which has been previously initialled by the Returning Officer, for the election;
 - (f) an elector shall cast his vote by proceeding to a voting compartment immediately after he receives his ballot-paper and there marking the ballot-paper in accordance with the directions set out on the ballot-paper; and
 - (g) where an elector has marked his ballot-paper, he shall fold the ballot-paper so as to conceal the name of the candidates for whom he has voted and place it in a ballot-box as directed by the Returning Officer or poll clerk.
- (2) Subject to by-law 20, the Returning Officer shall not permit an elector to vote after the time fixed for the close of the poll unless the elector has entered the polling place before that time.

13 Vote by person not on electoral roll

- (1) The Returning Officer shall not issue a ballot-paper to a person whose name is not on the electoral roll unless the person makes a declaration in accordance with Form 5 stating that, on enrolment day, he was entitled under section 25E(3) of the Act to have his name included on the electoral roll and that his name has not been included.
- (2) Where a person makes a declaration under clause (1) and is issued with a ballot-paper, he shall mark and fold the ballot-paper in accordance with by-law 15 and return it to the Returning Officer.
- (3) Where a ballot-paper is returned under clause (2) to the Returning Officer, he shall, in the presence of the purported elector and the scrutineers who are present, without unfolding the ballot-paper, enclose it in an envelope containing the declaration made by the purported elector, seal the envelope and deposit it in a ballot-box as directed by the Returning Officer or poll clerk.
- (4) Where the Returning Officer refuses to accept the claim of a person to vote under this by-law, the Returning Officer shall make a note in writing of the claim and the reasons for his refusal.

14 Vote by elector shown as having already voted

- (1) The Returning Officer shall not issue a ballot-paper to an elector whose name on the electoral roll has had a line drawn through it in accordance with by-law 12(1)(e)(i), unless the person makes a declaration in accordance with Form 6 stating that he has not already voted at the election.
- (2) Where an elector makes a declaration under clause (1) and is issued with a ballot-paper, he shall mark the ballot-paper in accordance with by-law 15 and return it to the Returning Officer.
- (3) Where a ballot-paper is returned under clause (2) to the Returning Officer, he shall, in the presence of the elector and the scrutineers who are present, without unfolding the ballot-paper, enclose it in an envelope containing the declaration made by the elector, seal the envelope and deposit it in a ballot-box as directed by the Returning Officer or poll clerk.
- (4) Where the Returning Officer refuses to accept the claim of an elector to vote under this by-law, the Returning Officer shall make a note in writing of the claim and the reasons for his refusal.

15 Marking ballot-papers

Where an elector is issued with a ballot-paper under these By-laws, he shall place a tick in the square opposite the name of each candidate for whom he wishes to cast his vote so that the number of ticks so placed is equivalent to the number of vacancies on the Council.

16 Informal votes

Subject to by-law 24(2), a vote is informal where the ballot-paper:

- (a) has no tick marked on it;
- (b) bears on it a mark or writing by which, in the opinion of the Returning Officer, the elector may be identified; or
- (c) has more ticks marked on it than the number of vacancies on the Council.

17 Elector requiring assistance

Where the Returning Officer is satisfied that an elector is, by reason of impaired eyesight, physical incapacity or illiteracy, unable to vote without assistance, the Returning Officer shall permit a person chosen by the elector requiring assistance to accompany the elector to a voting compartment to mark, or assist the elector in marking, the ballot-paper and to deposit, or assist the elector in depositing, the ballot-paper in the ballot-box on behalf of the elector.

18 Challenge of elector

- (1) The right of a person to vote at an election shall not be questioned otherwise than in accordance with this by-law.
- (2) A scrutineer may request the Returning Officer to make inquiry of a person who applies for, or who obtains, a ballot-paper at a polling place as to the right of the person to vote.
- (3) Where a request under clause (2) is made to him, the Returning Officer may request the following information of a person applying for a ballot-paper or who has obtained a ballot-paper:
 - (a) the full given names, surname and address of the person;
 - (b) whether he is the person whose name appears on the electoral roll;

- (c) whether he was qualified to be enrolled at the time when his name was placed on the electoral roll; and
 - (d) whether he has already voted in the election.
- (4) Subject to by-law 12(1)(d), the Returning Officer shall not:
- (a) put a question to a person before the person has deposited his ballot-paper in the ballot-box, other than a question in relation to a matter set out in clause (3);
 - (b) permit a person, to whom he has put a question in relation to a matter set out in clause (3), to place his ballot-paper in the ballot-box until the person has answered those questions and the Returning Officer is satisfied that the person is entitled to have his name on the electoral roll and to vote; or
 - (c) put a question to a person after the person has deposited his ballot-paper in the ballot-box.

