

Queensland



*Water Resources Act 1989*

# **WATER RESOURCES (AREAS AND BOARDS) REGULATION 1997**

**Reprinted as in force on 3 December 1997  
(includes amendments up to SL No. 394 of 1997)**

**Reprint No. 1A**

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# Information about this reprint

This regulation is reprinted as at 3 December 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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BOARDS) REGULATION 1997**

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## **WATER RESOURCES (AREAS AND BOARDS) REGULATION 1997**

[as amended by all amendments that commenced on or before 3 December 1997]

### **Short title**

1. This regulation may be cited as the *Water Resources (Areas and Boards) Regulation 1997*.

### **Purpose of regulation**

2.(1) For section 129<sup>1</sup> of the Act, each schedule to this regulation (other than schedules 1 to 3) constitutes—

- (a) a part of Queensland specified and defined in the schedule as a water supply area or drainage area and assigns a name to the area; and
- (b) a board for each area and assigns a name to the board.

### **Water supply areas and boards continued in existence**

3.(1) Schedules 1 to 3 continue in existence the following water supply areas and boards—

- (a) Avondale Water Supply Area and Avondale Water Board, constituted under the *Water Resources (Avondale Water Supply Area and Water Board) Regulation 1996*;
- (b) Kelsey Creek Water Supply Area and Kelsey Creek Water Board, constituted under the *Water Resources (Kelsey Creek Water Supply Area and Board) Regulation 1995*;
- (c) Pioneer Valley Water Supply Area and Pioneer Valley Water Board, constituted under the *Water Resources (Pioneer Valley*

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<sup>1</sup> Section 129 (Constitution of area and board)

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*Water Supply Area and Board) Regulation 1996.*

(2) On the commencement, a person who, immediately before the commencement, was a member of a board mentioned in subsection (1) continues to hold office for the remainder of the term for which the person was appointed or elected.

## **SCHEDULE 1**

### **AVONDALE WATER SUPPLY AREA AND BOARD**

section 3

#### **PART 1—ESTABLISHMENT OF WATER SUPPLY AREA AND BOARD**

##### **Water supply area established**

1. The area within the boundaries shown on plan number A4-110671 held by the department<sup>2</sup> is established as the Avondale Water Supply Area (the “**area**”).

##### **Board established**

2. The Avondale Water Board (the “**board**”) is established for the area.

#### **PART 2—COMPOSITION OF BOARD**

##### **Composition of board**

3. The board consists of the following members—

- (a) 2 persons nominated by the Fairymead Sugar Company and appointed by the Governor in Council;

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<sup>2</sup> A copy of the plan may be inspected, free of charge, at the Department of Natural Resources, 41 George Street, Brisbane, or Enterprise Street, Bundaberg.

SCHEDULE 1 (continued)

- (b) 2 qualified persons<sup>3</sup> (other than the Fairymead Sugar Company) elected by the ratepayers.<sup>4</sup>

## **PART 3—ELECTION OF BOARD MEMBERS**

### *Division 1—Returning officer*

#### **Returning officer**

**4.(1)** For an election of board members the board must appoint persons the board considers appropriate as—

- (a) the returning officer; and
- (b) the deputy returning officer.

**(2)** The returning officer—

- (a) must conduct an election in the way stated in this part; and
- (b) may take the action and give the directions the returning officer considers reasonably necessary—
  - (i) to ensure no irregularities happen in the election; or
  - (ii) to remedy a procedural defect that appears to the returning officer to exist in relation to the election.

**(3)** The returning officer must not influence, or attempt to influence, the outcome of an election.

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<sup>3</sup> Under section 136 of the Act, a person is qualified to be elected to the board only if the person is an owner, part owner or occupier of land in the area or lives in the area. If the person is a body corporate, an individual nominated by it is the person qualified to be elected.

<sup>4</sup> Under section 2(1) of the Act, a “ratepayer” is a person named in the books or records of the board as a person liable to pay rates or charges made and levied under the Act.

SCHEDULE 1 (continued)

Maximum penalty—40 penalty units.

(4) If the returning officer is not reasonably able to perform the functions of returning officer (for example, because of illness), the deputy returning officer must perform the functions.

*Division 2—Pre-election procedures*

**Roll of voters**

5.(1) The returning officer must compile a roll of voters that states the full name and address of each ratepayer.

(2) If 2 or more ratepayers are joint owners or occupiers, the returning officer must request them to nominate in writing an individual to represent them.

(3) The returning officer must insert on the roll the name and address of—

- (a) the person nominated; or
- (b) if no-one is nominated—the owner or occupier whose name appears first in the rate book.

(4) The returning officer must—

- (a) allow a ratepayer to inspect the roll free of charge at the board's public office premises when it is open for business; and
- (b) give the owner or occupier a copy of the roll, on payment of a reasonable fee.

(5) A person who is a ratepayer whose name does not appear on the roll may apply in writing to the returning officer to have the person's name included on the roll.

(6) If the returning officer is satisfied the person is a ratepayer, the returning officer must insert the person's name and address on the roll.

SCHEDULE 1 (continued)

**Nominations**

**6.(1)** The returning officer must, by written notice to each ratepayer, call for nominations of qualified persons for election to the board.

**(2)** The notice must state—

- (a) the day and time (at least 14 days after the notice is given) when nominations close; and
- (b) the day (not more than 28 days after nominations close) when voting material will be given to ratepayers if a ballot is necessary.

**(3)** A nomination must be—

- (a) written; and
- (b) signed by the candidate and 2 ratepayers; and
- (c) given to the returning officer before nominations close.

**(4)** A candidate may withdraw a nomination by written notice to the returning officer no later than 1 hour before nominations close.

**When ballot must be held**

**7.(1)** If, after nominations have closed, the number of candidates is not more than the number to be elected—

- (a) the returning officer must declare the candidates elected to the board; and
- (b) any office that has not been filled may be filled by the Governor in Council under section 134<sup>5</sup> of the Act.

**(2)** However, if the number of candidates is more than the number to be elected, the returning officer must conduct a secret ballot.

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<sup>5</sup> Section 134 (Appointment of board members)

SCHEDULE 1 (continued)

(3) Failure to comply with sections 8, 9, 12, 14, 15 and 17 does not affect the validity of a ballot.<sup>6</sup>

**Preparing ballot papers**

**8.(1)** A ballot paper must—

- (a) be made of paper that will hide a vote marked on it from view when it is folded once; and
- (b) list the names of each candidate for election once, with the surname first, followed by the candidate's other names; and
- (c) state how the ratepayer may vote; and
- (d) state the day and time the ballot starts and the day and time it ends; and
- (e) state that the ratepayer must fill in and sign the declaration form for the vote to be counted.

(2) If 2 or more candidates have the same surname and other names, the candidates must be distinguished in an appropriate way.

*Example—*

The occupation of each candidate may be added to the ballot paper.

(3) The order of names on the ballot paper must be decided by lot.

**Distributing voting material**

**9.(1)** The returning officer must give the following things (the “**voting material**”) to each ratepayer—

- (a) a ballot paper initialled by the returning officer;

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<sup>6</sup> Section 8 (Preparing ballot papers)  
Section 9 (Distributing voting material)  
Section 12 (How returning officer must deal with voting material)  
Section 14 (Initial scrutiny of voting material)  
Section 15 (Counting votes)  
Section 17 (Declaring election result)

SCHEDULE 1 (continued)

- (b) a ballot envelope;
- (c) a declaration form stating ‘I certify that I am the person to whom this voting material has been given and I have voted on the ballot paper enclosed.’;
- (d) a return envelope addressed to the returning officer.

(2) The voting material must be given not more than 28 days after nominations close to arrive, if practicable, no later than the last working day before the ballot starts.

(3) If a ratepayer gives the returning officer written notice that the ratepayer will be absent from the address stated on the roll when voting material is to be given, the returning officer must give the ratepayer the material at the other address (if any) stated in the notice.

(4) Before giving voting material to a ratepayer, the returning officer must mark a ballot number on—

- (a) the roll against the ratepayer’s name; and
- (b) the declaration form; and
- (c) the return envelope.

(5) The ballot numbers must start with a number chosen by the returning officer.

(6) After giving the voting material, the returning officer must obtain a lockable ballot box and keys and keep them in a safe place.

**How long ballot is open**

10. The ballot must remain open for at least 14 days.

**How to vote**

11.(1) A ratepayer may vote only once in each election.

