

2025 – Amendments to the Local Government Act 2019

Discussion Paper - Part A

Document title	2025 - Amendments to the Local Government Act 2019
Contact details	Department of Housing, Local Government and Community Development
Approved by	Brent Warren, Deputy CEO DHLGCD
Date approved	31 March 2025
Document review	N/A
TRM number	N/A

Acronyms	Full form
"The Department"	Department of Housing, Local Government and Community Development
LGA "The Act"	<i>Local Government Act 2019</i>
LGANT	Local Government Association of the Northern Territory
LGCDU	Local Government and Community Development Unit
MCoC	Model Code of Conduct
NT	Northern Territory
NTEC	Northern Territory Electoral Commission
SGCC	Standing Governance and Code Committee

Contents

Foreword	3
Roles & Responsibilities	4
How to use this paper	5
Consultation Timeline	6
Chapter 1 - Delegations	8
Chapter 2 - Miscellaneous Amendments to the Local Government Act 2019	12
Chapter 3 - Tenders by council or local government subsidiary & procurement exemptions	19
Chapter 4 - Amendments to Local Government (Electoral) Regulations 2021	22



Foreword

The *Local Government Act 2019* provides the legal foundation for how councils operate and make decisions in the Northern Territory. Following ongoing feedback and experience in applying the Act, several areas for improvement have been identified.

In particular, the *Local Government (General) Regulations 2021* and the *Local Government (Electoral) Regulations 2021* have presented challenges that need to be addressed. This paper forms part of a staged approach to strengthen the overall framework, and it represents the second set of proposed amendments.

These proposals aim to improve how councils' function and support greater transparency, accountability, and fairness in local government decision-making. The paper invites feedback and input from councils, elected members, stakeholders, and the community.

The key topics covered include:

- **Chapter 1** – Delegations
- **Chapter 2** – Miscellaneous Amendments to the Local Government Act 2019
- **Chapter 3** – Tenders by council or local government subsidiary & procurement exemptions
- **Chapter 4** – Amendments to Local Government (Electoral) Regulations 2021
- **Chapter 5** – Superannuation Payments for Elected Members
- **Chapter 6** – Conditional Rating and Rates Exemptions for social and affordable housing
- **Chapter 7** – Appointment of principal member of council
- **Chapter 8** – Code of Conduct

