



**NHULUNBUY TOWN BOARD INCORPORATED**

**ELECTION BY-LAWS**

Date of last amendment: 20 November 2014

## TABLE OF CONTENTS

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1	DEFINITIONS.....	3
2	ELECTION BY-LAWS .....	4
3	ELECTIONS .....	4
4	ENROLMENT DAY.....	5
5	NOMINATION DAY .....	5
6	ELECTION DAY.....	6
7	APPOINTMENT OF RETURNING OFFICER .....	6
8	NOMINATIONS AND ELECTION .....	6
9	BALLOT PAPERS .....	8
10	DECLARATIONS.....	9
11	ELECTION DAY.....	9
12	VOTING PROCEDURE .....	10
13	VALIDITY OF BALLOT .....	11
14	VOTER ASSISTANCE .....	11
15	VERIFICATION OF ELECTORS.....	11
16	ADJOURNING POLLING .....	12
17	ELECTION CLOSE .....	15
18	ELECTION RESULTS.....	15
19	ANNOUNCEMENT OF ELECTION RESULTS.....	17
20	DESTRUCTION OF BALLOT PAPERS .....	17
21	APPOINTMENT OF SCRUTINEER.....	17
22	VALIDITY OF ELECTION.....	18
23	FORM OF BALLOT PAPER.....	18
24	LOCAL GOVERNMENT (ELECTORAL) REGULATIONS .....	18

**NHULUNBUY TOWN BOARD INCORPORATED  
ELECTION BY-LAWS**

**1 DEFINITIONS**

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**Board** means Nhulunbuy Town Board Incorporated

**Constitution** means the Constitution of the Board

**Declaration** means a declaration made by an Elector in accordance with  
**Schedule 3**

**Deputy Returning Officer** means the person so appointed in accordance with  
by-law 7.3

**Elected Members** means the members of the Board elected by an Election in  
accordance with the Constitution and these by-laws

**Election** means an election of Elected Members in accordance with the  
Constitution and these by-laws, and shall include a General Election and an  
election to fill a casual vacancy.

**Election Year** means the calendar year occurring every two (2) years  
commencing 2017 during which an Election must be held for two (2) Members for  
four (4) year terms.

**Elector** means a person who is:

- (a) over 18 years of age
- (b) a Resident, and
- (c) enrolled as an elector for an election of a member of the House of  
Representatives for the Northern Territory.

**Enrolment Day** means in relation to any Election, a day prior to that Election but  
for the avoidance of doubt, cannot be before the day of the announcement of that  
Election.

**General Election** means an Election held in relation to all Elected Members.

**NCL** means Nhulunbuy Corporation Limited ACN 009 596 598.

**Nomination Day** means, in relation to an Election, the date by which nominations must be made to the Secretary in relation to an Election.

**Resident** means a person:

- (a) who usually resides in the Town, and
- (b) whose principal place of abode is in the Town.

**Returning Officer** means the person appointed to such role in accordance with by-law 7.

**Secretary** means the Secretary of the Board.

**Town** means the township known as Nhulunbuy and includes Nhulunbuy South, Nhulunbuy West, Contractors Village and the Industrial Estate and any other areas so resolved by the Board to be included in this definition.

**Chief Executive Officer** means the person currently employed by the NCL as Chief Executive Officer, and any other person acting in the role of Chief Executive Officer, and bearing the title Acting Chief Executive Officer.

## **2 ELECTION BY-LAWS**

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These by-laws are made pursuant to clause 8 of the Constitution.

## **3 ELECTIONS**

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- 3.1 There shall be an Election held in accordance with the Constitution and these by-laws during each Election Year every two (2) years commencing 2017.
- 3.2 In 2015, an Election will be held for:
  - (a) two members for two stipulated (2) year terms, and
  - (b) two Members for four stipulated (4) year terms.
- 3.3 Thereafter, from 2017 onwards, an Election must be held every two (2) years for two (2) Members for four (4) year terms.