19 Action after challenge

Where the Returning Officer refuses under by-law 18(4)(b) to allow a person to vote, he shall make a note in writing of the reasons for his refusal.

20 Adjournment of poll

- (1) The Returning Officer may adjourn the voting at the polling place where:
- (a) proceedings are interrupted or disturbed by riotous or violent behaviour;
 - (b) there are no, or there is an insufficient number of, ballot-papers available for the proper conduct of the voting;
 - (c) there are no, or there is an insufficient number of, ballot-boxes available; or
 - (d) a copy of the electoral roll is not available.
- (2) Where the Returning Officer, under clause (1), adjourns voting, he shall:
- (a) determine the next day, not being a Sunday or public holiday, upon which he considers it will be possible to continue voting; and

- (b) cause a notice to be posted at the polling place which states:
 - (i) that voting has been adjourned;
 - (ii) the reason for the adjournment; and
 - (iii) the date to which the voting has been adjourned and the hours during which voting will take place on the day.
- (3) After an adjournment under this by-law, voting shall be conducted in accordance with these By-laws and is deemed for the purposes of these By-laws to have taken place on polling day.

21 Notification of result of poll where voting adjourned

Where, under by-law 20, the Returning Officer adjourns voting he shall not declare the election to be concluded nor make a declaration as to the result of the voting until he has declared the voting to be closed at the polling place on the day to which the voting has been adjourned.

Part IV Determination of election results

22 Procedure on close of polling

At the time fixed, by notice under by-law 9(2)(a) (iii) or 20(2)(b)(iii), as the case may be, for the close of polling, the Returning Officer shall, as soon as every elector at the polling place has deposited his ballot-paper in a ballot-box, declare the voting at the polling place to be closed.

23 Counting of votes

As soon as practicable after the close of polling, the Returning Officer shall:

- (a) open the ballot-boxes;
- (b) examine the ballot-papers;
- (c) reject each ballot-paper which is informal and the Returning Officer is not required, under by-law 24(3), to count; and
- (d) proceed to count each ballot-paper, other than one cast under by-law 11, 13 or 14 by counting one vote to each candidate:
 - (i) against whose name on the ballot-paper a tick is placed;
or

- (ii) of whom he is required to count a vote under by-law 24(2).

24 Determination of election results

- (1) In determining the result of an election, the Returning Officer shall:
 - (a) consider the declaration referred to in by-law 11, 13 or 14 and, as he thinks fit, reject or accept the ballot-paper to which the declaration relates;
 - (b) where, under sub-clause (a), he accepts a ballot-paper, count it in the same manner as a ballot-paper is counted under by-law 23(d);
 - (c) list the names of the candidates in order of all votes counted to each, commencing with the candidate receiving the highest number of votes;
 - (d) where all votes cast have been counted and one vacancy remains to be filled out and there are 2 or more candidates with an equal number of votes for the remaining vacancy, determine, by lot, which of those candidates should fill the remaining vacancy; and
 - (f) declare which candidates with the highest number of votes are elected to fill the vacancies on the Council.
- (2) Where an elector has, to the satisfaction of the Returning Officer, clearly indicated the candidates for whom he wishes to vote in an election, the Returning Officer shall count the vote notwithstanding that the elector failed to mark the ballot-paper in accordance with by-law 15.
- (3) Before the declaration of the result of an election, the Returning Officer may:
 - (a) where he thinks fit, on the request of a candidate; or
 - (b) of his own motion,recount all or some ballot-papers.

25 Decision of Returning Officer to be final

A question relating to the application of these By-laws in a particular case shall be dealt with by the Returning Officer and his decision shall be final.

Part V Miscellaneous**26 Destruction of ballot-papers**

The Returning Officer shall preserve the ballot-papers for 28 days after election day and shall then destroy all ballot-papers for the election, whether used or unused.

27 Scrutineers

- (1) A candidate may, in writing, appoint a person to act as a scrutineer on his behalf.
- (2) A scrutineer may be present at the polling place whilst:
 - (a) voting is in progress; and
 - (b) votes are being counted,

but not more than one scrutineer appointed by a particular candidate may be in the polling place as a scrutineer at any one time whilst voting is in progress.