To facilitate focused consultation and ensure

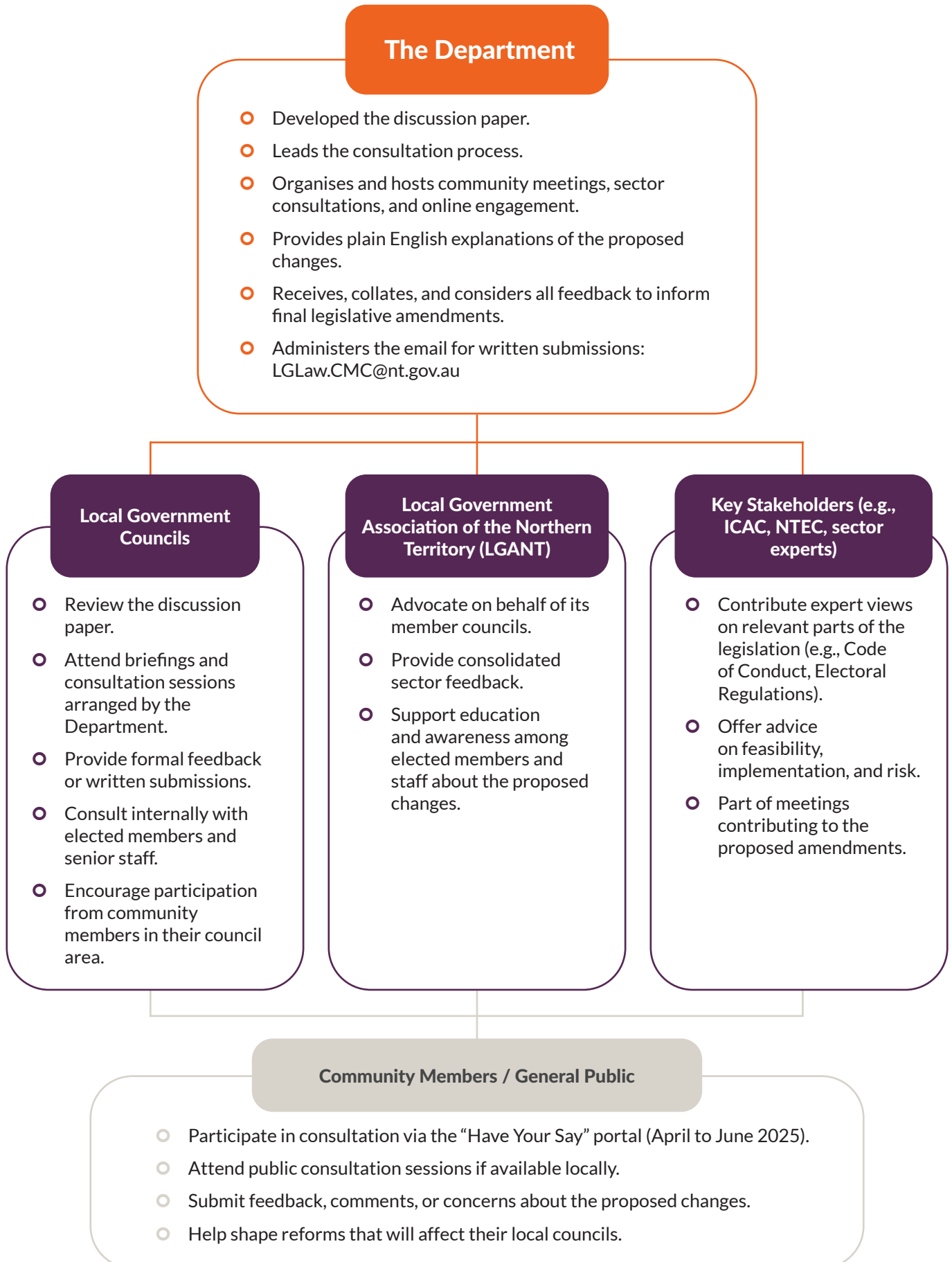
stakeholders have adequate time to consider and respond to the proposed changes, the amendments will be released across three parts. This structured release recognises the breadth of topics and their varying levels of complexity and significance to councils, elected members, and the broader community.

- **Part A** covers Chapters 1, 2, 3, and 4, which focus on practical amendments to delegations, procurement, and regulatory improvements.
- **Part B** includes Chapters 5, 6 and 7, which deals with superannuation payments, rating frameworks and principal member appointment, requiring more in-depth policy consideration.
- **Part C** will be dedicated to Chapter 8, which addresses the Code of Conduct. Given the foundational role this chapter plays in shaping the integrity and behaviour of elected members, it will be released separately to allow for more detailed feedback and discussion.



We welcome your comments on the issues raised and encourage suggestions that will help improve the legislation and support strong, responsive local government across the Northern Territory.

Roles and Responsibilities



How to use this paper

The structure of the discussion paper is summarised here. The discussion paper can be read as a whole, or for readers who have a particular interest each chapter largely stands alone.

Chapters reflect the key topics for discussion and review. Each chapter is structured in the following way.

Current Arrangements

The current provisions of the Act are described

Key Issues

An analysis of key issues raised by current arrangements.

Background

This section provides reference to any research, consultation findings, observations and outlines possible ideas from other jurisdictions. These are options for people to think about and discuss. They are not final decisions. They do not reflect the government's position, they are open for debate.

To Consider

Each chapter includes this section to help guide discussion. These proposals encourage readers to think about possible solutions.

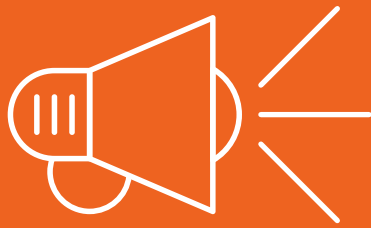
The aim is to hear from councils, stakeholders, and community members to collectively resolve these issues.