(2) A ratepayer may vote by completing the following steps—

- (a) writing a tick or a cross in the squares opposite the names of up

SCHEDULE 1 (continued)

- to 2 candidates on the ballot paper;
- (b) putting the ballot paper in the ballot envelope;
  - (c) sealing the ballot envelope;
  - (d) filling in and signing the declaration;
  - (e) putting the declaration and the ballot envelope in the return envelope;
  - (f) sealing the return envelope;
  - (g) returning the return envelope to the returning officer before voting closes by—
    - (i) posting it to the returning officer; or
    - (ii) putting it in the ballot box.

**(3)** The returning officer must provide a ratepayer who wishes to vote at a polling booth with an unoccupied voting compartment in which to vote in private.

**(4)** If a ratepayer satisfies the returning officer that voting material given to the ratepayer has been lost, stolen or destroyed, the returning officer must give the ratepayer duplicate voting material.

**How returning officer must deal with voting material**

**12.(1)** The returning officer must put each return envelope received before voting closes into the ballot box.

**(2)** If the returning officer receives a return envelope after voting closes, the returning officer must—

- (a) mark the envelope ‘Received by the returning officer after voting closed.’; and
- (b) keep it separate from return envelopes received before voting closed.

SCHEDULE 1 (continued)

**Scrutiny**

**13.(1)** Before voting closes, the returning officer must give each candidate written notice of when and where votes are to be collected, examined and counted.

**(2)** A candidate may appoint 1 scrutineer to observe, with or without the candidate, the collection, examination and counting of votes.

**(3)** The candidate must give the returning officer written notice of the appointment.

**(4)** When arriving on the day and place for the collection, examination and counting, a scrutineer must show the returning officer a copy of the notice of appointment or other suitable identification.

**(5)** The failure of a candidate or scrutineer to attend the scrutiny of votes does not affect the validity of the election.

**Initial scrutiny of voting material**

**14.(1)** As soon as possible after voting closes, the returning officer must—

- (a) take the ballot box to the place notified to the candidates as the place where votes are to be counted; and
- (b) deal with the votes in the way stated in this section in the presence of the candidates or scrutineers at the place.

**(2)** The returning officer must—

- (a) open each return envelope; and
- (b) take the declaration and ballot envelope out of the return envelope.

**(3)** If the returning officer is satisfied—

- (a) the ballot number on the declaration corresponds with the ballot number marked beside the name of a ratepayer on the roll; and
- (b) the person who filled in and signed the declaration is—
  - (i) the ratepayer to whom the declaration was given; or

SCHEDULE 1 (continued)

- (ii) a ratepayer who has not previously voted in the election and has a reasonable explanation for using someone else's voting material;

the returning officer must then put the declaration and the ballot envelope into separate containers.

**(4)** If subsection (3)(b)(ii) applies, the returning officer must—

- (a) note the acceptance of the explanation on the declaration; and
- (b) record the correct ballot number on the roll against the name of the ratepayer who signed the declaration.

**(5)** If the returning officer is not satisfied about a matter mentioned in subsection (3)(a) or (b), the returning officer must keep the unsatisfactory voting material separate from the satisfactory voting material.

**(6)** The returning officer must then mark off the ratepayer's name on the roll.

**Counting votes**

**15.(1)** After separating the declaration forms and ballot envelopes, the returning officer must do the following in order—

- (a) seal the container holding declaration forms;
- (b) open the ballot envelopes;
- (c) take the ballot papers out of the ballot envelopes;
- (d) examine the ballot papers for votes;
- (e) count the votes.

**(2)** The returning officer must not include an informal vote in the count.

**(3)** A vote is not informal if the ratepayer's intention is clear.

SCHEDULE 1 (continued)

**What happens if votes for 2 or more candidates are equal**

**16.** If the votes for 2 or more candidates are equal, the candidate elected must be decided by lots drawn by the returning officer.

**Declaring election result**

**17.(1)** The returning officer must give each candidate a signed declaration of the result of the election.

**(2)** If the election involved a ballot, the declaration must state the following—

- (a) how many ratepayers were on the roll when voting closed;
- (b) how many ballot papers were printed;
- (c) how many ballot papers were issued;
- (d) how many duplicate ballot papers were issued;
- (e) how many ballot papers were returned;
- (f) how many ballot papers were returned as unclaimed mail;
- (g) how many ballot papers were not returned;
- (h) how many ballot papers were rejected during scrutiny and the reasons for rejection;
- (i) how many ballot papers were counted;
- (j) the percentage of ratepayers who voted.

*Examples of reasons for rejection mentioned in paragraph (h)—*

1. The declaration form was not returned.
2. The ratepayer did not sign the declaration form.

**(3)** A scrutineer may countersign the declaration.

**Term of office of elected board members**

**18.** An elected board member holds office for 3 years.

SCHEDULE 1 (continued)

**Filling casual vacancies**

**19.(1)** If a casual vacancy arises in the office of an elected board member, the office must be filled by the election of someone else under this part.<sup>7</sup>

**(2)** However, the person elected to fill the vacancy holds office only for the rest of the term of the office that became vacant.

**Re-electing members**

**20.** An elected member is eligible for re-election, unless the member is disqualified from becoming a member.<sup>8</sup>

**PART 4—BOARD'S AUTHORISED WORKS**

**Board's authorised works**

**21.** The board's authorised works are stated in section 7 of the *Avondale Water Supply Area and Water Board (Proposed Constitution) Notification (No. 1) 1995* published in the gazette on 31 March 1995 at pp 1448–55.

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<sup>7</sup> Under the *Acts Interpretation Act 1954*, section 25(1)(b), the power of the Governor in Council to appoint a member who is not elected includes a power to appoint someone else if the member's office becomes vacant.

<sup>8</sup> Under the *Acts Interpretation Act 1954*, section 25(1)(c), the power of the Governor in Council to appoint a member who is not elected includes a power to reappoint if the member is eligible to be appointed. Section 141 of the Act deals with the disqualification for board membership.

SCHEDULE 1 (continued)

**PART 5—PROPOSAL EFFECTED**

**Proposal effected by schedule**

**22.** This schedule gives effect to the proposal contained in the notification mentioned in section 21.

## **SCHEDULE 2**

### **KELSEY CREEK WATER SUPPLY AREA AND BOARD**

section 3

#### **PART 1—ESTABLISHMENT OF WATER SUPPLY AREA AND BOARD**

##### **Water supply area established**

1. The area within the boundaries shown on the plan in the *Kelsey Creek Water Supply Area and Water Board (Proposed Constitution) Notice (No. 1) 1995* published in the gazette on 12 May 1995 at pp 658–67 is established as the Kelsey Creek Water Supply Area (the “area”).

##### **Board established**

2. The Kelsey Creek Water Board (the “board”) is established for the area.

#### **PART 2—COMPOSITION OF BOARD**

##### **Composition of board**

3. The board consists of the following members—

- (a) a person nominated by the Proserpine Canegrowers’ Executive and appointed by the Governor in Council;

SCHEDULE 2 (continued)

- (b) a person nominated by the chief executive and appointed by the Governor in Council;
- (c) 3 qualified persons<sup>9</sup> elected by the ratepayers.<sup>10</sup>

## **PART 3—ELECTION OF BOARD MEMBERS**

### *Division 1—Returning officer*

#### **Returning officer**

**4.(1)** For an election of board members the board must appoint persons the board considers appropriate as—

- (a) the returning officer; and
- (b) the deputy returning officer.

**(2)** The returning officer—

- (a) must conduct an election in the way stated in this part; and
- (b) may take the action and give the directions the returning officer considers reasonably necessary—
  - (i) to ensure no irregularities happen in the election; or
  - (ii) to remedy a procedural defect that appears to the returning officer to exist in relation to the election.

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<sup>9</sup> Under section 136 of the Act, a person is qualified to be elected to the board only if the person is an owner, part owner or occupier of land in the area or lives in the area. If the person is a body corporate, an individual nominated by it is the person qualified to be elected.

<sup>10</sup> Under section 2(1) of the Act, a “ratepayer” is a person named in the books or records of the board as a person liable to pay rates or charges made and levied under the Act.

SCHEDULE 2 (continued)

(3) The returning officer must not influence, or attempt to influence, the outcome of an election.

Maximum penalty—40 penalty units.

(4) If the returning officer is not reasonably able to perform the functions of returning officer (for example, because of illness), the deputy returning officer must perform the functions.

***Division 2—Pre-election procedures***

**Roll of voters**

5.(1) The returning officer must compile a roll of voters that states the full name and address of each ratepayer.

(2) If 2 or more ratepayers are joint owners or occupiers, the returning officer must request them to nominate in writing an individual to represent them.

(3) The returning officer must insert on the roll the name and address of—

- (a) the person nominated; or
- (b) if no-one is nominated—the owner or occupier whose name appears first in the rate book.

