



Department of Housing, Local Government and Community Development

Delivered via email: [LGLaw.CMC@nt.gov.au](mailto:LGLaw.CMC@nt.gov.au)

## **RE: Legislative Amendments to the *Local Government Act 2019* – NT Electoral Commission submission**

The NT Electoral Commission (NTEC) has administrative responsibility for Chapter 8 of the *Local Government Act 2019* (Act) relating to elections and polls and the *Local Government (Electoral) Regulations 2021* (Regulations).

For noting, references in this submission to recommendations relate to the NTEC recommendations detailed in the 2021 Local Government Elections Report accessible on the NTEC website : [https://ntec.nt.gov.au/\\_data/assets/pdf\\_file/0004/1350364/2021-LG-Elections-Report.pdf](https://ntec.nt.gov.au/_data/assets/pdf_file/0004/1350364/2021-LG-Elections-Report.pdf)

### **Comments relating to Chapter 2, Discussion Paper A - Miscellaneous Amendments - iii Holding of elections**

The Department of Housing, Local Government and Community Development (DHLGCD) in Discussion Paper A have asked that consideration be given to:

*(a) The NTEC proposed introduction of a provision that allows the returning officer to make a change to the election day in an emergency, for a period of not more than 21 days. The 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.*

#### **Change to election day (emergency situations)**

In the 2021 Local Government Elections, a COVID-19 lockdown occurred after voting had commenced affecting early voting services and some remote mobile voting services. Existing regulations provide that the returning officer can set the days and times of early voting and mobile voting and consequently can make changes to these voting schedules (Regulations 4(2) and 42(1)).

The date and times for election day voting services are established by section 135(1(a) of the Act and Regulation 4(1)(a) and are not at the discretion of the returning officer.

Regulation 54 allows an authorised officer in charge of a voting centre to adjourn voting at the place on election day if, because of riot, violence, fire, storm, flood or other similar event, it is not practical to proceed with voting. The returning officer must decide a day when voting is to resume if the returning officer believes it not reasonably practical for a person affected by the adjournment to cast a vote at another voting centre. The day must be decided as soon as practicable and not later than 21 days after the adjournment.

Section 160 of the Act details the powers of the Minister in relation to election which includes the discretion before or after the expiration of a relevant time limit, the ability to extend the time for holding an election, or for taking any step in relation to the holding of an election.



## **NTEC position**

The NTEC recommends that the existing provisions regarding the adjournment of voting include situations such as an emergency (e.g. health pandemic or cyclone) and if an emergency necessitates a change to election day for a period not exceeding 21 days, then the returning officer should have the discretion to adjourn or suspend voting with appropriate notifications provided.

As an example, the Queensland provisions relating to adjournment of poll state:

*'A returning officer or residing officer may adjourn the poll at a polling booth if the taking of the poll is or is likely to be interrupted by an emergency. If the poll is adjourned the returning officer must fix a date (no later than 34 days after the day on which the poll is adjourned) for conducting the adjourned poll. The returning officer must publish notice of the day fixed'- Section 53, Local Government Electoral Act (QLD) 2011*

The Department of Housing, Local Government and Community Development (DHLGCD) in the Discussion Paper A have asked that consideration be given to:

*(b) It is proposed to amend the requirement for public notices in relation to elections be in a manner deemed 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 this 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.*

## **Public notice requirements**

Section 11(1)(a) of the Act requires public notice for matters in relation to elections to be published in a newspaper circulating in the relevant local government area. There are public notice requirements relating to 8 regulations concerning election matters.

The *Local Government Legislation Amendment Bill 2025* (Serial 20) was introduced into the Legislative Assembly by the Minister for Housing, Local Government and Community Development on 19 March 2025. The Assembly referred the Bill to the Legislative Scrutiny Committee for inquiry and report by 30 April 2025, and the Bill was passed by the Assembly on 22 May 2025.

The Bill introduced several amendments to the publishing requirements of the local government notices that aim to make such notices more accessible to the public through digital platforms. The reforms specifically did not apply to notices relating to election matters and no changes were made to Section 11(a) of the Act.

The 2021 Local Government Elections Report recommended that public notice for matters relating to elections be permitted in a format and via a communication channel deemed most appropriate by the returning officer with the aim to maximise the distribution of information in the relevant local government area (Recommendation 2).