Next Steps

The consultation timeline articulates the broad range of activities scheduled to follow the release of this paper. Please check the Department web pages for further information.

Consultation Timeline

Key Action	Anticipated date of delivery	Lead Party	Comments
Release of Discussion paper Part A	31 March 2025	Department	The discussion paper sent to all local government councils, LGANT, as well as any identified key stakeholders.
Note – Discussion paper Part B and Part C to be released in stages			
Website information update	4 April 2025	Department	The Discussion Paper is available on to the Department website including information about why the changes are beneficial to the sector.
Information Session – Part A	4 April 2025	Department	Covers Chapters 1, 2, 3, and 4. Introductory workshop to explain changes.
Information Session – Part B	11 April 2025	Department	Covers Chapters 5, 6 and 7. Introductory workshop to explain changes.
Information Session – Part C	29 April 2025	Department	Covers Chapter 8 – Code of Conduct. Introductory workshop to explain changes.
“Have Your Say” commences	22 April – 20 June 2025	Community/ Stakeholders	<p>A “Have your say” questionnaire on Department website for direct feedback on the proposed amendments to the Act.</p> <p>The discussion paper will be available to download on the website.</p>
Sector consultation	22 April – 20 June 2025	Department & Councils	<p>Sector consultation will be conducted concurrently with the online “Have Your Say” consultation.</p> <p>Sector consultation will take the form of a “road-show.” The Department will arrange to visit all local government councils in the first instance, where possible.</p> <p>An online consultation will be arranged where an in-person visit is not feasible.</p> <p>Elected members and council officials will have an opportunity to ask any questions to clarify matters that are unclear, as well as to provide feedback on the amendments.</p>
Collation of feedback	20-30 June 2025	Department	Collation of all feedback from the consultation process to inform the drafting of the final amendments.



How to Have Your Say

Your input on the proposed amendments to the LGA can be provided to:

 LGLaw.CMC@nt.gov.au

Please check the Department web pages for further information about online information sessions and consultations.

All feedback, written submissions and community consultation will be completed by **30 June 2025**.



CHAPTER 1



The Local Government and Community Development team delivering professional development training to West Arnhem Regional Council elected members.

Delegations

Current Arrangements

Section 40 of the Act relates to delegations and enables a council to delegate powers and functions to certain other persons or entities.

Section 40(2) provides as follows:

A delegation may be made to:

- a. the CEO; or*
- b. a council committee; or*
- c. a local authority; or*
- d. a local government subsidiary.*

Under section 40(3) of the Act, a tender process can be delegated to the CEO of a council.

Under section 90 a newly elected council is required to set the schedule for holding of ordinary council meetings for the term of the council. Regulation 19 of the *Local Government (General) Regulations 2021* provides that if a council does not schedule an ordinary meeting at least once in each month, the council must delegate to a council committee the necessary powers to carry out, on behalf of the council, financial functions of the council in the months the council does not schedule an ordinary meeting.

Section 82(3) of the Act provides that members of a council committee may consist of, or include, persons who are not members of the council.

Key Issues

Tenders

Councils can delegate tender decisions to the CEO, however in some cases, councils are not being provided with information (in a timely fashion, or at all) about the outcome of tenders that the CEO has decided on.

Regulation 38 of the Regulations set out the requirements for tender processes undertaken pursuant to regulation 36.

Greater clarity is needed on when and how information about delegated tender decisions should be reported back to council.

Committees

A council committee is not subject to the same procedural and accountability requirements as the other delegates presently listed in section 40(2). Section 82(3) of the Act provides that members of a council committee may consist of, or include, persons who are not members of the council.

This can be problematic when non-elected members are delegated powers and functions of council when not having the full range, or potentially any range of, council views and representation or information.

Background

Part of the work the current round of amendments is designed to overcome is to reduce the potential for conflict between elected members and the CEO as to the availability of information, and to clarify the roles and responsibilities of the elected members and the CEO.