(4) The returning officer must—

- (a) allow a ratepayer to inspect the roll free of charge at the board's public office premises when it is open for business; and
- (b) give the owner or occupier a copy of the roll, on payment of a reasonable fee.

(5) A person who is a ratepayer whose name does not appear on the roll may apply in writing to the returning officer to have the person's name included on the roll.

(6) If the returning officer is satisfied the person is a ratepayer, the returning officer must insert the person's name and address on the roll.

SCHEDULE 2 (continued)

**Nominations**

**6.(1)** The returning officer must, by written notice to each ratepayer, call for nominations of qualified persons for election to the board.

**(2)** The notice must state—

- (a) the day and time (at least 14 days after the notice is given) when nominations close; and
- (b) the day (no more than 7 days after nominations close) when voting material will be given to ratepayers if a ballot is necessary.

**(3)** A nomination must be—

- (a) written; and
- (b) signed by the candidate and 2 ratepayers; and
- (c) given to the returning officer before nominations close.

**(4)** A candidate may withdraw a nomination by written notice to the returning officer no later than 1 hour before nominations close.

**When ballot must be held**

**7.(1)** If, after nominations have closed, the number of candidates is not more than the number to be elected—

- (a) the returning officer must declare the candidates elected to the board; and
- (b) any office that has not been filled may be filled by the Governor in Council under section 134<sup>11</sup> of the Act.

**(2)** However, if the number of candidates is more than the number to be elected, the returning officer must conduct a secret ballot.

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<sup>11</sup> Section 134 (Appointment of board members)

SCHEDULE 2 (continued)

(3) Failure to comply with sections 8, 9, 12, 14, 15 and 17 does not affect the validity of a ballot.<sup>12</sup>

**Preparing ballot papers**

**8.(1)** A ballot paper must—

- (a) be made of paper that will hide a vote marked on it from view when it is folded once; and
- (b) list the names of each candidate for election once, with the surname first, followed by the candidate's other names; and
- (c) state how the ratepayer may vote; and
- (d) state the day and time the ballot starts and the day and time it ends; and
- (e) state that the ratepayer must fill in and sign the declaration form for the vote to be counted.

(2) If 2 or more candidates have the same surname and other names, the candidates must be distinguished in an appropriate way.

Example—

The occupation of each candidate may be added to the ballot paper.

(3) The order of names on the ballot paper must be decided by lot.

**Distributing voting material**

**9.(1)** The returning officer must give the following things (the “**voting material**”) to each ratepayer—

- (a) a ballot paper initialled by the returning officer;

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<sup>12</sup> Section 8 (Preparing ballot papers)  
Section 9 (Distributing voting material)  
Section 12 (How returning officer must deal with voting material)  
Section 14 (Initial scrutiny of voting material)  
Section 15 (Counting votes)  
Section 17 (Declaring election result)

SCHEDULE 2 (continued)

- (b) a ballot envelope;
- (c) a declaration form stating ‘I certify that I am the person to whom this voting material has been given and I have voted on the ballot paper enclosed.’;
- (d) a return envelope addressed to the returning officer.

(2) The voting material must be given no more than 7 days after nominations close to arrive, if practicable, no later than the last working day before the ballot starts.

(3) If a ratepayer gives the returning officer written notice that the ratepayer will be absent from the address stated on the roll when voting material is to be given, the returning officer must give the ratepayer the material at the other address (if any) stated in the notice.

(4) Before giving voting material to a ratepayer, the returning officer must mark a ballot number on—

- (a) the roll against the ratepayer’s name; and
- (b) the declaration form; and
- (c) the return envelope.

(5) The ballot numbers must start with a number chosen by the returning officer.

(6) After giving the voting material, the returning officer must obtain a lockable ballot box and keys and keep them in a safe place.

**How long ballot is open**

**10.** The ballot must remain open for at least 14 days.

**How to vote**

**11.(1)** A ratepayer may vote only once in each election.

(2) A ratepayer may vote by completing the following steps—

- (a) writing a tick or a cross in the squares opposite the names of up

SCHEDULE 2 (continued)

- to 3 candidates on the ballot paper;
- (b) putting the ballot paper in the ballot envelope;
  - (c) sealing the ballot envelope;
  - (d) filling in and signing the declaration;
  - (e) putting the declaration and the ballot envelope in the return envelope;
  - (f) sealing the return envelope;
  - (g) returning the return envelope to the returning officer before voting closes by—
    - (i) posting it to the returning officer; or
    - (ii) putting it in the ballot box.

**(3)** The returning officer must provide a ratepayer who wishes to vote at a polling booth with an unoccupied voting compartment in which to vote in private.

**(4)** If a ratepayer satisfies the returning officer that voting material given to the ratepayer has been lost, stolen or destroyed, the returning officer must give the ratepayer duplicate voting material.

**How returning officer must deal with voting material**

**12.(1)** The returning officer must put each return envelope received before voting closes into the ballot box.

**(2)** If the returning officer receives a return envelope after voting closes, the returning officer must—

- (a) mark the envelope ‘Received by the returning officer after voting closed’; and
- (b) keep it separate from return envelopes received before voting closed.

SCHEDULE 2 (continued)

**Scrutiny**

**13.(1)** Before voting closes, the returning officer must give each candidate written notice of when and where votes are to be collected, examined and counted.

**(2)** A candidate may appoint 1 scrutineer to observe, with or without the candidate, the collection, examination and counting of votes.

**(3)** The candidate must give the returning officer written notice of the appointment.

**(4)** When arriving on the day and place for the collection, examination and counting, a scrutineer must show the returning officer a copy of the notice of appointment or other suitable identification.

**(5)** The failure of a candidate or scrutineer to attend the scrutiny of votes does not affect the validity of the election.

**Initial scrutiny of voting material**

**14.(1)** As soon as possible after voting closes, the returning officer must—

- (a) take the ballot box to the place notified to the candidates as the place where votes are to be counted; and
- (b) deal with the votes in the way stated in this section in the presence of the candidates or scrutineers at the place.

**(2)** The returning officer must—

- (a) open each return envelope; and
- (b) take the declaration and ballot envelope out of the return envelope.

**(3)** If the returning officer is satisfied—

- (a) the ballot number on the declaration corresponds with the ballot number marked beside the name of a ratepayer on the roll; and
- (b) the person who filled in and signed the declaration is—
  - (i) the ratepayer to whom the declaration was given; or

SCHEDULE 2 (continued)

- (ii) a ratepayer who has not previously voted in the election and has a reasonable explanation for using someone else's voting material;

the returning officer must then put the declaration and the ballot envelope into separate containers.

**(4)** If subsection (3)(b) applies, the returning officer must—

- (a) note the acceptance of the explanation on the declaration, and
- (b) record the correct ballot number on the roll against the name of the ratepayer who signed the declaration.

**(5)** If the returning officer is not satisfied about a matter mentioned in subsection (3)(a) or (b), the returning officer must keep the unsatisfactory voting material separate from the satisfactory voting material.

**(6)** The returning officer must then mark off the ratepayer's name on the roll.

**Counting votes**

**15.(1)** After separating the declaration forms and ballot envelopes, the returning officer must do the following in order—

- (a) seal the container holding declaration forms;
- (b) open the ballot envelopes;
- (c) take the ballot papers out of the ballot envelopes;
- (d) examine the ballot papers for votes;
- (e) count the votes.

**(2)** The returning officer must not include an informal vote in the count.

**(3)** A vote is not informal if the ratepayer's intention is clear.

SCHEDULE 2 (continued)

**What happens if votes for 2 or more candidates are equal**

**16.** If the votes for 2 or more candidates are equal, the candidate elected must be decided by lots drawn by the returning officer.

**Declaring election result**

**17.(1)** The returning officer must give each candidate a signed declaration of the result of the election.

**(2)** If the election involved a ballot, the declaration must state the following—

- (a) how many ratepayers were on the roll when voting closed;
- (b) how many ballot papers were printed;
- (c) how many ballot papers were issued;
- (d) how many duplicate ballot papers were issued;
- (e) how many ballot papers were returned;
- (f) how many ballot papers were returned as unclaimed mail;
- (g) how many ballot papers were not returned;
- (h) how many ballot papers were rejected during scrutiny and the reasons for rejection;
- (i) how many ballot papers were counted;
- (j) the percentage of ratepayers who voted.