28 Errors in procedure not to affect result of poll

The validity of an election is not affected only by reason of:

- (a) a delay in the commencement of voting on polling day;
- (b) an error, mistake or omission on the part of the Returning Officer or a poll clerk; or
- (c) an error of a purely formal nature,

which does not substantially affect the result of the election.

29 Offences

- (1) A person shall not vote twice at an election.
- (2) Whilst at a polling place, a scrutineer and every other person shall comply with a lawful direction of the Returning Officer or a poll clerk.
- (3) A person shall not make:
 - (a) a false statement to the Returning Officer or poll clerk; or
 - (b) a false declaration under by-law 11, 13 or 14.

Penalty: \$200.

Schedule

FORM 1

by-law 5(3)

Jabiru Town Development (Council Election) By-laws

APPOINTMENT OF DEPUTY RETURNING OFFICER

I,, the Returning Officer under section 25E(1) of the *Jabiru Town Development Act*, in pursuance of by-law 5(3) of the *Jabiru Town Development (Council Election) By-laws*, appoint of to be the Deputy Returning Officer for the purposes of the election to be held on the day of, 19 .. .

Dated this day of, 19...

.....
Returning Officer

FORM 2

by-law 7(1)(a)

Jabiru Town Development (Council Election) By-laws

NOMINATION FOR MEMBERSHIP OF COUNCIL

To: The Returning Officer,

We,

and

(names in full as appearing on electoral roll*)

of

and, respectively,

(addresses in full as appearing on electoral roll*)

being qualified to vote in the next election for members of the Council hereby
nominate

of

(name and address in full as appearing on electoral roll*)

for membership of the Council.

Dated this day of , 19 .

Signatures of nominators

.....

I, of,
being a person entitled to be nominated for membership of the Council,
consent to my nomination for membership.

Dated this day of , 19 .

Signature of person nominated

* Use block letters

FORM 3

by-law 10(1)

Jabiru Town Development (Council Election) By-laws

BALLOT-PAPER

Directions for Voting

Mark your vote on this ballot-paper by placing a tick in the squares respectively opposite the names of the ... candidates of your choice.

After marking your vote on the ballot-paper, fold the paper and place it in the ballot-box.

CANDIDATES

[]

[]

[]

[]

[]

FORM 4

by-law 11(1)

Jabiru Town Development (Council Election) By-laws

DECLARATION OF ABSENCE ON POLLING DAY

I,
(name in full as appearing on electoral roll*)

of
(address in full as appearing on electoral roll*)

being an elector on the electoral roll for Jabiru, declare that I will be absent from Jabiru on the day appointed for the election of members of the Council, on

Because of my absence, I request that I be issued with a ballot-paper in respect of the election.

Dated this day of , 19 .

Signature

Witness

* Use block letters

FORM 5

by-law 13(1)

Jabiru Town Development (Council Elections) By-laws

DECLARATION BY PERSON NOT ON ELECTORAL ROLL

I,
of
occupation

declare that I am entitled under section 25E(3) of the *Jabiru Town Development Act* to have my name included on the electoral roll, because on enrolment day I:

- (a) was enrolled as an elector for an election of members of the Legislative Assembly of the Northern Territory; and
- (b) resided within 10 kilometres of the Police Station at Jabiru.

.....
Signature of Declarant

Declared before me on the day of,
19...

.....
Returning Officer

FORM 6

by-law 14(1)

Jabiru Town Development (Council Election) By-laws

DECLARATION BY PERSON CLAIMING TO VOTE UNDER BY-LAW 16(1)

I,
of
occupation,

declare that:

- (a) my name appears on the electoral roll opposite the number;
and
- (b) I have not voted at this election notwithstanding that a line has been drawn through my name on the roll to indicate that a ballot-paper has been issued to me.

.....
Signature of Declarant

Signed before me on the day of,
19...

.....
Returning Officer

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

Jabiru Town Development (Council Election) By-laws (SL No. 22, 1984)

Notified	5 April 1984
Commenced	5 April 1984

Amendment of Jabiru Town Development (Council Election) By-laws (SL No. 12, 1992)

Notified	1 April 1992
Commenced	1 April 1992

3 LIST OF AMENDMENTS

bl 2	amd No. 12, 1992
bl 3	sub No. 12, 1992
bl 30	rep No. 12, 1992