

Hon Steven Edgington MLA
Minister for Local Government and Community Development
GPO Box 3146
Darwin NT 0801

Dear Minister Edgington

Submission on 2025 Amendments to the Local Government Act 2019

City of Darwin (CoD) welcomes the opportunity to provide feedback on the proposed 'tranche 2' amendments to the Local Government Act 2019 NT. This submission has been prepared following discussion with CoD elected members.

Part A

1. Delegations

1.1 Tenders

The discussion paper suggests greater clarity is needed on when and how information about the outcomes of delegated tender decisions should be reported back to councils, and about exempt procurement decisions.

Regarding tenders, CoD suggests that Regulation 36 be amended as follows to clarify the requirement for a CEO to update council only, in particular where a delegation is in place.

Reg 36(8) be amended to read as:

- (8) The CEO or chief executive must provide a separate update report under subregulation (6) to the council or local government subsidiary if the council or local government authority is not updated on all tender procurement in a report at least quarterly.

Reg 36(9) be amended to read as:

- (9) The council or local government subsidiary may only accept a tender for the provision of supplies:
 - (a) from among those that submitted tenders; and



(b) after receiving the report from the CEO or chief executive under subregulation (8),
unless council has delegated to the CEO the authority to approve tender procurement.

Regarding exempt procurement, CoD suggests that if increased transparency of exempt procurement pursuant to Regulation 38 is required, then the requirement of councils to publish a notice on the council's website be required on a quarterly basis.

1.2 Committees

The discussion paper raises concerns about delegation of council powers or functions to a council committee that includes non-elected members.

CoD does not support this change in its entirety. CoD's position is that delegation should not be made to a committee comprising non-elected members, however where committees comprise only elected members then it is appropriate to allow Council to delegate powers to this committee. CoD continues to support a committee comprising of non-elected members as they have a valuable role to play in the provision of advice to councils and where external, independent expertise is valuable, for example audit and risk committees. This aligns with best practice. Such committees that contain non-elected members, should not be delegated council powers or functions and should not seek to direct staff or elected members.

1.3 Delegation of certain transactions and waivers of fee for service

Further, the discussion paper indicates amendments to section 40(4) of the Act will need to be considered.

CoD delegation of authority allows contracts amounts up to a certain Council agreed values to be done under delegated/sub-delegated powers; above this Council delegates to CEO to execute. This means the power to incur financial liabilities is currently permitted under the Act to be delegated to the CEO (with Council resolution limits imposed). As such the power to enter into a contract is delegated to the CEO if the contract is below that delegated threshold value. The clarification or limitations of Council's delegation to the CEO in this area, are better addressed as a policy decision of Council rather than a change in the already comprehensive specifications in the Act.

COD does not support any amendment to the Act that would limit the ability of councils to delegate to the CEO or allow the CEO to sub-delegate. Any such change would significantly inhibit CoD's operations.

Further, CoD recommends that section 40 of the Act be amended to remove the note for the sub-section which confuses rather than clarifies. A council resolution is already required to make this delegation.



2. Miscellaneous Amendments

2.1 Offences for conflicts of interest

CoD has no objections to this amendment, noting this is a minor amendment.

2.2 Ordinary and Special Meetings

CoD does not support this change which amounts to causing red tape. The Department can already monitor timing of publication of notices in relation to meeting dates.

2.3 Holding of Elections

CoD has no objections to this amendment.

3. Tenders by council or local government subsidiaries and procurement exemptions

Regarding tenders, the discussion paper suggests there is confusion about the requirement for a CEO to provide a tender report to council per Regulation 36(8) and suggests updating this Regulation to state that the report be provided to council at its next ordinary meeting. The discussion paper also indicates the Regulation can be further updated to clarify the reporting process required when a tender process has been delegated.

CoD has no objections to this change where a council has not delegated tender procurement to a CEO.

CoD has concerns about amending the Regulation to state that a tender report is required for delegated tender decisions however the provision of a report on tenders over the \$150,000 and to report on the use of exempt procurement on a quarterly basis is reasonable.