*Examples of reasons for rejection mentioned in paragraph (h)—*

1. The declaration form was not returned.
2. The ratepayer did not sign the declaration form.

**(3)** A scrutineer may countersign the declaration.

**Term of office of elected board members**

**18.** An elected board member holds office for 3 years.

SCHEDULE 2 (continued)

**Filling casual vacancies**

**19.(1)** If a casual vacancy arises in the office of an elected board member, the office must be filled by the election of someone else under this part.<sup>13</sup>

**(2)** However, the person elected to fill the vacancy holds office only for the rest of the term of the office that became vacant.

**Re-electing members**

**20.** An elected member is eligible for re-election, unless the member is disqualified from becoming a member.<sup>14</sup>

**PART 4—BOARD'S AUTHORISED WORKS**

**Board's authorised works**

**21.** The board's authorised works are stated in sections 7 and 8 of the *Kelsey Creek Water Supply Area and Water Board (Proposed Constitution) Notice (No. 1) 1995* published in the gazette on 12 May 1995 at pp 658–67.

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<sup>13</sup> Under the *Acts Interpretation Act 1954*, section 25(1)(b), the power of the Governor in Council to appoint a member who is not elected includes a power to appoint someone else if the member's office becomes vacant.

<sup>14</sup> Under the *Acts Interpretation Act 1954*, section 25(1)(c), the power of the Governor in Council to appoint a member who is not elected includes a power to reappoint if the member is eligible to be appointed. Section 141 of the Act deals with the disqualification for board membership.

SCHEDULE 2 (continued)

**PART 5—PROPOSAL EFFECTED**

**Proposal effected by schedule**

**22.** This schedule gives effect to the proposal contained in the notice mentioned in section 21.

## **SCHEDULE 3**

# **PIONEER VALLEY WATER SUPPLY AREA AND BOARD**

section 3

## **PART 1—PRELIMINARY**

### **Definitions**

1. In this regulation—  
“**area**” see section 2.  
“**board**” see section 3.  
“**ratepayer**” means a ratepayer for the area.  
“**ratepayer for the area**” see section 4.

## **PART 2—CONSTITUTION OF WATER SUPPLY AREA AND BOARD**

### **Constitution of water supply area**

- 2.(1) The area within the boundaries shown on plan number A3–201239 held by the department<sup>15</sup> is constituted as a water supply area (the “**area**”).
- (2) The name assigned to the area is the Pioneer Valley Water Supply Area.

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<sup>15</sup> A copy of the plan may be inspected, free of charge, at the office of the Department of Natural Resources, 41 George Street, Brisbane or Tennyson Street, Mackay.

SCHEDULE 3 (continued)

**Constitution of board**

- 3.(1)** A board (the “**board**”) is constituted for the area.
- (2)** The name assigned to the board is the Pioneer Valley Water Board.
- (3)** Subsections (1) and (2) take effect immediately after the first members of the board have been appointed and elected.

**PART 3—COMPOSITION OF BOARD**

**Composition of board**

- 4.(1)** The board consists of the following members—
- (a) 3 persons nominated by the Mackay Sugar Co-operative Association Limited and appointed by the Governor in Council;
  - (b) a person nominated by the chief executive and appointed by the Governor in Council;
  - (c) 3 qualified persons<sup>16</sup> elected by the ratepayers for the area.
- (2)** A person is a “**ratepayer for the area**” if the rates or charges that the person is named in the books or records of the chief executive or the board as being liable to pay are rates and charges for land in the area.

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<sup>16</sup> Under section 136 of the Act, a person is qualified to be elected to the board only if the person is an owner, part owner or occupier of land in the area or lives in the area. If the person is a body corporate, an individual nominated by the body corporate is the person qualified to be elected.

SCHEDULE 3 (continued)

**PART 4—ELECTION OF BOARD MEMBERS**

*Division 1—Returning officer*

**Returning officer**

**5.(1)** For an election of board members the board must appoint persons the board considers appropriate as—

- (a) the returning officer; and
- (b) the deputy returning officer.

**(2)** The returning officer—

- (a) must conduct an election in the way stated in this part; and
- (b) may take the action and give the directions the returning officer considers reasonably necessary—
  - (i) to ensure no irregularities happen in the election; or
  - (ii) to remedy a procedural defect that appears to the returning officer to exist in relation to the election.

**(3)** The returning officer must not influence, or attempt to influence, the outcome of an election.

Maximum penalty—40 penalty units.

**(4)** If the returning officer is not reasonably able to perform the functions of returning officer (for example, because of illness), the deputy returning officer must perform the functions.

*Division 2—Pre-election procedures*

**Roll of voters**

**6.(1)** The returning officer must compile a roll of voters that states the full name and address of each ratepayer.

SCHEDULE 3 (continued)

(2) If 2 or more ratepayers are joint owners or occupiers, the returning officer must request them to nominate in writing an individual to represent them.

(3) The returning officer must insert on the roll the name and address of—

- (a) the person nominated; or
- (b) if no-one is nominated—the owner or occupier whose name appears first in the records of the chief executive or the board.

(4) The returning officer must—

- (a) allow a ratepayer to inspect the roll, free of charge, at the board's public office premises during business hours; and
- (b) on payment of a reasonable fee—give the ratepayer a copy of the roll.

(5) A person who is a ratepayer whose name does not appear on the roll may apply in writing to the returning officer to have the person's name included on the roll.

(6) If the returning officer is satisfied the person is a ratepayer, the returning officer must insert the person's name and address on the roll.

**Nominations**

7.(1) The returning officer must, by written notice to each ratepayer, call for nominations of qualified persons for election to the board.

(2) The notice must state—

- (a) the day and time (at least 14 days after the notice is given) when nominations close; and
- (b) the day (not more than 28 days after nominations close) when voting material will be given to ratepayers if a ballot is necessary.

(3) A nomination must be—

- (a) written; and

SCHEDULE 3 (continued)

- (b) signed by the candidate and 2 ratepayers; and
- (c) given to the returning officer before nominations close.

(4) A candidate may withdraw a nomination by written notice to the returning officer no later than 1 hour before nominations close.

**When ballot must be held**

8.(1) If, after nominations have closed, the number of candidates is not more than the number to be elected—

- (a) the returning officer must declare the candidates elected to the board; and
- (b) any office that has not been filled may be filled by the Governor in Council under section 134<sup>17</sup> of the Act.

(2) However, if the number of candidates is more than the number to be elected, the returning officer must conduct a secret ballot.

(3) Failure to comply with sections 9, 10, 13, 15, 16 and 18 does not affect the validity of a ballot.<sup>18</sup>

**Preparing ballot papers**

9.(1) A ballot paper must—

- (a) be made of paper that will hide a vote marked on it from view when it is folded once; and
- (b) list the names of each candidate for election once, with the surname first, followed by the candidate's other names; and

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<sup>17</sup> Section 134 (Appointment of board members)

<sup>18</sup> Section 9 (Preparing ballot papers)  
Section 10 (Distributing voting material)  
Section 13 (How returning officer must deal with voting material)  
Section 15 (Initial scrutiny of voting material)  
Section 16 (Counting votes)  
Section 18 (Declaring election result)

SCHEDULE 3 (continued)

- (c) state how the ratepayer may vote; and
- (d) state the day and time the ballot starts and the day and time it ends; and
- (e) state that, for the vote to be counted, the ratepayer must fill in and sign the declaration form.

(2) If 2 or more candidates have the same surname and other names, the candidates must be distinguished in an appropriate way.

*Example—*

The occupation of each candidate may be added to the ballot paper.

(3) The order of names on the ballot paper must be decided by lot.

### **Distributing voting material**

**10.(1)** The returning officer must give the following things (the “**voting material**”) to each ratepayer—

- (a) a ballot paper initialled by the returning officer;
- (b) a ballot envelope;
- (c) a declaration form stating ‘I certify that I am the person to whom this voting material has been given and I have voted on the ballot paper enclosed.’;
- (d) a return envelope addressed to the returning officer.

(2) The voting material must be given not more than 28 days after nominations close to arrive, if practicable, no later than the last working day before the ballot starts.

(3) If a ratepayer gives the returning officer written notice that the ratepayer will be absent from the address stated on the roll when voting material is to be given, the returning officer must give the ratepayer the material at the other address (if any) stated in the notice.

(4) Before giving voting material to a ratepayer, the returning officer must mark a ballot number on—

SCHEDULE 3 (continued)

- (a) the roll against the ratepayer's name; and
- (b) the declaration form; and
- (c) the return envelope.

(5) The ballot numbers must start with a number chosen by the returning officer.

(6) After giving the voting material, the returning officer must obtain a lockable ballot box and keys and keep them in a safe place.

**How long ballot is open**

11. The ballot must remain open for at least 14 days.

**How to vote**

12.(1) A ratepayer may vote only once in each election.

