

# Submission of Roper Gulf Regional Council to Department of Housing, Local Government and Community Development on Proposed Legislative Amendments to the *Local Government Act 2019*

## Discussion Paper – Part A

### Sections 40 and 83.

Proposed amendments:

1. Remove or restrict the ability of councils to delegate their powers and functions to a council committee (with some exceptions listed at s 40(3))
2. Amend so that only councillors can be members of a council committee
3. Other amendments to section 40(4) regarding delegation to CEO. NB: these are not specified in the Discussion Paper.

Keep as is (no change required)

Agree with proposed change

Other

### Council's Remarks:

Council is not supportive of the proposed amendments' provision for Chief Executive Officers being able to (if delegated) waive fees, noting that it increases the opportunity for corrupt conduct, and reduces visibility and transparency.

Council is generally supportive of the prospect of the delegation of powers to Committees being restricted, noting (in agreement with the Discussion Paper) that Committee members may include persons who are not Councillors. Council further points out that fundamentally, a Committee, is not Council, and as such, it considers it inappropriate for a Committee to make decisions on behalf of a Council that affect its constituents, pointing out the lack of opportunity for the elected representatives (Councillors) being involved in deliberations and decisions under such circumstances. Council firmly holds the view (and indeed practices this) that a Committee should only make decisions on its behalf under exigent circumstances, that must subsequently be ratified by the full Council.

### Section 73.

Proposed amendments:

1. Add the word 'staff' to 73(1)(c)(i) to clarify context of the provision.

Keep as is (no change required)

Agree with proposed change

Other

**Council Remarks:** Council notes that this Section applies to the staff of a Local Government Subsidiary rather than to Council staff.

**Section 93; Regulations 102-105.**

Proposed amendments:

1. Include a requirement for a date and time of issue to be included on published notices
2. Corresponding amendments to Regulations 102-105.

- Keep as is (no change required)
- Agree with proposed change
- Other

**Council Remarks:** Council supports the notice period requirements as currently applicable to key papers, however it does not view the time-stamp application requirements (as proposed) to be implemented noting that such information is already captured in meta-data, that may be supplied to any party. Council further notes that the Regulator can easily ascertain whether or not notice periods are met, by reviewing the websites of Councils.

**Sections 160 and 11(a).**

Proposed amendments:

1. NTEC proposed the introduction of a provision (to s 160) 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
2. Amend the requirement (in 11(a)) for public notices in relation to elections to be in a manner deemed appropriate for the LGA by the returning officer.

- Keep as is (no change required)
- Agree with proposed change
- Other

**Council Remarks:** Council has no particular concerns pertaining to this proposed amendments noting that there is nothing precluding a Council to use traditional (hard-copy and newspaper) advertising mediums is it so chooses, so long as the key (electronic) requirements are met.

**Regulations 36, 38.**

Proposed amendments:

1. Clarify r 36(8) with requirements to provide report at next ordinary council meetings; include option for confidential sessions where necessary; clarify reporting process required when tender process delegated
2. R 38 amended to state that a quarterly report is required to be presented to council articulating where council elects not to seek quotations or go to tender.

- Keep as is (no change required)
- Agree with proposed change
- Other

**Council Remarks:** Council is generally supportive of the proposal to make procurement exemptions applications reportable to it, however it notes, with concern, that it is ultimately the responsibility of the Regulator to provide oversight (and exemption) of the application of Regulation, as it used to do prior to 01 July 2021.

**Local Government (Electoral) Regulations 2021 26, 35, 65, 87.**

Proposed amendments:

1. 26(1)(a) amended to allow postal vote applications from 1 Jan in a general election year
2. 26(1)(b) amend to allow electors to apply for a postal vote as soon as NTEC is notified of a casual vacancy
3. 35 amended to allow the NTEC to publish candidate statements on its website
4. 65 remove the requirement to match up an elector's signature before admitting a postal vote to scrutiny
5. 87 amended to clarify that the costs of managing non-voters are not part of election conduct and not to be passed on to council. add a sub-reg stating that costs for non-voters are no reasonable costs forming part of election conduct.