CoD would support an amendment to introduce a quarterly reporting requirement for tender procurement delegated to a CEO. This would offer the right balance between preserving confidential information and enabling elected members to monitor and understand council finances. More regular reporting is not supported as it undermines the efficacy of a delegation to a CEO and will require additional resourcing, in effect representing an increase in red tape.

Regarding procurement exemptions, the discussion paper proposes updating Regulation 38 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.

CoD does not support this proposed change. Regulation 38 already clearly outlines the scenarios in which exempt procurement is available. Diverting to council for each and every instance of this is simply not feasible and demonstrates limited understanding of council operations. This would also be a drain on elected member time reporting on matters the Regulation already clearly addresses.



4. Amendments to Local Government (Electoral) Regulations 2021

CoD has no objections to these amendments. Enabling the NT Electoral Commission to publish candidate statements is particularly welcomed for the benefit it will bring to informing the electorate about candidates standing for election.

Part B

5. Payment of Superannuation to Elected Members

The discussion paper proposes an opt-in mechanism for councils to pay superannuation to elected members as a portion of members' fees.

CoD does not object to the proposal for an opt-in mechanism for each council.

However, clarity would be required at law on what 'opt in' means, including whether decision to opt in would be by unanimous or majority resolution and whether individual Elected Members could still opt-out where a Council opts in recognising that the change to payment of superannuation may not suit individual Elected Members, including because the issue of employee status not resolved and tax implications.

CoD also suggests that if this is implemented, the council ratifies payment of superannuation and that Minister signs off to overcome elected members being conflicted by endorsing payment of superannuation, particularly if over and above current allowances.

Clarity would also be sought on what elements of a members' fees would attract superannuation guarantee payments, and it is noted there may be some administrative complexities in making superannuation payments to Elected Members relative to staff, for instance at CoD Elected Members are paid allowances by the Finance Team rather than payments through Payroll.

Financial implications and capacity for all Councils and Local Authorities also needs to be considered and balanced.

6. Conditional Rating and Rates Exemptions for social and affordable housing

6.1 Conditional Rating

The discussion paper includes proposals to phase out rule allowing mining tenements to be grouped for rating purposes and make clear that councils can apportion rates on conditionally rateable land.

CoD has no objections to the proposals, noting they are not specifically applicable to the Darwin municipality. CoD queries the ten-year phase-out and whether this aligns with transition periods for other legislative change.



6.2 Rates Exemptions for social and affordable housing

The Act currently provides that land used for a non-commercial purpose by a public benevolent institution (PBI) or a public charity is exempt from rates.

The discussion paper suggests section 222(1)(g) of the Act could be clarified to more explicitly define “non-commercial” use in the context of housing provided by charitable organisations that charge rent and to clarify the CEO (Housing)’s ongoing liability for rates.

CoD strongly supports greater clarity in the Act to ensure the original intention, that is public housing, whether managed privately through a Community Housing Provider or the CEO (Housing), continue to pay rates.

To clarify, CoD recommends that NTG should formally clarify their prior indicated intention to continue paying rates on housing stock that has been transferred from the NTG to a housing provider and for the outsourcing of the NTG responsibility for future housing to a Community or Social Housing Provider in the NTG, this should be an enduring obligation. Further, anything less than this amounts of ‘cost shifting’ between the two spheres of government, exposing the local government sector to significant income loss in the future which could only be managed through the requirement of large rate increases to the community and/or a reduction of overall services to remain financially sustainable. Both unintended consequences would be to the detriment of the wider community.

Community Housing Providers already receive tax relief in comparison to other housing providers. Therefore, to determine that a market rent discount given by Community Housing Providers which is less or equivalent to the tax relief does aligns them with all other providers that are considered commercial in nature.

Furthermore, the City of Darwin requests that Department extends the changes in the Act to define ‘non-commercial’ for registered charitable organisations and PBI’s, not only in the context of housing but for all organisations. Any changes in the legislation in this respect needs to be limited in the Act to transition in with retrospective reclassifications at the discretion of the councils.