- 3.4 Any Election to fill a casual vacancy shall be held on a day fixed in accordance with clause 25 of the Constitution and by-law 6.2.
- 3.5 Each person who is enrolled as an Elector is qualified to be enrolled on Enrolment Day as an Elector for the purposes of electing the Elected Members.
- 3.6 The Secretary shall on Enrolment Day compile a roll of Electors and shall include on that roll the names of all persons who are enrolled on that day as Electors.

#### **4 ENROLMENT DAY**

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- 4.1 In respect of each Election held under this Constitution, Enrolment Day is the day determined by the Board to be Enrolment Day in respect of that Election.
- 4.2 The Secretary shall publish notice of the day appointed as the Enrolment Day in respect of each Election not less than 14 days before the day so appointed in a newspaper or publication circulating in Nhulunbuy.

#### **5 NOMINATION DAY**

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- 5.1 Nomination Day in respect of each Election held in accordance with these by-laws is the day appointed by the Board to be Nomination Day in respect of that Election.
- 5.2 The Board shall not appoint a day to be Nomination Day in respect of an Election under these by-laws if the day is more than 30 days after Enrolment Day in respect of that Election.
- 5.3 Nominations for membership of the Board to be filled at an election shall close at noon on Nomination Day at the office of the Chief Executive Officer.
- 5.4 The Secretary shall no less than ten (10) days before Nomination Day, give notice in a newspaper or publication circulating in the Town of the date, time and place at which nominations will close but if he/she does not do so the Election is not thereby invalidated.

## 6 ELECTION DAY

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- 6.1 The Board by resolution shall fix the date of each Election in every Election Year.
- 6.2 In the event of a casual vacancy of the Board, the Board shall fix the date of any Election to fill such vacancy by resolution.

## 7 APPOINTMENT OF RETURNING OFFICER

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- 7.1 The Board may, not less than 14 days before Nomination Day, appoint a person to be the Returning Officer to preside at the Election.
- 7.2 If no person is appointed under the last preceding sub-section the Secretary to the Board shall be the Returning Officer.
- 7.3 A Returning Officer who is unable, by reason of absence or illness to perform any of his/her duties as Returning Officer may, in writing, appoint another officer to act as Deputy Returning Officer in his/her stead in accordance with **Schedule 1**.
- 7.4 A person appointed to act as Deputy Returning Officer under by-law 7.3 shall have and may exercise and perform all the rights, powers and duties of the Returning Officer.
- 7.5 A person who is:
- (a) under eighteen years of age
  - (b) a candidate for election, or
  - (c) a member of the Board
- shall not be appointed as Returning Officer, presiding Officer or poll clerk for an election or supplementary election.

## 8 NOMINATIONS AND ELECTION

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- 8.1 Nominations for Elected Members shall be made in accordance with clause 18 of the Constitution and shall be in the form set out in **Schedule 2**.

- 8.2 On Nomination Day the Returning Officer shall attend at the office of the Town Chief Executive Officer and shall as soon as practicable after the time for nominations has expired:
- (a) examine the nominations lodged to determine whether they are in order.
  - (b) announce to such persons as may be there present the names of the persons who have been duly nominated for membership of the Board.
  - (c) if there are no more persons duly qualified for membership of the Board for which they have been duly nominated than there are offices required to be filled, declare those persons to be duly elected to membership of the Board, with effect from and including the day following the day fixed to be Election Day for that Election, and
  - (d) if there are more persons duly qualified and nominated for membership of the Board than there are offices required to be filled, adjourn further proceedings in respect of the Election to the day fixed to be Election Day for that Election.
- 8.3 Where on Nomination Day, a Returning Officer adjourns proceedings in accordance with by law 8.2, the Returning Officer shall cause all necessary arrangements to be made for taking the poll, and in particular, shall:
- (a) cause public notice to be given in a newspaper or publication circulating in the Town stating:
    - (i) the purpose of the adjournment
    - (ii) the full christian and surnames of the several candidates
    - (iii) the date upon which, and the hours within which, voting will take place as determined by these by-laws, and
    - (iv) the places at which voting will be held.