The NTEC made a submission to the Legislative Scrutiny Committee's inquiry regarding the Bill and that public notices relating to elections should not be excluded from the contemporised approach applied to other local government public notices.



The submission highlighted the current statutory requirements for public notices relating to elections, associated costs, effectiveness and noted the multiple communication channels employed by the NTEC to promote elections and election notices.

The NTEC's submission can be found here:

<https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/20-2025>

### **NTEC position**

The NTEC remains in support of its earlier recommendation allowing for public notices relating to elections to be communicated in a manner consistent with the modernisation of other local government notices introduced in the Tranche 1 reforms.

The NTEC suggests the inclusion of public notice amendments like the provisions of Queensland's *Local Government Electoral Act 2011* that allow for election notices to be published on the electoral commission website; and in any other ways the returning officer considers appropriate.

### **Comments relating to Chapter 4, Discussion Paper A – Local Government (Electoral) Regulations 2021**

The Department of Housing, Local Government and Community Development (DHLGCD) in Discussion Paper A have asked that consideration be given to:

*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 meaning 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.*

### **Postal voting – application periods**

For a periodic general election, postal vote applications open 3 months prior to election day (Regulation 26(1)(a)) and for by-elections postal voting applications open when candidate nominations open (Regulation 26(1)(b)).

In the 2021 Local Government Election Report, the NT Electoral Commission recommended extending the postal vote application period for local government elections to 1 January in the year of a periodic general election (Recommendation 6). This would align local government regulations with Legislative Assembly general elections postal vote application periods.

The NTEC also recommended extending the postal vote application period for local government by-elections to start on the day the NTEC is notified of the vacancy (Recommendation 7).



### **NTEC position**

The NTEC position remains in support of the recommendation made in the 2021 election report as the longer postal vote application period provides more time for electors to apply for a postal vote and for harmonisation with the existing postal vote application periods for Legislative Assembly elections.

The NTEC recommended that the postal vote application period for a by-election start on the day the NTEC is notified of the vacancy. The NTEC's current position is for the postal vote applications for a by-election to open *as soon as practicable* from the day the NTEC is notified of the vacancy. This allows reasonable time for online systems to be enabled to receive postal vote applications following notification of a vacancy.

The Department of Housing, Local Government and Community Development (DHLGCD) in Discussion Paper A have asked that consideration be given to:

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

### **Publishing of candidate statements**

Regulation 35 provides for the provision of candidate statements for mandatory postal vote election only. To date, no mandatory postal vote election has been held in the Northern Territory.

Regulation 35 states that a candidate statement may include the following:

- a) A statement of no more than 150 words;
- b) A photograph of the candidate that complies with the Regulations.

The candidate statement must not include:

- (a) A reference to another candidate in an election, unless that other candidate has consented in writing to the reference; or
- (b) A claim of endorsement or support from a party, an organisation or a person unless the party, organisation or person has consented in writing to the claim being included.

The candidate statement for a mandatory postal vote election must be lodged before 12 noon, 2 days after the declaration of candidates and must be accompanied by a signed declaration by the candidate declaring the following:

- a) That the candidate statement is true and correct
- b) That the candidate statement does not contain a defamatory statement
- c) That the candidate statement does not contain material that may mislead and deceive a person in the casting of a vote
- d) That the candidate understands that the candidate is liable to be prosecuted.

Provisions regarding the lodgment process are included in addition to grounds for a returning officer rejecting a candidate statement where it does not meet the requirements of the regulations and/or where the candidate statement contains offensive or obscene material.



In the 2021 Local Government Elections Report the NTEC recommended that a provision like Regulation 35 be made for any local government election and that these statements be provided as part of the nomination process and displayed on the NTEC website for access by all voters (Recommendation 4).

Currently, candidates can consent to their contact details being made public on the NTEC website including details of any social media sites established by the candidate to support their candidacy.

Other jurisdictions that have candidate statements (profiles) or equivalents include Victoria, Western Australia, Tasmania, South Australia and New South Wales.

### **NTEC position**

While the NTEC remains supportive of the concept of candidate statements, further research is required to determine a suitable approach for the Northern Territory which considers matters such as:

- Mandatory or optional statements
- Length of the statement and form
- Information capture (i.e. limited to biographical information on candidate)
- Accessibility issues
- Vetting and reasons for rejecting
- Resourcing (potential to receive over 300 statements for a periodic general election)
- Systems requirements to support the process (upload and publishing)
- Policy and guideline development
- Candidate statement or candidate responses to set questions (NSW approach)

Therefore, the NTEC's position is that the introduction of candidate statements be considered outside the current proposed amendments (Tranche 2), with the 2025 Local Government Elections providing an opportunity for the NTEC and key stakeholders including the Local Government Association of the NT (LGANT) and the Department of Housing, Local Government and Community Development to undertake further consultation to support any future approach to introduce candidate statements for all local government elections.