Keep as is (no change required)

Agree with proposed change

Other

**Council Remarks:** Council is generally supportive of the proposed changes (1)-(5), however is concerned with the proposed change (5) (Section 87) having the potential of creeping (and ever-increasing) costs being passed onto Council for matters that it believes to be within the remit of the Commission.

**Discussion Paper – Part B**

**New.**

Proposed amendments:

1. Opt-in provisions for elected members to receive superannuation, equivalent to provisions affording MLAs super under the Assembly Members and Statutory Officers Act 2006
2. Include the option for councils to make a super contribution on behalf of elected members as a portion of those members' fees

Keep as is (no change required)

Agree with proposed change

Other

**Council Remarks:** Council is concerned about the confusion surrounding this subject, especially the requirements of PAYG withholding as would be applicable to payments, even more so if Councillors hold other employment. Furthermore, Council is concerned with the Superannuation Guarantee requirements in the (likely) scenario where one or more elected members fail to supply applicable details.

**Sections 219, 7, 224 and 227.**

Proposed amendments:

1. A more flexible approach, allowing for greater regional responsiveness, while maintaining consistency in valuation methods and predictability for landholders - i.e. removal of conditional rating but with parameters for rate setting for particular industries
2. Phase out the grouping of mining tenements for rating purposes (over ten years)
3. Amend 224 so that councils can apportion rates on conditionally rateable land (apportion rates for the amount of time that the land was rateable).

Keep as is (no change required)

Agree with proposed change

Other

**Council Remarks:** Council supports the submissions as made by LGANT on this proposed amendment.

**Section 222.**

Proposed amendments:

1. 222(1)(g) amended to define "non-commercial" use in the context of housing provided by charitable organisations that charge rent
2. Amend to clarify that CEO Housing will continue to pay rates even though public housing has been provided
3. Include legislative criteria so that rates exemptions are applied consistently and align with objectives of social and affordable housing policy
4. Amend to clarify that CEO Housing will continue to pay rates in instances where the Territory no longer occupies the Crown land, but still owns it.

Keep as is (no change required)

Agree with proposed change

Other

**Council Remarks:** Council supports the submissions as made by LGANT on this proposed amendment.

**Sections 60-62.**

Proposed amendments:

1. Amend giving councils until the fourth ordinary council meeting after a general election to appoint a principal member, giving elected members time to assess suitability. An interim or rotating chair would stand in during that time
2. Consider removing the option for direct election to improve consistency OR maintain option for direct election in specific urban councils
3. Change the term of office set out in 62.

Keep as is (no change required)

Agree with proposed change

Other

**Council Remarks:** Council strongly disagrees with and objects to the proposed amendments noting that the current provisions of the *Local Government Act 2019* are effective. Council recognises the different requirements as applicable to City, Town, and Regional Councils, and is of the opinion that the current Act is reflective of this. Council is particularly concerned with the proposal for Mayoral appointment (and tenure) being delayed up until the fourth Ordinary Meeting and is of the view that this would cause great disruption and disengagement within a Local Government – of both Elected Members and Constituents.

### **Discussion Paper – Part B**

**Council Remarks –** Council does not support the proposed changes pertaining to the Code of Conduct (the Code) and associated provisions. Council notes that at present, the Code has adequate provisions for Elected Member conduct, however there are no enforcement provisions.

Council is of the view that this issue is best addressed by provisions and amendments for Regulator oversight and management.

Council does not support the proposed changes pertaining to Council Governance Checks, Governance Controllers or Governance and Code Committees noting that these, in various forms are the responsibility of the Regulator, and it considers it inappropriate for self-regulation to be imposed on Councils. It is firmly of the view that self-regulation is ineffective, and causes disfunction within the sector.