(2) A ratepayer may vote by completing the following steps—

- (a) writing a tick or a cross in the squares opposite the names of up to 3 candidates on the ballot paper;
- (b) putting the ballot paper in the ballot envelope;
- (c) sealing the ballot envelope;
- (d) filling in and signing the declaration;
- (e) putting the declaration and the ballot envelope in the return envelope;
- (f) sealing the return envelope;
- (g) returning the return envelope to the returning officer before voting closes by—
  - (i) posting it to the returning officer; or
  - (ii) putting it in the ballot box.

(3) The returning officer must provide a ratepayer who wishes to vote at

### SCHEDULE 3 (continued)

a polling booth with an unoccupied voting compartment in which to vote in private.

(4) If a ratepayer satisfies the returning officer that voting material given to the ratepayer has been lost, stolen or destroyed, the returning officer must give the ratepayer duplicate voting material.

#### **How returning officer must deal with voting material**

13.(1) The returning officer must put each return envelope received before voting closes into the ballot box.

(2) If the returning officer receives a return envelope after voting closes, the returning officer must—

- (a) mark the envelope 'Received by the returning officer after voting closed.'; and
- (b) keep the envelope separate from return envelopes received before voting closed.

#### **Scrutiny**

14.(1) Before voting closes, the returning officer must give each candidate written notice of when and where votes are to be collected, examined and counted.

(2) A candidate may appoint 1 scrutineer to observe, with or without the candidate, the collection, examination and counting of votes.

(3) The candidate must give the returning officer written notice of the appointment.

(4) When a scrutineer arrives for the collection, examination and counting, the scrutineer must show the returning officer a copy of the notice of appointment or other suitable identification.

(5) The failure of a candidate or scrutineer to attend the scrutiny of votes does not affect the validity of the election.

SCHEDULE 3 (continued)

**Initial scrutiny of voting material**

**15.(1)** As soon as possible after voting closes, the returning officer must—

- (a) take the ballot box to the place notified to the candidates as the place where votes are to be counted; and
- (b) deal with the votes in the way stated in this section in the presence of the candidates and scrutineers at the place.

**(2)** The returning officer must—

- (a) open each return envelope; and
- (b) take the declaration and ballot envelope out of the return envelope.

**(3)** The returning officer must put the declaration and the ballot envelope into separate containers if the returning officer is satisfied about the following matters—

- (a) the ballot number on the declaration corresponds with the ballot number marked beside the name of a ratepayer on the roll;
- (b) the person who filled in and signed the declaration is—
  - (i) the ratepayer to whom the declaration was given; or
  - (ii) a ratepayer who has not previously voted in the election and has a reasonable explanation for using someone else's voting material.

**(4)** If subsection (3)(b)(ii) applies, the returning officer must—

- (a) note the acceptance of the explanation on the declaration; and
- (b) record the correct ballot number on the roll against the name of the ratepayer who signed the declaration.

**(5)** If the returning officer is not satisfied about a matter mentioned in subsection (3)(a) or (b), the returning officer must keep the unsatisfactory voting material separate from the satisfactory voting material.

**(6)** The returning officer must then note the fact that the ratepayer has voted against the ratepayer's name on the roll.

SCHEDULE 3 (continued)

**Counting votes**

**16.(1)** After separating the declaration forms and ballot envelopes, the returning officer must do the following in order—

- (a) seal the container holding declaration forms;
- (b) open the ballot envelopes;
- (c) take the ballot papers out of the ballot envelopes;
- (d) examine the ballot papers for votes;
- (e) count the votes.

**(2)** The returning officer must not include an informal vote in the count.

**(3)** A vote is not informal if the ratepayer's intention is clear.

**What happens if votes for 2 or more candidates are equal**

**17.** If the votes for 2 or more candidates are equal, the candidate elected must be decided by lots drawn by the returning officer.

**Declaring election result**

**18.(1)** The returning officer must give each candidate a signed declaration of the result of the election.

**(2)** If the election involved a ballot, the declaration must state the following—

- (a) how many ratepayers were on the roll when voting closed;
- (b) how many ballot papers were printed;
- (c) how many ballot papers were issued;
- (d) how many duplicate ballot papers were issued;
- (e) how many ballot papers were returned;
- (f) how many ballot papers were returned as unclaimed mail;
- (g) how many ballot papers were not returned;

### SCHEDULE 3 (continued)

- (h) how many ballot papers were rejected during scrutiny and the reasons for rejection;
- (i) how many ballot papers were counted;
- (j) the percentage of ratepayers who voted.

*Examples of reasons for rejection mentioned in paragraph (h)—*

1. The declaration form was not returned.
2. The ratepayer did not sign the declaration form.
- (3)** A scrutineer may countersign the declaration.

#### **Term of office of elected board members**

- 19.** An elected board member holds office for 3 years.

#### **Filling casual vacancies**

**20.(1)** If a casual vacancy arises in the office of an elected board member, the office must be filled by the election of someone else under this part.<sup>19</sup>

**(2)** However, the person elected to fill the vacancy holds office only for the rest of the term of the office that became vacant.

#### **Re-electing members**

**21.** An elected member is eligible for re-election, unless the member is disqualified from becoming a member.<sup>20</sup>

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<sup>19</sup> Under the *Acts Interpretation Act 1954*, section 25(1)(b), the power of the Governor in Council to appoint a member who is not elected includes a power to appoint someone else if the member's office becomes vacant.

<sup>20</sup> Under the *Acts Interpretation Act 1954*, section 25(1)(c), the power of the Governor in Council to appoint a member who is not elected includes a power to reappoint if the member is eligible to be appointed. Section 141 of the Act deals with the disqualification for board membership.

SCHEDULE 3 (continued)

**PART 5—BOARD'S AUTHORISED WORKS**

**Board's authorised works**

22. The board's authorised works are stated in section 8 of the *Pioneer Valley Water Supply Area and Water Board (Proposed Constitution) Notice (No. 1) 1996* published in the gazette on 16 February 1996 at pp 633–70.

**PART 6—PROPOSAL EFFECTED**

**Proposal effected by schedule**

23. This schedule gives effect to the proposal contained in the notice mentioned in section 22.

## **SCHEDULE 4**

### **RIVERSDALE-MURRAY VALLEY WATER MANAGEMENT AREA AND BOARD**

section 2

#### **PART 1—PRELIMINARY**

##### **Definitions**

1. In this schedule—  
“**area**” see section 2.  
“**board**” see section 3.  
“**ratepayer**” means a ratepayer for the area.  
“**ratepayer for the area**” see section 5.

#### **PART 2—CONSTITUTION OF DRAINAGE AREA AND BOARD**

##### **Constitution of drainage area**

**2.(1)** The area within the boundaries shown on plans numbered A4–201461 to A4–201464 held by the department<sup>21</sup> is constituted as a drainage area (the “**area**”).

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<sup>21</sup> A copy of the plan may be inspected, free of charge, at the office of the Department of Natural Resources, 41 George Street, Brisbane or Boogan Road, South Johnstone.

SCHEDULE 4 (continued)

(2) The name assigned to the area is the Riversdale-Murray Valley Water Management Area.

**Constitution of board**

3.(1) A board (the “board”) is constituted for the area.

(2) The name assigned to the board is the Riversdale-Murray Valley Water Management Board.

(3) Subsections (1) and (2) take effect immediately after the first members of the board have been appointed and elected.

**Appointment of chief executive to administer area—Act, s 209**

4. The chief executive is appointed to administer the area until the board is constituted.

**PART 3—COMPOSITION OF BOARD**

**Composition of board**

5.(1) The board consists of the following members—

- (a) a person nominated by Tully Canegrowers and appointed by the Governor in Council;
- (b) a person nominated by Cardwell Shire Council and appointed by the Governor in Council;
- (c) a person nominated by the chief executive and appointed by the Governor in Council;
- (d) a person nominated by the chief executive of the department that administers the *Environmental Protection Act 1994* and appointed by the Governor in Council;

SCHEDULE 4 (continued)

(e) 5 qualified persons<sup>22</sup> elected by the ratepayers for the area.

(2) A person is a “**ratepayer for the area**” if the rates or charges that the person is named in the books or records of the chief executive or the board as being liable to pay are rates and charges for land in the area.

## **PART 4—ELECTION OF BOARD MEMBERS**

### *Division 1—Returning officer*

#### **Returning officer**

**6.(1)** For the first election of board members, the chief executive must appoint persons the chief executive considers appropriate as—

- (a) the returning officer; and
- (b) the deputy returning officer.