- (b) cause such polling places to be prepared as will be reasonably required for carrying out the Election.
- (c) appoint, in writing, a presiding officer and poll clerk for each polling place.
- (d) ensure that in his/her polling place there is provided:
  - (i) ballot papers
  - (ii) a sufficient number of ballot boxes fixed with a lock or other device for securely fastening the cover to the boxes and having a cleft in the cover
  - (iii) a sufficient number of separate compartments so constructed as to screen an elector from observation whilst marking his/her ballot paper
  - (iv) a pencil in each voting compartment for the use of an elector when marking his/her ballot paper
  - (v) a copy of the Electors Roll for the use of the presiding officer, and
- (e) cause to be done such other things deemed necessary for the efficient conduct of the Election.

## **9 BALLOT PAPERS**

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- 9.1 The names of the candidates shall be arranged on the ballot paper and in other papers in respect of the Election according to the alphabetical order of the surnames of the candidates.
- 9.2 Where two (2) or more candidates have the same surname, the names of those candidates shall be arranged according to the alphabetical order of their christian names.
- 9.3 Where the similarity in the names of two (2) or more candidates is likely to cause confusion, the names of those candidates may be arranged with such description or addition as will distinguish them from one another.



## 10 DECLARATIONS

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Prior to Polling Day:

- (a) the Returning Officer will make provision for votes to be recorded in the offices of NCL by Electors making a Declaration in accordance with **Schedule 3** as soon as practicable after nomination day.
- (b) on completion of the Declaration, the voter shall be provided with a ballot paper and, after recording his/her vote, the ballot paper shall be sealed in the Declaration envelope in the presence of the Polling Clerk and placed, by the elector, in a sealed ballot box.
- (c) a register of all such ballot papers issued pursuant to this Declaration shall be kept and, prior to Polling Day, all such elector's names shall be marked off the electoral roll.

## 11 ELECTION DAY

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11.1 On Election Day:

- (a) the presiding officer shall be present at his/her polling place whilst voting is in progress.

- (b) immediately before voting commences the presiding officer shall ensure that the ballot boxes contain only a reconciled number of Declaration envelopes and shall exhibit the ballot boxes opened for inspection by such persons as may be there present.
  - (c) each polling place shall be open to electors for the purpose of voting from eight o'clock in the morning until six o'clock in the afternoon.
  - (d) an Elector, when applying for a ballot paper shall state his/her full christian names and surname and, if required by the presiding officer or poll clerk, his/her place of abode and his/her profession or occupation.
- 11.2 Upon being satisfied that an Elector is entitled to vote, the presiding officer or poll clerk shall:
- (a) place a mark against the Elector's name on the Electors roll, and
  - (b) hand to the Elector a ballot paper which bears the names of the candidates and has been initialled by the presiding officer of the polling places.

## **12 VOTING PROCEDURE**

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- 12.1 The Elector shall cast his/her vote by proceeding to a voting compartment immediately after he/she receives his/her ballot paper and there marking the ballot paper in accordance with the directions set out on the ballot paper.
- 12.2 When an Elector has marked his/her ballot paper he/she shall deposit it in the ballot box, folded once in such a manner as to conceal the names of the candidates.
- 12.3 Notwithstanding by-law 11.1(c) a presiding officer shall permit an Elector to vote after six o'clock in the afternoon if that Elector has entered the polling place before that time.

### **13 VALIDITY OF BALLOT**

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- 13.1 A ballot paper is validly completed if a tick is placed in the square adjacent to the name of each of the candidates whom the Elector chooses to elect provided that the number of ticks so placed shall not exceed the number of vacancies on the Board.
- 13.2 A ballot paper is informal if it bears any mark, number or work other than in accordance with by law 13.1.