The Department of Housing, Local Government and Community Development (DHLGCD) in Discussion Paper A have asked that consideration be given to:

*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 practices.*

### **Scrutiny of postal votes (signature matching)**

Regulation 65 outlines the process for accepting and rejecting returned postal votes. An authorised officer may only accept a postal vote if it is signed, and the signature matches a record of the elector's signature. The NTEC does not have access to a complete database of signatures due to changes in the Australian Electoral Commission's enrolment processes and the introduction of online postal voting application forms.



Assurance practices are employed by the NTEC to support the postal voting application and scrutiny process. This includes systems integrations with the election management system and the electronic voter mark off solution, allowing the detection of multiple voting. The requirement for the elector to sign the postal vote certificate remains.

In the 2021 Local Government Elections Report the NTEC recommended the removal of the requirement to match signatures (Recommendation 8).

### ***NTEC position***

The NTEC continues to support amendments to the existing regulations regarding the scrutiny of postal votes and matching of signatures and is currently working with the Department of Housing, Local Government and Community Development to progress implementation of this amendment prior to the 2025 Local Government Elections.

The Department of Housing, Local Government and Community Development (DHLGCD) in the Discussion Paper A have asked that consideration be given to:

*Regulation 87 Electoral costs, The NTEC proposed an amendment to clarify that the costs of managing non-voter are not part of the conduct of an election and 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.*

### **Election costs**

Regulation 87 states that where the Electoral Commissioner is the returning officer for an election, the responsible costs of conducting the election, including costs and expenses incurred by the Electoral Commissioner, are payable from the funds of the relevant council and may be recovered as debt. The reasonable costs and expenses of conducting the election are determined in accordance with an agreement between the council and Electoral Commissioner.

In the 2021 Local Government Election Report, the NTEC recommended that regulations be amended to include provisions that activities related to the management of non-voters are not part of the conduct of an election (Recommendation 12).

### ***NTEC position***

It is compulsory to vote at local government elections in the Northern Territory and a person commits an offence if the person is an elector and the person fails to vote at an election without a reasonable excuse (Section 142 of the Act). The authority to issue infringement notices to non-voters lies with the returning officer who is an authorised officer and not the council.

The NTEC has communicated to Councils and LGANT its position that activities relating to the management of non-voter are not part of the conduct of the election. The NTEC continues to advocate for an increase to the prescribed amount for failing to vote in local government elections. (Recommendation 11).



## **Other matters**

### **Form of nomination (name on ballot paper)**

Under Regulations 7 and 12 the name on the ballot paper for local government candidates must match the name on the electoral roll. Candidates can only modify their given name by using a common variant or initial. Due to enrolment practices, which are managed by the Australian Electoral Commission, the enrolment of First Nations people does not always include a skin name. This is particularly important for remote candidates during local government elections.

### ***NTEC position***

While the Discussion Paper does not include commentary on the form of nomination (name on ballot paper), the proposed amendment has been discussed by Local Government, Housing and Community Development as part of the public consultation process.

The NTEC is supportive of the inclusion of this amendment and is working with the Department of Housing, Local Government and Community Development to progress implementation prior to the 2025 Local Government Elections. The proposed amendments would extend the current provisions which allow a candidate to modify their given name by using a common variant or an initial and to allow the returning officer the ability to obtain satisfactory evidence from the nominee that the name is one by which they are commonly known.

### ***Comments relating to Chapter 7, Discussion Paper B relating models of appointment***

#### **Appointment of principal member**

Whilst the provisions of the Act relating to the election or appointment of a principal member of council do not fall within the administrative remit of the NTEC, the NTEC is responsible for conducting elections aligned to the approved appointment approach of each council.

#### ***NTEC comment***

Any change to the model of appointment should include consultation with the NTEC to consider any systems and resourcing implications.

Should you require any additional information regarding the content of this submission please contact the NTEC.

The NTEC consents to the publication of this submission.

Kirsten Kelly  
NT Electoral Commissioner