(2) For a subsequent election of board members, the board must appoint persons the board considers appropriate as—

- (a) the returning officer; and
- (b) the deputy returning officer.

**(3)** The returning officer—

- (a) must conduct an election in the way stated in this part; and
- (b) may take the action and give the directions the returning officer considers reasonably necessary—
  - (i) to ensure no irregularities happen in the election; or

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<sup>22</sup> Under section 136 of the Act, a person is qualified to be elected to the board only if the person is an owner, part owner or occupier of land in the area or lives in the area. If the person is a body corporate, an individual nominated by the body corporate is the person qualified to be elected.

SCHEDULE 4 (continued)

- (ii) to remedy a procedural defect that appears to the returning officer to exist in relation to the election.

(4) The returning officer must not influence, or attempt to influence, the outcome of an election.

Maximum penalty—40 penalty units.

(5) If the returning officer is not reasonably able to perform the functions of returning officer (for example, because of illness), the deputy returning officer must perform the functions.

***Division 2—Pre-election procedures***

**Roll of voters**

7.(1) The returning officer must compile a roll of voters that states the full name and address of each ratepayer.

(2) If 2 or more ratepayers are joint owners or occupiers, the returning officer must request them to nominate in writing an individual to represent them.

(3) The returning officer must insert on the roll the name and address of—

- (a) the person nominated; or  
(b) if no-one is nominated—the owner or occupier whose name appears first in the records of the chief executive or the board.

(4) The returning officer must—

- (a) allow a ratepayer to inspect the roll, free of charge, at the board's public office premises during business hours; and  
(b) on payment of a reasonable fee—give the ratepayer a copy of the roll.

(5) A person who is a ratepayer whose name does not appear on the roll may apply in writing to the returning officer to have the person's name included on the roll.

SCHEDULE 4 (continued)

(6) If the returning officer is satisfied the person is a ratepayer, the returning officer must insert the person's name and address on the roll.

**Nominations**

8.(1) The returning officer must, by written notice to each ratepayer, call for nominations of qualified persons for election to the board.

(2) The notice must state—

- (a) the day and time (at least 14 days after the notice is given) when nominations close; and
- (b) the day (not more than 28 days after nominations close) when voting material will be given to ratepayers if a ballot is necessary.

(3) A nomination must be—

- (a) written; and
- (b) signed by the candidate and 2 ratepayers; and
- (c) given to the returning officer before nominations close.

(4) A candidate may withdraw a nomination by written notice to the returning officer no later than 1 hour before nominations close.

**When ballot must be held**

9.(1) If, after nominations have closed, the number of candidates is not more than the number to be elected—

- (a) the returning officer must declare the candidates elected to the board; and
- (b) any office that has not been filled may be filled by the Governor in Council under section 134<sup>23</sup> of the Act.

(2) However, if the number of candidates is more than the number to be elected, the returning officer must conduct a secret ballot.

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<sup>23</sup> Section 134 (Appointment of board members)

SCHEDULE 4 (continued)

(3) Failure to comply with sections 10, 11, 14, 16, 17 and 19 does not affect the validity of a ballot.<sup>24</sup>

**Preparing ballot papers**

**10.(1)** A ballot paper must—

- (a) be made of paper that will hide a vote marked on it from view when it is folded once; and
- (b) list the names of each candidate for election once, with the surname first, followed by the candidate's other names; and
- (c) state how the ratepayer may vote; and
- (d) state the day and time the ballot starts and the day and time it ends; and
- (e) state that, for the vote to be counted, the ratepayer must fill in and sign the declaration form.

(2) If 2 or more candidates have the same surname and other names, the candidates must be distinguished in an appropriate way.

*Example—*

The occupation of each candidate may be added to the ballot paper.

(3) The order of names on the ballot paper must be decided by lot.

**Distributing voting material**

**11.(1)** The returning officer must give the following things (the “**voting material**”) to each ratepayer—

- (a) a ballot paper initialled by the returning officer;

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<sup>24</sup> Section 10 (Preparing ballot papers)  
Section 11 (Distributing voting material)  
Section 14 (How returning officer must deal with voting material)  
Section 16 (Initial scrutiny of voting material)  
Section 17 (Counting votes)  
Section 19 (Declaring election result)

SCHEDULE 4 (continued)

- (b) a ballot envelope;
- (c) a declaration form stating ‘I certify that I am the person to whom this voting material has been given and I have voted on the ballot paper enclosed.’;
- (d) a return envelope addressed to the returning officer.

(2) The voting material must be given not more than 28 days after nominations close to arrive, if practicable, no later than the last working day before the ballot starts.

(3) If a ratepayer gives the returning officer written notice that the ratepayer will be absent from the address stated on the roll when voting material is to be given, the returning officer must give the ratepayer the material at the other address (if any) stated in the notice.

(4) Before giving voting material to a ratepayer, the returning officer must mark a ballot number on—

- (a) the roll against the ratepayer’s name; and
- (b) the declaration form; and
- (c) the return envelope.

(5) The ballot numbers must start with a number chosen by the returning officer.

(6) After giving the voting material, the returning officer must obtain a lockable ballot box and keys and keep them in a safe place.

**How long ballot is open**

**12.** The ballot must remain open for at least 14 days.

**How to vote**

**13.(1)** A ratepayer may vote only once in each election.

(2) A ratepayer may vote by completing the following steps—

- (a) writing a tick or a cross in the squares opposite the names of up

SCHEDULE 4 (continued)

- to 5 candidates on the ballot paper;
- (b) putting the ballot paper in the ballot envelope;
  - (c) sealing the ballot envelope;
  - (d) filling in and signing the declaration;
  - (e) putting the declaration and the ballot envelope in the return envelope;
  - (f) sealing the return envelope;
  - (g) returning the return envelope to the returning officer before voting closes by—
    - (i) posting it to the returning officer; or
    - (ii) putting it in the ballot box.

**(3)** The returning officer must provide a ratepayer who wishes to vote at a polling booth with an unoccupied voting compartment in which to vote in private.

**(4)** If a ratepayer satisfies the returning officer that voting material given to the ratepayer has been lost, stolen or destroyed, the returning officer must give the ratepayer duplicate voting material.

**How returning officer must deal with voting material**

**14.(1)** The returning officer must put each return envelope received before voting closes into the ballot box.

**(2)** If the returning officer receives a return envelope after voting closes, the returning officer must—

- (a) mark the envelope ‘Received by the returning officer after voting closed.’; and
- (b) keep the envelope separate from return envelopes received before voting closed.

SCHEDULE 4 (continued)

**Scrutiny**

**15.(1)** Before voting closes, the returning officer must give each candidate written notice of when and where votes are to be collected, examined and counted.

**(2)** A candidate may appoint 1 scrutineer to observe, with or without the candidate, the collection, examination and counting of votes.

**(3)** The candidate must give the returning officer written notice of the appointment.

**(4)** When a scrutineer arrives for the collection, examination and counting, the scrutineer must show the returning officer a copy of the notice of appointment or other suitable identification.

**(5)** The failure of a candidate or scrutineer to attend the scrutiny of votes does not affect the validity of the election.

**Initial scrutiny of voting material**

**16.(1)** As soon as possible after voting closes, the returning officer must—

- (a) take the ballot box to the place notified to the candidates as the place where votes are to be counted; and
- (b) deal with the votes in the way stated in this section in the presence of the candidates and scrutineers at the place.

**(2)** The returning officer must—

- (a) open each return envelope; and
- (b) take the declaration and ballot envelope out of the return envelope.

**(3)** The returning officer must put the declaration and the ballot envelope into separate containers if the returning officer is satisfied about the following matters—

- (a) the ballot number on the declaration corresponds with the ballot number marked beside the name of a ratepayer on the roll;
- (b) the person who filled in and signed the declaration is—

SCHEDULE 4 (continued)

- (i) the ratepayer to whom the declaration was given; or
- (ii) a ratepayer who has not previously voted in the election and has a reasonable explanation for using someone else's voting material.

(4) If subsection (3)(b)(ii) applies, the returning officer must—

- (a) note the acceptance of the explanation on the declaration; and
- (b) record the correct ballot number on the roll against the name of the ratepayer who signed the declaration.

(5) If the returning officer is not satisfied about a matter mentioned in subsection (3)(a) or (b), the returning officer must keep the unsatisfactory voting material separate from the satisfactory voting material.

(6) The returning officer must then note the fact that the ratepayer has voted against the ratepayer's name on the roll.

### **Counting votes**

**17.(1)** After separating the declaration forms and ballot envelopes, the returning officer must do the following in order—

- (a) seal the container holding declaration forms;
- (b) open the ballot envelopes;
- (c) take the ballot papers out of the ballot envelopes;
- (d) examine the ballot papers for votes;
- (e) count the votes.