### **14 VOTER ASSISTANCE**

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Where a presiding officer is satisfied that an Elector is, by reason of impaired eyesight, physical incapacity or illiteracy, unable to vote without assistance, the presiding officer shall permit a person appointed by the Elector to accompany the Elector and to mark the ballot paper and deposit it in the ballot box for the Elector.

### **15 VERIFICATION OF ELECTORS**

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- 15.1 Subject to this section, the right of a person to vote at an Election shall not be questioned.
- 15.2 A scrutineer or two (2) Electors may request a presiding officer to make enquiry of a person who applies for, or who obtains, a ballot paper at a polling place as to the right of that person to vote.
- 15.3 On request, in accordance with the provisions of the last preceding subsection, a presiding officer may put questions to a person applying for a ballot paper or who has obtained a ballot paper, asking:
- (a) the full christian names and the surname and address of that person.
  - (b) if he/she is a person whose name appears on the Electors roll.
  - (c) whether he/she was qualified to be enrolled at the time when his/her name was placed on the Electors roll.

- (d) whether he/she is qualified to have his/her name retained on the Electors roll.
  - (e) whether he/she is of or over the voting age.
  - (f) whether he/she has already voted for that Election.
- 15.4 Subject to the provisions of by-law 11.1(d), a presiding officer shall not:
- (a) ask the questions set forth in the last preceding sub-section of a person who has deposited his/her ballot paper in the ballot box.
  - (b) ask any questions other than the questions referred to in the last preceding sub-section, or
  - (c) permit a person to whom he/she has put those questions to place his/her ballot paper in the ballot box until that person has answered those questions and the presiding officer is satisfied that the person is entitled to vote.
- 15.5 Where the presiding officer, by reason of one or more answers given to questions asked by him in pursuance of the provisions of by-law 15.4 is satisfied that a person is not entitled to have his/her name on the Electors roll or to vote, the presiding officer shall:
- (a) not permit that person to vote, and
  - (b) immediately after the Election report the matter to the Board.
- 15.6 Where the Board receives a report under by-law 15.5(b) it may, by resolution, direct the Secretary to correct the Electors roll in such manner as the circumstances require.

## **16 ADJOURNING POLLING**

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- 16.1 A presiding officer may adjourn the taking of votes at the polling place in respect of which he/she is presiding officer if:
- (a) proceedings at that polling place are interrupted or disturbed by riot or violence

- (b) there are no, or insufficient, ballot papers available for the proper conduct of the Election
- (c) a copy of the Electors roll is not available for use, or
- (d) there are no, or insufficient number of, ballot boxes available.

- 16.2 Where under by-law 16.1, a presiding officer adjourns the taking of votes at an Election he/she shall:
- (a) adjourn the taking of votes to the next day, not being a Sunday or a public holiday upon which he/she considers it will be possible to continue the taking of votes
  - (b) cause a notice to be posted at the polling place stating:
    - (i) that the taking of votes has been adjourned
    - (ii) the reason for the adjournment, and
    - (iii) the date to which he/she has adjourned the taking of votes, and
  - (c) subsequently notify the Returning Officer:
    - (i) of the adjournment
    - (ii) of the reason for that adjournment, and
    - (iii) the date to which he/she has adjourned the taking of votes.
  - (d) the taking of votes on any aforesaid adjournment should be conducted in accordance with the provisions of the Constitution and these by-laws to the intent that such adjournment was an original taking of votes.
- 16.3 Where the Returning Officer is notified that the taking of votes at a polling place has been adjourned under this by-law 16, he/she shall not declare the election to be concluded nor make a proclamation as to the result of the voting until:
- (a) the presiding officer has declared the voting to be closed at that polling place, and
  - (b) the presiding officer has delivered the ballot boxes from that polling place to him/her.

**17 ELECTION CLOSE**

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- 17.1 The presiding officer shall, subject to by-law 12.3, as soon as every Elector at the polling place has deposited his/her ballot paper in the ballot box:
- (a) declare the voting at that polling place to be closed
  - (b) close and seal the ballot box containing the ballot papers for that polling place
  - (c) forthwith cause the ballot boxes to be delivered to the Returning Officer
  - (d) deliver to the Returning Officer all unused ballot papers from that polling place, and
  - (e) return the Electors roll used at that polling place to the Returning Officer.

