

The Secretary,
Legislative Scrutiny Committee,
Delivered at LA.Committees@nt.gov.au

28 March 2025

Dear Secretary

RE: Commentaries of Roper Gulf Regional Council on the *Local Government Legislation Amendment Bill 2025*.

I have reviewed the proposed changes to the *Local Government Act 2019* (the Act) and the *Local Government (General) Regulations 2021* (the Regulations) as tabled in the *Local Government Legislation Amendment Bill 2025* (the Bill) and its Explanatory Statement (the Statement) with my Executive and Governance staff, and supply you with commentaries below in **Annexure A**.

I note with concern, that I have not been able to table this to Council for consideration and deliberation as there has only been a one (1) week for consultation, and as such, I am submitting these commentaries on behalf of Council, after discussing the matter with Mayor Tony JACK.

This submission will be tabled to Council at its upcoming Ordinary Meeting on 16 April 2025.

As stated in the Statement the proposed amendments to the Act are grouped into four (4) categories, which I shall address accordingly in **Annexure A**.

I appreciate the opportunity to supply the Legislative Scrutiny Committee (the Committee) with the submission on behalf of Council.

If you or the Committee require any further clarification or information on the commentaries as supplied in **Annexure A**, please contact Cristian COMAN, Manager Corporate Compliance, via email at [REDACTED] or via telephone on [REDACTED]

Kind Regards.



David Hurst
Chief Executive Officer
Roper Gulf Regional Council

ANNEXURE A

Roper Gulf Regional Council's commentaries on the proposed amendments to the Act are as follows:

(1) Prospective Councils

Council notes, with concern, the proposed amendments to the Act pertaining to Prospective Councils, in effect eliminate the checks and balances, and impartiality across local government as currently in place by the Local Government Representation Committee (the Committee), by reducing the Committee scope and functions to an advisory committee.

Council is concerned with, and strongly objects to the proposal for the Committee's powers for making determinations being removed, and for those powers to be vested in the Minister (Council holds no opinion on those powers being vested in the Administrator).

Council points out that this proposal is inherently inconsistent with the principle of 'Natural Justice', namely that the two (2) crucial elements of *audi alteram partem* (hear the other side) and *nemo debet esse iudex in propria sua causa* (no-one is to be a judge in their own case), as the amendments essentially render decision-making on Local Government representation down to being made on ministerial whim.

Council further points out that the last element of the concept of Natural Justice requires for decisions to be made by a disinterested decision-maker, based on logically probative evidence (*Salemi v MacKellar (No 2)* (1977) 137 CLR 396; 14 ALR 1), which is incompatible with the proposition for decisions affecting electors and elected members being made by a Minister with his own interests in the Local Government sector.

Council notes, with concern, that the proposals if implemented as tabled in the Bill, would effectively erode the function and purpose of Local Government, and that there would be minimal (if any) checks and balances in place to prevent arbitrary and capricious decision-making adversely affecting councils and their constituents alike.

While the concept of 'Natural Justice' applies to individuals, Council points out that the proposed amendments to the Act affect individual constituents of Councils, as well as the elected members of the same.

It is noted that, especially in regional and remote areas, the former Community Councils failed in their service delivery, governance, and overall function due to insurmountable capacity issues arising from their untenable financial positions, staffing issues, resourcing and assets, and significant duplication of matters such as insurances, all to the detriment of local residents, especially vulnerable Aboriginal persons in remote communities. Simply put, Regional Councils were created precisely to address these issues.

(2) Elections and Casual Vacancies

Council has no particular concerns or further commentaries on the proposed amendments.

(3) Notification Requirements

Council notes these proposed amendments to the Act and is generally supportive of the removal of requirements as pertaining to notifications. While Council is of the view that in some instances, noticeboards and newspapers are useful items for the promulgation of notices, it notes that there is nothing in the proposed amendments that *precludes* Councils from the use of these mediums, if they so choose.

(4) Miscellaneous Changes

Council notes, with concern, and objects to the proposed amendments to the Act to disqualify Elected Members from receiving allowances and benefits whilst being formally suspended.

Council points out that this is prejudicial, and inconsistent with the concept of 'Natural Justice' as outlined at Item (1).

Council further points out that in a similar situation within the realm of industrial relations, employees are generally suspended *with* salary and entitlements until allegations against them are resolved.

Council is firmly committed to the *universal* application of 'Natural Justice' and considers it extremely unfair to (and potentially unlawful) for such prejudicial action to be legislated.

Council suggests that rather than punishing individuals, who may or may not have had any involvement or say in the lead up to the events that may cause a suspension, it would be far more prudent and fair to strengthen the Code of Conduct provisions at Schedule 1 of the Act, and for the Minister and the Department of Local Government, Housing and Community Development to carry out their function as a regulator in the sector, and carry out compliance and enforcement action against individual elected members who breach the Code of Conduct.

Final Commentaries

Council notes, with great concern, the manner in which this Bill was put forward to Parliament *without* consultation with Local Government. Council further notes, and points out, that the one (1) week consultation period is highly inappropriate. The Minister knows, or at least, reasonably ought to know, that the *Local Government Act 2019* requires Councils to Meet at least every second month, with most Councils Meeting monthly, or bi-monthly.

By allowing only one (1) week for consultation, Council is of the view that this has hampered the sector from having any meaningful input.

Council strongly objects to this.

[REDACTED]

[REDACTED]

[REDACTED]