(2) The returning officer must not include an informal vote in the count.

(3) A vote is not informal if the ratepayer's intention is clear.

### **What happens if votes for 2 or more candidates are equal**

**18.** If the votes for 2 or more candidates are equal, the candidate elected must be decided by lots drawn by the returning officer.

SCHEDULE 4 (continued)

**Declaring election result**

**19.(1)** The returning officer must give each candidate a signed declaration of the result of the election.

**(2)** If the election involved a ballot, the declaration must state the following—

- (a) how many ratepayers were on the roll when voting closed;
- (b) how many ballot papers were printed;
- (c) how many ballot papers were issued;
- (d) how many duplicate ballot papers were issued;
- (e) how many ballot papers were returned;
- (f) how many ballot papers were returned as unclaimed mail;
- (g) how many ballot papers were not returned;
- (h) how many ballot papers were rejected during scrutiny and the reasons for rejection;
- (i) how many ballot papers were counted;
- (j) the percentage of ratepayers who voted.

*Examples of reasons for rejection mentioned in paragraph (h)—*

- 1. The declaration form was not returned.
- 2. The ratepayer did not sign the declaration form.

**(3)** A scrutineer may countersign the declaration.

**Term of office of elected board members**

**20.** An elected board member holds office for 3 years.

#### SCHEDULE 4 (continued)

##### **Filling casual vacancies**

**21.(1)** If a casual vacancy arises in the office of an elected board member, the office must be filled by the election of someone else under this part.<sup>25</sup>

**(2)** However, the person elected to fill the vacancy holds office only for the rest of the term of the office that became vacant.

##### **Re-electing members**

**22.** An elected member is eligible for re-election, unless the member is disqualified from becoming a member.<sup>26</sup>

## **PART 5—BOARD'S AUTHORISED WORKS**

##### **Board's authorised works**

**23.** The board's authorised works are stated in section 7 of the *Riversdale-Murray Valley Water Management Area and Water Management Board (Proposed Constitution) Notice (No. 1) 1996* published in the gazette on 28 June 1996 at pp 1146–60.

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<sup>25</sup> Under the *Acts Interpretation Act 1954*, section 25(1)(b), the power of the Governor in Council to appoint a member who is not elected includes a power to appoint someone else if the member's office becomes vacant.

<sup>26</sup> Under the *Acts Interpretation Act 1954*, section 25(1)(c), the power of the Governor in Council to appoint a member who is not elected includes a power to reappoint if the member is eligible to be appointed. Section 141 of the Act deals with the disqualification for board membership.

SCHEDULE 4 (continued)

**PART 6—PROPOSAL EFFECTED**

**Proposal effected by schedule**

**24.** This schedule gives effect to the proposal contained in the notice mentioned in section 23.

## **SCHEDULE 5**

### **DUNDOWRAN-NIKENBAH WATER SUPPLY AREA AND BOARD**

section 2

#### **PART 1—PRELIMINARY**

##### **Definitions**

1. In this schedule—  
“**area**” see section 2.  
“**board**” see section 3.  
“**ratepayer**” means a ratepayer for the area.  
“**ratepayer for the area**” see section 5.

#### **PART 2—CONSTITUTION OF WATER SUPPLY AREA AND BOARD**

##### **Constitution of water supply area**

- 2.(1) The area within the boundaries shown on plan number A4-110956 held by the department<sup>27</sup> is constituted as a water supply area (the “**area**”).  
(2) The name assigned to the area is the Dundowran-Nikenbah Water Supply Area.

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<sup>27</sup> A copy of the plan may be inspected, free of charge, at the office of the Department of Natural Resources, 41 George Street, Brisbane or Enterprise Street, Bundaberg.

### SCHEDULE 5 (continued)

#### **Constitution of board**

**3.(1)** A board (the “**board**”) is constituted for the area.

**(2)** The name assigned to the board is the Dundowran-Nikenbah Water Board.

**(3)** Subsections (1) and (2) take effect immediately after the first members of the board have been appointed and elected.

#### **Appointment of chief executive to administer area—Act, s 209**

**4.** The chief executive is appointed to administer the area until the board is constituted and to exercise the powers and authorities and to perform the functions and duties of the board as if the board had been duly constituted.

## **PART 3—COMPOSITION OF BOARD**

#### **Composition of board**

**5.(1)** The board consists of the following members—

- (a) 3 persons nominated by Hervey Bay City Council and appointed by the Governor in Council;
- (b) a person nominated by Maryborough Sugar Factory Limited and appointed by the Governor in Council;
- (c) 2 qualified persons<sup>28</sup> elected by the ratepayers (other than Maryborough Sugar Factory Limited) for the area.

**(2)** A person is a “**ratepayer for the area**” if the rates or charges that the

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<sup>28</sup> Under section 136 of the Act, a person is qualified to be elected to the board only if the person is an owner, part owner or occupier of land in the area or lives in the area. If the person is a body corporate, an individual nominated by the body corporate is the person qualified to be elected.

SCHEDULE 5 (continued)

person is named in the books or records of the chief executive or the board as being liable to pay are rates and charges for land in the area.

## **PART 4—ELECTION OF BOARD MEMBERS**

### *Division 1—Returning officer*

#### **Returning officer**

**6.(1)** For the first election of board members, the chief executive must appoint persons the chief executive considers appropriate as—

- (a) the returning officer; and
- (b) the deputy returning officer.

**(2)** For a subsequent election of board members, the board must appoint persons the board considers appropriate as—

- (a) the returning officer; and
- (b) the deputy returning officer.

**(3)** The returning officer—

- (a) must conduct an election in the way stated in this part; and
- (b) may take the action and give the directions the returning officer considers reasonably necessary—
  - (i) to ensure no irregularities happen in the election; or
  - (ii) to remedy a procedural defect that appears to the returning officer to exist in relation to the election.

**(4)** The returning officer must not influence, or attempt to influence, the outcome of an election.

Maximum penalty—40 penalty units.

SCHEDULE 5 (continued)

(5) If the returning officer is not reasonably able to perform the functions of returning officer (for example, because of illness), the deputy returning officer must perform the functions.

*Division 2—Pre-election procedures*

**Roll of voters**

7.(1) The returning officer must compile a roll of voters that states the full name and address of each ratepayer.

(2) If 2 or more ratepayers are joint owners or occupiers, the returning officer must ask them to nominate in writing an individual to represent them.

(3) The returning officer must insert on the roll the name and address of—

- (a) the person nominated; or
- (b) if no-one is nominated—the owner or occupier whose name appears first in the records of the chief executive or the board.

(4) The returning officer must—

- (a) allow a ratepayer to inspect the roll, free of charge, at the board's public office premises during business hours; and
- (b) on payment of a reasonable fee—give the ratepayer a copy of the roll.

(5) A person who is a ratepayer whose name does not appear on the roll may apply in writing to the returning officer to have the person's name included on the roll.

(6) If the returning officer is satisfied the person is a ratepayer, the returning officer must insert the person's name and address on the roll.

SCHEDULE 5 (continued)

**Nominations**

**8.(1)** The returning officer must, by written notice to each ratepayer, call for nominations of qualified persons for election to the board.

**(2)** The notice must state—

- (a) the day and time (at least 14 days after the notice is given) when nominations close; and
- (b) the day (not more than 28 days after nominations close) when voting material will be given to ratepayers if a ballot is necessary.

**(3)** A nomination must be—

- (a) written; and
- (b) signed by the candidate and 2 ratepayers; and
- (c) given to the returning officer before nominations close.

**(4)** A candidate may withdraw a nomination by written notice to the returning officer no later than 1 hour before nominations close.

**When ballot must be held**

**9.(1)** If, after nominations have closed, the number of candidates is not more than the number to be elected—

- (a) the returning officer must declare the candidates elected to the board; and
- (b) any office that has not been filled may be filled by the Governor in Council under section 134 of the Act.<sup>29</sup>

**(2)** However, if the number of candidates is more than the number to be elected, the returning officer must conduct a secret ballot.

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<sup>29</sup> Section 134 of the Act (Appointment of board members)

### SCHEDULE 5 (continued)

(3) Failure to comply with section 10, 11, 14, 16, 17 or 19 does not affect the validity of a ballot.<sup>30</sup>

#### **Preparing ballot papers**

**10.(1)** A ballot paper must—

- (a) be made of paper that will hide a vote marked on it from view when it is folded once; and
- (b) list the names of each candidate for election once, with the surname first, followed by the candidate's other names; and
- (c) state how the ratepayer may vote; and
- (d) state the day and time the ballot starts and the day and time it ends; and
- (e) state that, for the vote to be counted, the ratepayer must fill in and sign the declaration form.