**18 ELECTION RESULTS**

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- 18.1 Upon the casting of all votes in accordance with by-law 12 (and for the avoidance of doubt, where necessary, by-law 12.3) on Polling Day, the Returning Officer shall attend at the office of the Chief Executive Officer and, as soon as is reasonably practicable:
- (a) open the ballot boxes
  - (b) examine the ballot papers
  - (c) reject all ballot papers that are informal, and
  - (d) count, in accordance with the next succeeding section, the votes recorded in favour of candidates on ballot papers which have not been rejected as informal.
- 18.2 In determining the result of any election or supplementary election the Returning Officer shall proceed as follows:

- (a) in respect of each ballot paper the Returning Officer shall count one vote to each candidate:
  - (i) against whose name on the ballot paper a tick is placed
  - (ii) to whom he/she is required to count a vote under by-law 18.3
- (b) the names of the candidates shall then be listed in order of votes counted to each commencing with the candidate receiving the most votes
- (c) the Returning Officer shall then declare as elected those four candidates with the highest number of ticks marked against their name
- (d) where there are more than four candidates with the highest number of ticks marked against their names the Returning Officer shall write each of those names on a separate piece of paper and place them in a box and in the presence of each candidate's scrutineer choose four of those papers at random. The candidates whose names appear on those papers shall be declared elected
- (e) where there is one candidate with the highest number of ticks marked against his/her name and four or more candidates with the second highest number of ticks marked against their names the Returning Officer shall as between those four or more candidates declare as elected the three candidates whose name is drawn in accordance with by-law 18.2(d)
- (f) where there are two candidates elected as a result of the highest number of ticks marked against their names and three or more candidates with the third highest number of ticks marked against their names the Returning Officer shall as between those three or more candidates declare as elected the two candidates whose name is drawn in accordance with by-law 18.2(d)



- (g) where there are three candidates elected as a result of the highest number of ticks marked against their names and two or more candidates with the fourth highest number of ticks marked against their names the Returning Officer shall as between those two or more candidates declare as elected the candidate whose name is drawn in accordance with by-law 18.2(d).

18.3 The Returning Officer shall count a vote to a candidate in any case where he/she is satisfied from a ballot paper that the person who filled in the ballot paper has done so in such manner as to indicate a clear intention to vote for that candidate as one of the candidates to be elected.

## **19 ANNOUNCEMENT OF ELECTION RESULTS**

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The Returning Officer shall, after declaring an Election or supplementary election to be concluded, within two (2) days serve written notice personally or by post on each person who has been elected and within 14 days give public notice stating:

- (a) the name of the persons or person elected, and
- (b) the date from and including which that Election is effective.

## **20 DESTRUCTION OF BALLOT PAPERS**

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The Returning Officer shall preserve the ballot papers for twenty-eight days after an Election or supplementary election has been concluded and shall then destroy all ballot papers for the Election, whether used or unused, unless an action or proceeding, of which he/she has had notice, has been commenced within that time relating to the Election or supplementary election.

## **21 APPOINTMENT OF SCRUTINEER**

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21.1 A candidate for Election may, in writing, appoint persons to act as scrutineers on his/her behalf.

21.2 A person appointed as scrutineer on behalf of a candidate may be present:

- (a) whilst voting is in progress, and
- (b) whilst votes are being counted

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

## 22 **VADILITY OF ELECTION**

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The validity of an Election or supplementary election is not affected only by reason of a delay in the commencement of voting or by:

- (a) an error, mistake or omission on the part of the Returning Officer, a presiding officer or a poll clerk, or
- (b) an error of merely a formal nature

which does not substantially affect the result of the Election.

## 23 **FORM OF BALLOT PAPER**

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The ballot paper to be used at an Election held under the Constitution and these by-laws shall be in accordance with the **Schedule 4**.