Finally, CoD agrees consultation with the housing sector, councils and broader charitable sector is required before any amendment to the Act.

7. Appointment of principal member of council

The discussion paper flags possible amendment of the Act to remove the option for direct election of principal members, suggesting this would strengthen consistency and provide sector-wide governance alignment.

CoD’s position is that flexibility should be preserved and that in the Darwin municipality, as in other LGAs that would be affected by this change, there is an expectation of direct election of their principal member.



It is noted the discussion paper refers to consistency as a goal but offers no benefits from this change to multiple LGAs that warrant changing the status quo, particularly when the impact is politically contentious.

The discussion paper also proposes that councils with appointment of principal member be given until the fourth ordinary meeting after a general election to appoint a principal member, to “enable elected members to properly gauge if a person is suitable”. This proposal is not relevant to CoD at the present time owing to direct election in place, however it is noted that the reasoning for the change is politically troublesome, with judgments about the suitability or unsuitability of elected members for leadership a matter for the electorate, not Departmental officials. Further, CoD suggests that delaying appointment of the Chair until the fourth ordinary meeting does not solve the problem the paper suggests it is trying to solve with considerations other than who will be the most effective chair likely to be relevant to elected members making this decision.

CoD also highlights the factual inaccuracies and misrepresentations included in this section of the discussion paper.

Part C

8. Conduct framework for local government councillors in the Northern Territory

The discussion paper includes a proposed framework including:

- Raising awareness of councillor roles and responsibilities
- Councillor induction, professional development training and commitment to the Code
- Required training for Chair and Deputy Chair
- Council Governance Checks
- Standing Council Governance and Code Committee
- Independent Assessor
- Escalation to Code of Conduct Panel
- Code of Conduct Panel Findings Implemented
- Resourcing and Costs
- Elected Mayors
- Media Policy
- Eligibility/Disqualification



- Defining Levels of Complaints

Overarching feedback on proposed Code of Conduct framework

CoD endorses a mandatory Code of Conduct framework with core components legislated supported by departmental guidance and templates. Mandatory elements of the framework, such as training and code of conduct framework, should be funded by the NTG, not local governments.

Further, the discussion paper allows for the introduction of a Governance Controller, which based on previous briefing could be imposed upon a council at the discretion of the CEO of the Department where a council is “not performing its responsibilities appropriately.” CoD notes although this threshold is the same as for the existing Financial Controller, the threshold is too vague and/or too low as the risks from poor administration are not necessarily equivalent to those of inappropriate financial management. CoD requests clarity on how a Governance Controller would report back on findings and whether this would be analogous to a compliance review and what impact imposition of a Governance Controller would have on the scheduling of a compliance review. CoD recommends if a Governance Controller is to be included in legislative amendments, that the threshold be narrowed to seriously or systemically poor administration and that the Minister, rather than the Departmental CEO, have the ability to appoint a Governance Controller, to create political accountability for a decision to intervene in what is another sphere of government.

CoD supports a mandatory framework (clarification question 1 – option 1)

8.1.1 Raising awareness of councillor roles and responsibilities

CoD has no objections to this suggested approach. CoD supports efforts to attract more and suitable candidates to run in local government elections across the territory.

8.1.2 Councillor induction, professional development training and commitment to the Code

CoD has no objections, agrees face to face training delivery is optimal, recommends all training should be funded by the NTG and is comfortable with Elected Members signing an agreement to represent all the people in the council area and to uphold values, culture and standards of the council and its community. Noting that all Elected Members currently sign a declaration at their inauguration.

8.1.3 Required training for Chair and Deputy Chair

CoD supports the introduction of compulsory Chair training, noting for councils where the Deputy Chair rotates among Elected Members that this training be offered to all Elected Members of that council as optional training.