(2) If 2 or more candidates have the same surname and other names, the candidates must be distinguished in an appropriate way.

*Example—*

The occupation of each candidate may be added to the ballot paper.

(3) The order of names on the ballot paper must be decided by lot.

#### **Distributing voting material**

**11.(1)** The returning officer must give the following things (the “**voting material**”) to each ratepayer—

- (a) a ballot paper initialled by the returning officer;

<sup>30</sup> Section 10 (Preparing ballot papers)  
Section 11 (Distributing voting material)  
Section 14 (How returning officer must deal with voting material)  
Section 16 (Initial scrutiny of voting material)  
Section 17 (Counting votes)  
Section 19 (Declaring election result)

SCHEDULE 5 (continued)

- (b) a ballot envelope;
- (c) a declaration form stating ‘I certify that I am the person to whom this voting material has been given and I have voted on the ballot paper enclosed.’;
- (d) a return envelope addressed to the returning officer.

(2) The voting material must be given not more than 28 days after nominations close to arrive, if practicable, no later than the last working day before the ballot starts.

(3) If a ratepayer gives the returning officer written notice that the ratepayer will be absent from the address stated on the roll when voting material is to be given, the returning officer must give the ratepayer the material at the other address (if any) stated in the notice.

(4) Before giving voting material to a ratepayer, the returning officer must mark a ballot number on—

- (a) the roll against the ratepayer’s name; and
- (b) the declaration form; and
- (c) the return envelope.

(5) The ballot numbers must start with a number chosen by the returning officer.

(6) After giving the voting material, the returning officer must obtain a lockable ballot box and keys and keep them in a safe place.

**How long ballot is open**

**12.** The ballot must remain open for at least 14 days.

**How to vote**

**13.(1)** A ratepayer may vote only once in each election.

(2) A ratepayer may vote by completing the following steps—

- (a) writing a tick or a cross in the squares opposite the names of up

SCHEDULE 5 (continued)

- to 2 candidates on the ballot paper;
- (b) putting the ballot paper in the ballot envelope;
- (c) sealing the ballot envelope;
- (d) filling in and signing the declaration;
- (e) putting the declaration and the ballot envelope in the return envelope;
- (f) sealing the return envelope;
- (g) returning the return envelope to the returning officer before voting closes by—
  - (i) posting it to the returning officer; or
  - (ii) putting it in the ballot box.

**(3)** The returning officer must provide a ratepayer who wishes to vote at a polling booth with an unoccupied voting compartment in which to vote in private.

**(4)** If a ratepayer satisfies the returning officer that voting material given to the ratepayer has been lost, stolen or destroyed, the returning officer must give the ratepayer duplicate voting material.

**How returning officer must deal with voting material**

**14.(1)** The returning officer must put each return envelope received before voting closes into the ballot box.

**(2)** If the returning officer receives a return envelope after voting closes, the returning officer must—

- (a) mark the envelope ‘Received by the returning officer after voting closed.’; and
- (b) keep the envelope separate from return envelopes received before voting closed.

SCHEDULE 5 (continued)

**Scrutiny**

**15.(1)** Before voting closes, the returning officer must give each candidate written notice of when and where votes are to be collected, examined and counted.

**(2)** A candidate may appoint 1 scrutineer to observe, with or without the candidate, the collection, examination and counting of votes.

**(3)** The candidate must give the returning officer written notice of the appointment.

**(4)** When a scrutineer arrives for the collection, examination and counting, the scrutineer must show the returning officer a copy of the notice of appointment or other suitable identification.

**(5)** The failure of a candidate or scrutineer to attend the scrutiny of votes does not affect the validity of the election.

**Initial scrutiny of voting material**

**16.(1)** As soon as possible after voting closes, the returning officer must—

- (a) take the ballot box to the place notified to the candidates as the place where votes are to be counted; and
- (b) deal with the votes in the way stated in this section in the presence of the candidates and scrutineers at the place.

**(2)** The returning officer must—

- (a) open each return envelope; and
- (b) take the declaration and ballot envelope out of the return envelope.

**(3)** The returning officer must put the declaration and the ballot envelope into separate containers if the returning officer is satisfied about the following matters—

- (a) the ballot number on the declaration corresponds with the ballot number marked beside the name of a ratepayer on the roll;
- (b) the person who filled in and signed the declaration is—

SCHEDULE 5 (continued)

- (i) the ratepayer to whom the declaration was given; or
- (ii) a ratepayer who has not previously voted in the election and has a reasonable explanation for using someone else's voting material.

(4) If subsection (3)(b)(ii) applies, the returning officer must—

- (a) note the acceptance of the explanation on the declaration; and
- (b) record the correct ballot number on the roll against the name of the ratepayer who signed the declaration.

(5) If the returning officer is not satisfied about a matter mentioned in subsection (3)(a) or (b), the returning officer must keep the unsatisfactory voting material separate from the satisfactory voting material.

(6) The returning officer must then note the fact that the ratepayer has voted against the ratepayer's name on the roll.

### **Counting votes**

**17.(1)** After separating the declaration forms and ballot envelopes, the returning officer must do the following in order—

- (a) seal the container holding declaration forms;
- (b) open the ballot envelopes;
- (c) take the ballot papers out of the ballot envelopes;
- (d) examine the ballot papers for votes;
- (e) count the votes.

(2) The returning officer must not include an informal vote in the count.

(3) A vote is not informal if the ratepayer's intention is clear.

### **What happens if votes for 2 or more candidates are equal**

**18.** If the votes for 2 or more candidates are equal, the candidate elected must be decided by lots drawn by the returning officer.

SCHEDULE 5 (continued)

**Declaring election result**

**19.(1)** The returning officer must give each candidate a signed declaration of the result of the election.

**(2)** If the election involved a ballot, the declaration must state the following—

- (a) how many ratepayers were on the roll when voting closed;
- (b) how many ballot papers were printed;
- (c) how many ballot papers were issued;
- (d) how many duplicate ballot papers were issued;
- (e) how many ballot papers were returned;
- (f) how many ballot papers were returned as unclaimed mail;
- (g) how many ballot papers were not returned;
- (h) how many ballot papers were rejected during scrutiny and the reasons for rejection;
- (i) how many ballot papers were counted;
- (j) the percentage of ratepayers who voted.

*Examples of reasons for rejection mentioned in paragraph (h)—*

- 1. The declaration form was not returned.
- 2. The ratepayer did not sign the declaration form.

**(3)** A scrutineer may countersign the declaration.

**Term of office of elected board members**

**20.** An elected board member holds office for 3 years.

**Filling casual vacancies**

**21.(1)** If a casual vacancy arises in the office of an elected board

SCHEDULE 5 (continued)

member, the office must be filled by the election of someone else under this part.<sup>31</sup>

(2) However, the person elected to fill the vacancy holds office only for the rest of the term of the office that became vacant.

**PART 5—PROPOSAL EFFECTED**

**Proposal effected by schedule**

22. This schedule gives effect to the proposal contained in the *Dundowran / Nikenbah Water Supply Area and Water Board (Proposed Constitution) Notice (No. 1) 1996* published in the gazette on 13 December 1996 at pages 1394 to 1399.

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<sup>31</sup> Under the *Acts Interpretation Act 1954*, section 25(1)(b), the power of the Governor in Council to appoint a member who is not elected includes a power to appoint someone else if the member's office becomes vacant.

## ENDNOTES

### 1            **Index to endnotes**

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2	Date to which amendments incorporated . . . . .	70
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### 2            **Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 3 December 1997. Future amendments of the Water Resources (Areas and Boards) Regulation 1997 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

*Water Resources (Areas and Boards)  
Regulation 1997*

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### 3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

### 4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	31 July 1997

### 5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1

## **6 List of legislation**

### **Water Resources (Areas and Boards) Regulation 1997 SL No. 221**

made by the Governor in Council on 17 July 1997

notfd gaz 18 July 1997 pp 1351–2

commenced on date of notification

exp 17 July 2007 (see SIA s 54)

as amended by—

### **Water Resources (Area and Boards) Amendment Regulation (No. 1) 1997 SL No. 394**

notfd gaz 21 November 1997 pp 1294–5

commenced on date of notification

## **7 List of annotations**

### **Repeals**

**s 4** om R1 (see RA s 40)

### **SCHEDULE 5—DUNDOWRAN-NIKENBAH WATER SUPPLY AREA AND BOARD**

ins 1997 SL No. 394 s 3