

Local Government's Stakeholder Newsletter

Edition 7 | March 2023

Local Government Sector Update

Our first newsletter for 2023 sees a lot happening across the local government sector.

We appreciate the impact of recent weather events on councils and their communities across the Territory. Information for councils can be found about the Disaster Recovery Funding Arrangements for local government on

https://cmc.nt.gov.au/_data/assets/pdf_file/0009/927846/Disaster-Recovery-Funding-Guidelines-December-2020.pdf

The Local Authority Review Implementation Plan is being developed with the terrific support of a Reference Group made up of Mayors, Presidents, Councillors, LA members, CEOs and staff from across our regional councils. We look forward to circulating a draft to all councils by May 2023 for input. Local Authorities are an important part of the regional council structure, connecting councils and their communities and supporting communities to have a say in their council's planning, prioritisation, funding, and service delivery.

Where we see a compliance issue arising in more than one council, or we have a similar question from several councils, we add information to our Compliance Corner for everyone's information. In this edition we touch on requirements for council resolutions, delegations, and the Audit Committee.

Warm regards

Maree De Lacey

Executive Director

Local Government Resource Hub

The Hub provides access to a range of important information for the sector. It includes sample policies, explanatory papers and supporting resources for local government.

It can now be accessed directly by following the link below:

[Visit the resource hub](#)



Questions or feedback about the Local Government Resource Hub can be emailed to LGQuestions.cmc@nt.gov.au.

Legislation Low Down

By-Laws

Councils across the Northern Territory have been making progress with developing By-laws for their council areas. The *Nhulunbuy (Animal Control) Amendment By-laws 2022* were adopted in November 2022. *Victoria Daly Regional Council (Pine Creek and Timber Creek By-Laws) Repeal By-Laws 2023* were adopted in January 2023. Other Councils are currently at different stages of the process of making By-laws, and we are likely to see more being adopted across the Northern Territory this year.

By-laws are an important regulatory matter in local government, and councils are encouraged to look at the functionality of their current By-laws and whether there is a need to start the process of making or updating any of them.

Councils can contact the Local Government Unit on LGLaw.CMC@nt.gov.au, for information about the process of making By-laws. The unit will provide a step-by-step guide on what the process entails, and will also be available to provide assistance once the process of making By-laws starts.

Development of a guideline for the management of human remains

Following the commencement of the [Burial and Cremation Act 2022](#) and [Burial and Cremation Regulations 2022](#) on 28 November 2022, the Local Government Unit has drafted the Northern Territory's first *Guideline for the management of human remains*. The *Guideline* will provide best practice standards and rules on how to handle remains of deceased loved ones. Matters that will be covered in the *Guideline* include:

- The identification of human remains using identifiers;
- Exhumations and the declaration of infectious diseases;
- The transportation and storage of human remains;
- Communication protocols; and
- The role of the decision maker in the management of human remains.

A draft *Guideline* has been emailed to all councils and LGANT for review and feedback.

Declaration of Burial Areas

Another key project that the Local Government Unit is undertaking during the implementation phase of the [Burial and Cremation Act 2022](#) is the declaration of burial areas in remote and regional communities. There are currently over 100 undeclared burial areas in the Northern Territory where approximately 200 to 300 burials take place each year. Since the repealed

Cemeteries Act 1952 only recognised burials in the 15 declared cemeteries in the Territory, there are no formal records of most burials in undeclared burial areas. The declaration of burial areas will address this by ensuring that records are compliant with current and future legislative requirements, and family members and future generations are able to identify and visit the location of graves of deceased loved ones.

The process for identifying and declaring burial areas involves consultations with all relevant stakeholders, including local government councils, Land Councils, Aboriginal corporations, interest holders of land and community members. If you have any questions about how to declare a cemetery or burial ground, please contact the Local Government Unit via burials@nt.gov.au.

Remuneration Tribunal Determinations

The Remuneration Tribunal Report and Determination No. 1 of 2023 - Allowances for Members of Local Government Councils was made on 24 January 2023 and tabled in the Northern Territory Legislative Assembly on 14 February 2023. The Determination comes into effect from 1 July 2023 and will replace [Guideline 2A: council member allowances](#) in accordance with section 353 of the *Local Government Act 2019*.