## 24 **LOCAL GOVERNMENT (ELECTORAL) REGULATIONS**

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Subject to the Constitution and these by-laws, the provisions of the *Local Government (Electoral) Regulations*, as amended (**Regulations**), shall apply with such modifications as are appropriate, to and in relation to an Election as if:

- (a) the Election were an election of aldermen under the Regulations
- (b) an Election, was an election to appoint aldermen under the Regulations
- (c) the Board was a council for a municipality constituted under the Local Government Act (NT)
- (d) the Secretary was the Town Clerk of such a municipality, or
- (e) an alderman of such a municipality was an Elected Member.

**SCHEDULE 1 – APPOINTMENT OF DEPUTY RETURNING OFFICER**

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**NHULUNBUY TOWN BOARD**

**Appointment of Deputy Returning Officer**

I, \_\_\_\_\_ of \_\_\_\_\_

being the Returning Officer under the provisions of the Election By-Laws of the

Nhulunbuy Town Board hereby appoint \_\_\_\_\_

of \_\_\_\_\_ to be the Deputy

Returning Officer for the purposes of the election/supplementary election to be held

on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ .

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ .

Signature of Returning Officer \_\_\_\_\_

**SCHEDULE 2 – NOMINATION FORM**

**NHULUNBUY TOWN BOARD  
NOMINATION FOR MEMBERSHIP  
OF THE BOARD**

**TO BE COMPLETED BY NOMINATOR (USE BLOCK LETTERS)**

I, .....  
(GIVEN NAMES) (SURNAME)

of .....  
being qualified under the constitution of the Nhulunbuy Town Board and

I, .....  
(GIVEN NAMES) (SURNAME)

of .....

being also qualified under the constitution of the Nhulunbuy Town Board hereby  
nominate .....

(GIVEN NAMES) (SURNAME)

of .....Nhulunbuy,  
for membership of the Town Board.

Dated this ..... day of ..... 20 .....

Signatures of Nominators .....

.....

Telephone (BH) .....

**TO BE COMPLETED BY NOMINEE (USE BLOCK LETTERS)**

I, .....  
(GIVEN NAMES) (SURNAME)

of .....

being a person entitled to be nominated for membership of the Nhulunbuy Town  
Board, hereby consent to be nominated for membership.

Dated this ..... day of ..... 20.....

(SIGNATURE OF NOMINEE)

Ref:Form:F7425

**NHULUNBUY TOWN BOARD INC.**

**ENROLMENT DECLARATION**

I, .....

of.....

hereby declare that I claimed enrolment at the offices of  
Nhulunbuy Corporation Limited prior to the close of the roll for  
the election on *Day, Date, Year*.

**Dated this..... day of ..... 20.....**

.....  
**Signature of Voter**

**SCHEDULE 4 – FORM OF BALLOT PAPER**

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NHULUNBUY CORPORATION LIMITED

# BALLOT-PAPER

## ELECTION OF 1 MEMBER TO THE NHULUNBUY TOWN BOARD INCORPORATED

**DIRECTIONS:** Mark your vote on this ballot-paper by placing a **TICK** in the square opposite the name of the **ONE** candidate of your choice.  
Fold the ballot-paper and place in the ballot-box.

**NOTE:** Your ballot-paper will be **INFORMAL** if you mark it with a number or a cross.

### CANDIDATES

SURNAME, FirstName SecondName

NHULUNBUY CORPORATION LIMITED

# BALLOT-PAPER

## ELECTION OF 1 MEMBER TO THE NHULUNBUY TOWN BOARD INCORPORATED

**DIRECTIONS:** Mark your vote on this ballot-paper by placing a **TICK** in the square opposite the name of the **ONE** candidate of your choice.  
Fold the ballot-paper and place in the ballot-box.

**NOTE:** Your ballot-paper will be **INFORMAL** if you mark it with a number or a cross.

### CANDIDATES