The 2024 Western Australia local government reforms proposed that local governments introduce Council Communications Agreements between the council and the CEO.¹ The purpose of these agreements was to clearly set out what information was to be provided to councillors, how it would be provided, and timeframes for the provision of that information. A default agreement was developed and was deemed to apply to all councils. For any variation to the default agreement, the CEO and an absolute majority of council needed to agree, with the varied agreement to specify how information should be requested and received.

Provisions in the default agreement about how elected members could receive information was to remain unchanged.

While the introduction of a Council Communication Agreement is not presently proposed in the Northern Territory, one of the purposes of amendment to the delegations provisions in the Act, is to clarify the roles and responsibilities as between the elected members, who are responsible to their communities, and to the CEO, who is tasked with supporting and administering the decisions made by the elected members.

To Consider

It is proposed to remove or restrict the ability of councils to delegate their powers and functions to a council committee. The reasoning behind this proposal is that committees are not subject to the same procedural and accountability requirements as an elected council, can contain non-elected members, and do not have the full range of council views and representation or information. Furthermore, the proposal will create a consistency with the intention of section 84 of the Act, which states that a council committee is subject to control and direction by the council.

This needs to be considered in the context of each council's schedule of meetings. Under section 90 a newly elected council is required to set the schedule for holding of ordinary council meetings for the term of the council. Regulation 19 of the *Local Government (General) Regulations 2021* provides that if a council does not schedule an ordinary meeting at least once in each month, the council must delegate to a council committee the necessary powers to carry out, on behalf of the council, financial functions of the council in the months the council does not schedule an ordinary meeting.

Section 82(3) of the Act provides that members of a council committee may consist of, or include, persons who are not members of the council. This can be problematic when non-elected members are delegated powers and functions of council when not having the full range, or potentially any range of, council views and representation or information. One solution to this is to amend the Act so that only councillors can be members of a council committee. This will preserve governance flexibility whilst upholding accountability.

Amendments to section 40(4) will also need to be considered. Section 40(4) of the Act provides:

A council may delegate to the CEO the following:

- a. *the power to enter into a transaction on conditions that are not arm's length conditions if the transaction will provide a community benefit;*
- b. *the power to waive a fee for service (wholly or partly) under section 289(4) if the waiver will provide a community benefit.*

Note for subsection (4)(b)

A decision to waive a fee for service (wholly or partly) under section 289(4) requires a council resolution.

Prompting Questions for Feedback on Proposed Amendments

For each proposal outlined in the Discussion Paper, please respond to the following questions to help inform the final amendments. Your feedback is essential in shaping a fair and effective local government framework.

1. Do you support the proposed change?

- ☐ Keep as is (no change required)
- ☐ Agree with proposed change
- ☐ Other (please specify below)

2. Please explain your selection.

If you selected 'Keep as is', what is your reason for maintaining the current provision?

If you selected 'Agree with proposed change', what aspect do you believe improves the current framework?

If you selected 'Other', please outline your alternative suggestion or concerns.

3. How do you think this proposal will impact your council or community in practice? (Open-ended response)

4. Are there any unintended consequences or practical implementation issues you foresee with this change? (Open-ended response)

5. Do you have any additional comments or examples to support your feedback? (Optional – open-ended response)

CHAPTER 2



Miscellaneous Amendments to the Local Government Act 2019

i. Offences for conflicts of interest

Current Arrangements

Section 73(1)(c) (i) of the Act reads:

1. *"A person commits an offence if:*
 - a. *the person is a staff member; and*
 - b. *the staff member has a personal or financial interest in a matter in regard to which the member is required or authorised to act or give advice; and*
 - c. *the member does not disclose the interest:*
 - i. *if the staff member is the chief executive - to the local government subsidiary; or*
 - ii. *in any other case - to the chief executive."*

Key Issues

The omission of the word 'staff' at subsection (c) has caused confusion as to who commits an offence in the context of this provision.

To Consider

A minor amendment is proposed to section 73(1)(c) (i) of the Act to add the word "staff" so the provision reads:

1. *"A person commits an offence if:*
 - a. *the person is a staff member; and*
 - b. *the staff member has a personal or financial interest in a matter in regard to which the member is required or authorised to act or give advice; and*
 - c. *the staff member does not disclose the interest:*
 - i. *if the staff member is the chief executive - to the local government subsidiary; or*
 - ii. *in any other case - to the chief executive."*

This is to clarify who commits an offence in the context of this provision.