Also, The Remuneration Tribunal Report and Determination No. 1 of 2023 - Allowances for Members of Local Authorities was made on 24 January 2023 and tabled in the Northern Territory Legislative Assembly on 14 February 2023. The Determination also comes into effect from 1 July 2023 and will replace the local authority payments set out at paragraph 10 of [guideline-1-local-authorities.pdf \(nt.gov.au\)](#).

You can access the Remuneration Tribunal's reports and determinations via cmc.nt.gov.au.

An FAQ sheet is currently being prepared to answer some commonly asked questions regarding the Determination of Allowances for Members of Local Government Councils. The FAQ sheet will be emailed to councils and made available via the Hub.

If you have any queries regarding the Determination, please email LGQuestions.CMC@nt.gov.au.

Social Media

An information sheet on councillors' personal use of social media has been published in the [Resource Hub](#), to provide guidance to council members on their use of professional and personal accounts, and the governing legislation. The information sheet includes some FAQs and covers a range of issues, including what social media is, some things to be mindful of regarding content and use of images, and how to deal with work requests or feedback from the community.

The information sheet will be available in PDF or Microsoft Word format, and can be adopted by councils into a policy, guideline or information sheet.

A summarised two-page version on social media do's and don'ts has also been published in the [Resource Hub](#), to accompany the information sheet and assist local government councillors for whom English is not their first language.

If you would like to provide feedback on any of our existing resources or have ideas on additional resources that would be helpful for your council, please let us know via LGQuestions.CMC@nt.gov.au.

Project Platform

Elected Member Handbook

The Elected Member Handbook is now available on the Department's website. The handbook builds on the Professional Development Courses run last year and provides both a reference and reminder of important information for councillors. The book is an evolving document and we will be adding sections to it in response to feedback. Sections on CEO recruitment, review and development; the role of the Chair; and conduct of meetings will be added during the year.

Upcoming Training Workshops

1. The Role of the Chair and working together in meetings (Regional Councils)

The Department have developed this half day session in partnership with the Aboriginal Governance and Management Program of APONT. The session focuses on the role of the Chair as an enabler of good governance; supporting good processes for meetings and decision-making; what happens, before, during and after meetings; and how to deal with bumps in the road. It will also acknowledge some of the challenges of 2 way governance.

Who should attend? We are encouraging all Local Authority and regional council chairs to attend as well as interested councillors and Local Authority members. Council staff are welcome to attend as observers.

DATES:

Alice Springs. – Tuesday 30 May – 9am – 12.30pm

Katherine – Wednesday 24 May – 9am -12.30pm

Darwin – TBC

Nhulunbuy – TBC

2. The Role of the Chair and working together in meetings (Municipal and Shire Councils)

This 2 hour workshop will focus on enabling the smooth running of meetings and dealing with issues that may inhibit this. It will consider how best to foster collective working in the council and what tools are needed to support good decision making.

Who should attend? Council chairs and interested councillors.

Linda Weatherhead will contact councils directly to offer scheduling of these sessions.

3. Working with Local Authorities and Regional Councils – supporting good governance

This afternoon workshop developed in conjunction with AGMP will be targeted to governance officers and council staff who work with their councils and local authorities. It will consider the core elements of good governance and tips for presenting information and supporting good governance in councils.

Who should attend? Regional council governance officers and staff who support the council and local authorities.

DATES:

Alice Springs. – Tuesday 30 May – 1.30pm to 4pm
Katherine – Wednesday 24 May – 1.30pm to 4pm
Darwin – TBC
Nhulunbuy – TBC

Compliance Corner

The compliance team has received inquiries from councils in relation to powers and functions that cannot be delegated under the *Local Government Act 2019* (the Act) and the *Local Government (General) Regulations 2021* (Regulations). To assist councils in fulfilling their compliance obligations, provided below is an overview of some of these powers and functions.