CoD supports the Department delivering the training (clarification question 1 - option 1) and outcome that a Chair/Deputy Chair who does not complete the training is ineligible to act as Chair until the training is completed (clarification question 2 - option 2).



8.1.4 Council Governance Checks

The discussion paper proposes a minimum of twice-per-year structured governance checks.

CoD does not object to voluntary governance checks with the council or Department conducting the governance checks, depending on the requirement, and at the direction of Elected Members. That is, the council will be expected to undertake the governance check, but with the option for a council to request the Department to complete the activity.

CoD supports voluntary governance checks (clarification question 1 - option 3) and proposes a new option for who conducts the governance checks (clarification question 2 – new option).

8.1.5 Early intervention – Standing Council Governance and Code Committee

The discussion paper proposes councils establish a new standing governance and Code of Conduct committee, including an independent membership being an independent chair.

CoD's position is this is not needed and insofar as it duplicates the existing Council and its ability to make decisions relating to governance or Code of Conduct issues, amounts to red tape, will have an operational impost on councils resourcing an additional committee. It is viewed as a duplication that will not resolve any of the current legislative and practical issues as raised by the sector. Further, it doesn't overcome the issue of code of conduct matters needing a truly independent mechanism to dismiss vexatious complaints or otherwise respond to complaints where elected members are not best placed to decide over complaints concerning one or more of the collective. CoD agrees that where an elected member does not follow direction of council – not a standing committee – that the matter may be escalated to the Independent Assessor so long as the Independent Assessor can mandate the remedial orders available to a council and sanctions such as suspension are available to the Independent Assessor as outlined on page 18 of Discussion Paper C.

CoD does not support this committee, nor as an optional governance arrangement for councils (clarification question 1 – option 3) and this means that there is no option required for councils nominating and vetting own candidates for Chairs or councils joining regional pools to share members (clarification question 2 – option 2 or 3).

8.1.6 Independent Assessor

The discussion paper proposes an Independent Assessor for escalated conduct complaints to consider complaints where prevention and internal intervention strategies, including a Standing Council Governance and Code Committee, have been unsuccessful.

CoD notes there is some confusion in the discussion paper about the role of the Independent Assessor as having a triage (initial assessment) role compared with dealing with escalated complaints.

CoD supports the introduction of an Independent Assessor, however referral to the Independent Assessor should be optional for councils and some complaints may be initially referred to the



Independent Assessor were given their nature, such as vexatious complaints from a member of the public, independent triage may be required. Otherwise, CoD agrees that option to engage an Independent Assessor be considered after early intervention strategies have been considered, noting CoD does not agree that a Standing Council Governance and Code Committee should be required and therefore Council may directly refer to the Independent Assessor.

CoD supports the Independent Assessor being vested with sanctions as outlined on page 18, including the ability to consider failure to action remedial orders recommended by the council, and with the exception of the ability to appoint a Governance Controller and they should not have the ability to disqualify a member which needs to rest with the Minister. However, given the vesting of such powers, CoD recommends that Independent Assessors should be admitted professional lawyers to meet a high standard of ethics and to ensure trust and confidence in the model. Alternatively, the Independent Assessor should not be vested with the most serious of sanctions outlined.

CoD supports a Department endorsed panel (clarification question 1 – option 1), an alternative option for engaging an Independent Assessor (clarification question 2 – other option) and alternative option for low-level matters being at council discretion (clarification question 3 – other option).

8.1.7 Escalation to Code of Conduct Panel

The discussion paper outlines a proposed Panel structure whereby the Panel would assess and decide only those complaints referred to it from the Independent Assessor, and that only substantial, more serious complaints would be referred.

CoD supports this approach if and where the Panel includes a suitable qualified independent legal expert and is chaired by an independent member. The panel should include independent Elected Member representation however not in the majority. That is, legal and governance expertise should be prioritised. In these circumstances, CoD is supportive of the Panel being vested with serious sanctions including the power to suspend, or fine, noting that dismissal should be via recommendation only to the Minister.