Prompting Questions for Feedback on Proposed Amendments

For each proposal outlined in the Discussion Paper, please respond to the following questions to help inform the final amendments. Your feedback is essential in shaping a fair and effective local government framework.

1. Do you support the proposed change?

- ☐ Keep as is (no change required)
- ☐ Agree with proposed change
- ☐ Other (please specify below)

2. Please explain your selection.

If you selected 'Keep as is', what is your reason for maintaining the current provision?

If you selected 'Agree with proposed change', what aspect do you believe improves the current framework?

If you selected 'Other', please outline your alternative suggestion or concerns.

**3. How do you think this proposal will impact your council or community in practice?
(Open-ended response)**

4. Are there any unintended consequences or practical implementation issues you foresee with this change? (Open-ended response)

**5. Do you have any additional comments or examples to support your feedback?
(Optional – open-ended response)**

ii. Ordinary and Special Meetings

Current Arrangements

Section 93 of the Act relates to the publication of notices for ordinary and special meetings of a council.

Key Issues

Presently, there is no way for the regulator to tell when a notice or business paper was published to the council's website and if it was published within the required timeframe.

To Consider

It is proposed to amend the section to include a requirement for a date and time of issue to be included on published notices.

Corresponding amendments to regulations 102 -105 of the *Local Government (General) Regulations 2021* will also be required.

Prompting Questions for Feedback on Proposed Amendments

For each proposal outlined in the Discussion Paper, please respond to the following questions to help inform the final amendments. Your feedback is essential in shaping a fair and effective local government framework.

1. Do you support the proposed change?

- ☐ Keep as is (no change required)
- ☐ Agree with proposed change
- ☐ Other (please specify below)

2. Please explain your selection.

If you selected 'Keep as is', what is your reason for maintaining the current provision?

If you selected 'Agree with proposed change', what aspect do you believe improves the current framework?

If you selected 'Other', please outline your alternative suggestion or concerns.

**3. How do you think this proposal will impact your council or community in practice?
(Open-ended response)**

4. Are there any unintended consequences or practical implementation issues you foresee with this change? (Open-ended response)

**5. Do you have any additional comments or examples to support your feedback?
(Optional – open-ended response)**

iii. Holding of Elections

Current Arrangements

Section 160 of the Act currently permits the Minister to extend the time for holding an election, or for taking any step in relation to holding of an election.

Section 11(1)(a) of the Act relates to public notice for matters in relation to elections. Subsection (1) states:

"If this Act requires public notice to be given about a matter in relation to an election, notice about the matter must be published as follows:

the returning officer for the election must publish information about the matter in a newspaper circulating in the relevant local government area;..."

Key Issues

There may be circumstances where an emergency event requires the election to be postponed at short notice (for example a critical weather event) and timely changes with adequate public notice are critical.

Statutory requirement to provide public notice for matters in relation to elections via newspaper is not keeping up with modern practices and may not be the best medium or communication channel.

To Consider

The NTEC has proposed the introduction of a provision that also allows the returning officer to make a change to the election day in an emergency, for a period of not more than 21 days. This process has been proposed to increase efficiency and practicality when time is of the essence during a critical weather event. This is consistent with powers in other jurisdictions.

It is proposed to amend the requirement for public notices in relation to elections be in a manner deemed most appropriate by the returning officer for the relevant local government area. This will ensure that the statutory requirements for public notices for elections are in line with the tranche one amendments of removing newspaper notification (unless that is deemed the most appropriate method), and to ensure that notifications for elections of local government councils are in a manner that is meaningful and targeted for the relevant local government area.

The NTEC has recommended that the statutory requirement to provide public notice for matters in relation to elections be permitted in a format and via a communication channel deemed most appropriate by the returning officer with the aim to maximise distribution of the information in the relevant local government area. This proposed amendment is in line with the sector feedback regarding modernising requirements for public notices, which was introduced during the first tranche of amendments of the Act in March 2025.