Where Council Resolution is required

Under section 40 of the Act, a council may delegate its powers and functions to the CEO, a council committee, a local authority or a local government subsidiary. Where the delegation gives power to incur financial liabilities, council's resolution must state the limit on the delegate's authority.

In turn, the council's CEO can delegate powers and functions to an individual or a committee under section 168 of the Act. However, the CEO cannot delegate to an audit committee, a council committee, a local authority or a local government subsidiary.

Under section 40(3)(e) of the Act, delegation is not permitted where a decision has to be approved via council resolution. For example, the write-off of unpaid rates or other debts owed to the council or local government subsidiary under regulation 32(1) cannot be delegated.

Use of the common seal

Section 38(2) of the Act requires the common seal to be authorised or ratified by council resolution when affixed to a document. Section 40(3)(e) of the Act specifies that a council resolution cannot be delegated.

It is important to emphasise that the resolution must clearly express the council's endorsement or ratification of the use of the common seal and every document that employs the common seal must be specifically identified within the resolution. The corresponding register for the common seal must list all documents executed under the common seal.

The common seal can be affixed to a document before the council adopts a formal resolution. In such instances, the council holds the authority to ratify the use of the seal at a later time, which mitigates the need to postpone an agreement until the next council meeting.

For reference, a 'Register of documents executed under common seal' sample document is accessible through our list of 'Sample documents and explanatory papers' website [here](#).

Disbursements and cash expenditure

Regulation 22 stipulates that all cheque and electronic payments made on behalf of a council can only be signed or processed by at least two persons authorised by resolution of a council. Under the Act a council cannot delegate this power. Generally, the persons authorised by resolution of the council are the Mayor/Principal Member, CEO, or a staff member. The council

resolution must specifically record each authorising officers' name and may include any limitations or conditions attached to the authorization.

Regulation 23 allows expenditure by a council or local government subsidiary to be made in cash to an extent authorised by resolution of the council or local government subsidiary. This power cannot be delegated as per section 40(3) of the Act.

Committees and the Audit Committee

A council may, by resolution, establish one or more council committees and may, by resolution, abolish a council committee. A council committee consists of the persons appointed by resolution of the council to be members of the committee. As such, this function cannot be delegated by a council. A council committee must have a terms of reference as approved by council resolution that sets out its functions.

A council must, by resolution, establish and maintain an audit committee and may, by resolution, abolish an audit committee. Audit Committees play an essential role in monitoring and reviewing the financial management and internal controls of a council, and make recommendations to the council in this regard. The chairperson of an audit committee must not be a member of the council or a member of the council's staff. An audit committee consists of the persons appointed, by resolution, by the council to be members of the committee.

Seeking advice?

We welcome your emails, phone calls or requests for meetings.

For advice – or to discuss or give feedback - on local government legislation, compliance issues, governance, grants policy and Territory-wide local government policy and programs, you can contact:

Local Government Unit

Executive Director: Maree De Lacey - 8999 8573

Sustainability and Compliance: Meeta Ramkumar - 8999 8868

Legislation and Policy: Susan Watson - 8999 8405

Policy and Projects (including governance training): Linda Weatherhead - 8999 8573

For all other queries, please email: LGQuestions.cmc@nt.gov.au.

For information about regional partnership opportunities, NT Government services and programs, or advice on place-based issues in your local or regional area, you can contact:

CM&C Regional Executive Directors

Darwin/Palmerston/Litchfield: Michelle Walker - 8999 8347

Top End: Sandra Schmidt - 8999 5236

East Arnhem: Jim Rogers - 8987 0554

Big Rivers: Jake Quinlivan - 8973 8533

Barkly: Lachlan Wilkins - 8962 4688

Central Desert: Brendan Blandford - 8951 5511

Further information

For further information and support, please visit the **Local Government** website.

Questions can be emailed to LGQuestions.cmc@nt.gov.au.



What do you want to see in this newsletter?

We welcome your feedback to help us ensure the content provided in this newsletter is relevant and engaging. Please send an email to localgovernment.CMC@nt.gov.au.