8.1.8 Code of Conduct Panel Findings Implemented

CoD supports most of the available sanctions and their escalation for the Independent Assessor and Code of Conduct Panel other than to appoint a Governance Controller which CoD does not support. CoD does not support mandating of a Standing Governance and Code Committee but notes the sanction decisions available to such a committee duplicate those available to an Independent Assessor, weakening the justification for such a committee.

CoD notes that this section indicates that an Independent Assessor may refer a complaint back to Council if Council has not exhausted resolution options and recommends this be clarified for the situation where a complaint is referred directly to the Independent Assessor for triaging given due to the nature of the complaint, independent assessment is best early on, for example where a complaint is from a member of the public who is a vexatious complainant, or where the complaint is



in relation to multiple Elected Members – or an entire Council. Further, CoD notes that standing representation of legal and governance experts on a panel may be more cost efficient. Finally, CoD recommends that the Department publish a public register of Code of Conduct breaches established by the Independent Assessor or Code of Conduct Panel for all councils in line with the Department’s role as regulator and to create additional accountability. Disqualification should be via panel recommendation to the Minister.

8.1.9 Resourcing and Costs

The discussion paper proposes the relevant council is responsible for the costs of the Independent Assessor and sitting costs of the Code Panel. CoD agrees with a cost recovery mechanism, however, suggests more information is required on how this would work. Broader changes, or a triage process for complaints, within the legislation to reduce or avoid costs incurred by frivolous or vexatious applications is also welcomed.

8.1.10 Elected Mayors

CoD notes the unfortunate use of inflammatory language and misinformation in the discussion paper about a council being “trapped with a chair that is not modelling good behaviour”. Comment is made about the substantive proposal under Chapter 5.

8.1.11 Media Policy

The discussion paper promotes a single-spokesperson policy for councils.

CoD notes that for councils where there is direct election of the principal member, it is expected that the principal member will be the official and main spokesperson for the council.

CoD supports mandating that all councils have a media policy outlining who can speak on behalf of council, noting that Elected Members other than the principal member may be spokesperson when the principal member is on leave, or when they are otherwise a more suitable spokesperson, including due to a conflict.

Finally, CoD supports delivery of media training for all Elected Members and that this be funded by the NTG.

CoD supports mandatory media policy but flexibility in approach (clarification question 1 – option 2) and that media training be strongly encouraged for all members (clarification question 2 – option 1).



8.1.12 Eligibility/Disqualification

The discussion paper flags possible changes to the eligibility and disqualification criteria for elected members with criteria drawing on broader range of disqualifying behaviours.

CoD supports changes to eligibility and disqualification with more serious penalties for the most serious breaches, including bullying/harassment/discrimination or psychosocial offences, however, also recommends that these more serious penalties be available for repeated lower-level breaches. Further, CoD suggests more consideration of how eligibility and disqualification is operationalised by Northern Territory Electoral Commission processes such as introducing probity checks. Finally, CoD suggests that fairness and cultural factors should not be considered, rather a level playing field that raises the bar is required and reasonable for holders of public office.

CoD supports disqualification triggered by serious misconduct or repeated breaches (qualification question 1 – option 1) and suggests fairness and cultural factors should not be considered, particularly for serious breaches (clarification question 2 – other option).

8.1.13 Defining Levels of Complaints

The discussion paper flags use of defined levels of complaint, distinguishing between misbehaviour, repeated misbehaviour and serious misconduct.

CoD supports a tiered structure such as that outlined and which aligns with escalation of sanctions, including more serious sanctions available for repeated less significant breaches and failure to complete remedial orders.

CoD supports determination of complaint classification by the Independent Assessor (clarification question 1 – option 1) with a standard model used (clarification question 2 – option 1).

I look forward to your response to the above feedback.

If you have any queries in the meantime, please do not hesitate to reach out to myself, the Lord Mayor, or our Manager Advocacy and Policy Scott Walker on scott.walker@darwin.nt.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read "S. Saunders".

Simone Saunders
Chief Executive Officer

20 June 2025

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