It is noted that this proposed amendment will require a consequential amendment to section 5 of the *Electoral Act 2004* to ensure consistency across Territory legislation.

Prompting Questions for Feedback on Proposed Amendments

For each proposal outlined in the Discussion Paper, please respond to the following questions to help inform the final amendments. Your feedback is essential in shaping a fair and effective local government framework.

1. Do you support the proposed change?

- ☐ Keep as is (no change required)
- ☐ Agree with proposed change
- ☐ Other (please specify below)

2. Please explain your selection.

If you selected 'Keep as is', what is your reason for maintaining the current provision?

If you selected 'Agree with proposed change', what aspect do you believe improves the current framework?

If you selected 'Other', please outline your alternative suggestion or concerns.

3. How do you think this proposal will impact your council or community in practice?
(Open-ended response)

4. Are there any unintended consequences or practical implementation issues you foresee with this change? (Open-ended response)

5. Do you have any additional comments or examples to support your feedback?
(Optional – open-ended response)

CHAPTER 3



Tenders by council or local government subsidiaries and procurement exemptions

This proposal will require amendment to the Local Government (General) Regulations 2021. Part 2 Division 12 Subdivision 1 of the Regulations sets out the general requirements that councils must adopt when seeking quotations and tenders for supplies.

Current Arrangements

Regulation 36(1) sets out the processes to be adopted when a council or local government subsidiary seeks a tender under regulation 34(2)(c) or 35(2)(b) or proposes to obtain supplies at a cost of more than \$150,000.

Regulation 36(6) requires a tender panel to report to the CEO in relation to the tenders. This panel must be convened by the CEO.

Regulation 36(8) requires the CEO to provide that report to the council or local government subsidiary.

Regulation 38 lists certain circumstances where a quotation or tender is not required under regulation 36.

Key Issues

Some CEOs have delayed or not provided a tender report to the council, arguing that information is confidential and not in the public domain. This means elected council members may not be aware of details for some months.

There appears to be some conflict between the CEO being required to report to council, notwithstanding the CEO has been given a financial delegation to approve expenditure or to enter a contract on behalf of the council.

To Consider

To overcome the confusion caused by Regulation 36(8), it could be updated to clarify that the report be provided to council at its next ordinary meeting. Confidential sessions can be used if appropriate, to preserve the privacy of any contract and other commercial considerations. It can be further updated to clarify the reporting process required when a tender process has been delegated.

It is proposed that regulation 38 be updated to state that a quarterly report is required to be presented to Council articulating the instances and reasons if a council elects not to seek quotations or to go to tender.

These proposed amendments are consistent with the functions of council under section 22 of the Act, which includes making prudent financial decisions, planning the use of council resources for the benefit of its area, and to manage the employment of the CEO.

This means that it is the elected members who are responsible for monitoring and understanding council finances. The amendment to regulation 38 would enable council to better monitor compliance with the Act and Regulations.

Prompting Questions for Feedback on Proposed Amendments

For each proposal outlined in the Discussion Paper, please respond to the following questions to help inform the final amendments. Your feedback is essential in shaping a fair and effective local government framework.

1. Do you support the proposed change?

- ☐ Keep as is (no change required)
- ☐ Agree with proposed change
- ☐ Other (please specify below)

2. Please explain your selection.

If you selected 'Keep as is', what is your reason for maintaining the current provision?

If you selected 'Agree with proposed change', what aspect do you believe improves the current framework?

If you selected 'Other', please outline your alternative suggestion or concerns.

3. How do you think this proposal will impact your council or community in practice? (Open-ended response)

4. Are there any unintended consequences or practical implementation issues you foresee with this change? (Open-ended response)

5. Do you have any additional comments or examples to support your feedback? (Optional – open-ended response)

CHAPTER 4



Amendments to Local Government (Electoral) Regulations 2021

Current Arrangements

Regulation 26(1)(a) Postal vote application period: Applications for postal votes currently open three months ahead of the election day.

Regulation 26(1)(b) Postal vote application period: Applications for postal votes for local government by-elections currently open after the invitation for nomination of candidates.

Regulation 35 Publishing of candidate statements: This regulation allows a candidate to lodge a candidate statement.

Regulation 65 Scrutiny of postal votes and elector signature matching: This regulation currently requires an elector's signature on a postal vote certificate to be matched with the signature on their postal vote application, before the NTEC will permit the postal vote to be admitted to scrutiny.

Regulation 87 relates to Electoral costs.

Key Issues

Applications for postal votes for currently open three months ahead of the election day. It is acknowledged that some people would prefer to apply for a postal vote earlier, to ensure they do not miss out on the opportunity to vote is not missed.

Applications for postal votes for local government by-elections currently open after the invitation for nomination of candidates. In some cases, this does not allow a lot of time for delivery, particularly if the postal vote must be delivered to an international location.

Publishing of candidate statements allows a candidate to lodge a candidate statement, however there is no requirement for these statements to be made available to voters. Voters have no access to this information.

Scrutiny of postal votes and elector signature matching currently requires an elector's signature on a postal vote certificate to be matched with the signature on their postal vote application, before the NTEC will permit the postal vote to be admitted to scrutiny. However, most postal vote applications are now made online, meaning there is no way to 'match up' signatures.

There has been conflict between NTEC and councils regarding the costs of managing persons who fail to vote in council elections and by-elections. There has been a divergence of opinion on whether these costs are 'reasonable costs and expenses of conducting the election' as provided for in regulation 87(1) & (2).

Background

Given that Northern Territory local government elections are presently scheduled to occur during

August 2025, it is proposed that a submission to the Executive Council be prepared at the same time that public consultation on proposed amendments to the Act occur. This will enable the Executive Council to consider the proposals, and if approved, recommend their implementation to the Administrator in advance of the elections.

While it is anticipated these proposed amendments will be in operation as at the date of the local government elections, it is noted that any amendment to Regulation 26 will not take effect until 1 January of a general election year. This means that time has already passed for this amendment to apply in the 2025 elections.

To Consider

Regulation 26(1)(a) Postal vote application period: The regulation could be updated to allow postal vote applications from 1 January in a general election year. It is noted that this proposed amendment will not change the impact of regulation 26(2), which states that a person who is a registered postal voter within the meaning of the Electoral Act 2004 is taken to have applied for a postal vote for a local government election.

Regulation 26(1)(b) Postal vote application period: The regulation could be revised to allow electors to apply for a postal vote immediately the NTEC is notified of the casual vacancy, allowing the maximum amount of time for an elector to receive their postal vote.

Regulation 35: The NTEC has proposed an amendment to this regulation, to allow the NTEC to publish candidate statements on its website. This will facilitate greater accessibility of information for voters and enhance democracy.

Regulation 65 Scrutiny of postal votes and elector signature matching: It is proposed to remove the requirement to 'match up' an elector's signature before admitting a postal vote to scrutiny. Updating the present requirement will reflect modern voting processes.

Regulation 87 Electoral costs: The NTEC proposes an amendment to clarify that the costs of managing non-voters are not part of the conduct of an election and are therefore not part of reasonable costs passed on to a council. Include a sub-regulation stating that costs for management of non-voters does not form part of the reasonable costs and expenses of conducting an election.

Prompting Questions for Feedback on Proposed Amendments

For each proposal outlined in the Discussion Paper, please respond to the following questions to help inform the final amendments. Your feedback is essential in shaping a fair and effective local government framework.

1. Do you support the proposed change?

- ☐ Keep as is (no change required)
- ☐ Agree with proposed change
- ☐ Other (please specify below)

2. Please explain your selection.

If you selected 'Keep as is', what is your reason for maintaining the current provision?

If you selected 'Agree with proposed change', what aspect do you believe improves the current framework?

If you selected 'Other', please outline your alternative suggestion or concerns.

3. How do you think this proposal will impact your council or community in practice? (Open-ended response)

4. Are there any unintended consequences or practical implementation issues you foresee with this change? (Open-ended response)

5. Do you have any additional comments or examples to support your feedback? (Optional – open-ended response)
