



Legislative Scrutiny Committee

Submitted via email: LA.Committees@nt.gov.au

Dear Committee Chair,

**Regarding the introduction of the Local Government Legislation Amendment Bill 2025
(Serial 20).**

Please accept the following Northern Territory Electoral Commission (NTEC) submission to the Legislative Scrutiny Committee inquiry considering the Local Government Legislative Assembly Amendment Bill.

The submission outlines the NTEC's concerns and brings to the committee's attention areas for consideration and suggestions for amendments to the Bill.

The NTEC welcomes any opportunity to provide further information to the committee on this matter and would be willing to contribute to future hearings or meetings in person.



Kirsten Kelly
NT Electoral Commissioner
29 March 2025



Section 11, *Local Government Act 2004* - Public Notices Regarding Elections

In the 2021 Local Government Election Report, the NT Electoral Commission (NTEC) recommended that the statutory requirement to provide public notice for matters in relation to elections be permitted in a format and via a communication channel deemed most appropriate by the returning officer with the aim to maximise distribution of the information in the relevant government local government council area.

The Local Government Legislation Amendment Bill 2025 removes the requirement for notices to be published in newspapers with the exclusion of sections 11, 241 and 273.

Section 11 relates to public notices for matters in relation to elections. The returning officer must publish information about matters in relation to elections in a newspaper circulating in the relevant local government area.

The table below describes the public notices requirements for 8 regulations in the *Local Government (Electoral) Regulations 2019* where:

- 6 regulations are required for all general elections and by-elections.
- One regulation is required for each general election.
- One regulation is necessary if a by-election is conducted as a mandatory postal election.

Election notice	Regulations reference	Details
Notice of election dates	Regulation 6(2)(a-d)	Must give notice of the date of election, contact details of returning officer, open and close dates for nominations, date and time of close of electoral roll.
Declaration of nominations	Regulation 10(2)	Must give notice of the declaration of duly nominated candidates for election as soon as practicable after the declaration.
Declaration of elected candidates in uncontested elections	Regulation 10(7)	Must give notice of the relevant candidates elected in uncontested elections (where the number of candidates nominated does not exceed the number of positions to be filled).
Notice of election day voting centres	Regulation 14(3)(a)	Must give notice of each election day voting centre and the voting period on election day.
Notice of early voting centres	Regulation 14(3)(b)	Must give notice of each early voting centre and the voting period for each centre.
Notice of limitations on voting centres	Regulation 14(4)	If any early or election day voting centre is to be limited to certain local government areas, the public notices required under Regulation 14(3) must state these.



Election notice	Regulations reference	Details
Notice of mandatory postal vote elections	Regulation 34	Notice of election must include the date the council resolved to hold a mandatory postal vote election, the approximate date postal votes will be despatched, an explanation of the procedures for postal voting, and any other appropriate information.
Notice of the result of election	Regulation 71	Must give notice of the results of an election and the names of the candidate/s returned as elected, as soon as practicable after the results are determined.

In practice, the NTEC combines public notices to improve accessibility to information for electoral participants including electors and to reduce costs to councils. Specifically, the 2 notices required under Regulation 10 are usually combined into one notice, and the 3 notices required under Regulation 14 are merged into a single notice. As a result, there are generally 4 public notices necessary for each general election and by-election. These 4 notices must be published in a newspaper that circulates within the relevant local government area, of which there are currently 3 newspapers: Centralian Today, Katherine Times, and the NT News. The NT News is utilised to publish notices relating to election matters in 13 out of the 18 local government areas in the Northern Territory. Residents in regional council areas are more likely to have limited access to these newspapers.

Under the election costs and expenses arrangements, the statutory advertising costs are passed on to local councils for by elections. The costs of statutory notices are shared among councils during a periodic general election. The estimated shared costs of statutory public notices for the 2025 Local Government Elections is approximately \$15,000 with costs to be apportioned across 15 councils.

The cost of the statutory public notices associated with a by-election in a remote ward of the East Arnhem Regional Council amounted to approximately 13% of the total cost of the by-election making it a significant expense where alternative communication strategies would likely be more effective in that region.

There is a current requirement to provide public notice of declared duly nominated candidates, the elected candidate for uncontested elections and the results of an election including the names of the candidates elected. At the 2021 Local Government general elections, 303 nominations were received for 159 vacanciesⁱ. It is noteworthy that public notices of this nature are not required for Legislative Assembly Elections under the *Electoral Act (NT)* 2004.

Whilst it is important that electoral participants including electors and prospective candidates across the Territory are informed about elections it is also important that communication approaches employed are effective and remain contemporary.

The NTEC is committed through its communications in reaching as many electoral participants as possible during election events this includes conducting extensive communications campaigns across multiple platforms. Platforms include various social media,



community radio, television, and digital advertising; direct emails and SMS messages to electors; using roadside banners; community posters; letterbox drops; and publications displayed on multiple websites, in addition to newspapers. Councils are also required to publish certain information about elections on Council websites.

The NTEC provides a website and establishes a dedicated election event page for each election which includes information detailed in the election notices. The information is available for several weeks during the election period. During the 2021 Local Government general elections, there were in total 675,669 visits to the election page viewing content for all council elections via the NTEC websiteⁱⁱ.

In Queensland, provisions of the *Local Government Elections Act 2011* (QLD) allow for matters including (amongst others) notices of election, close or rolls, calling of nominations, announcement of nominations, voting places and notification of results to be '*published on the electoral commission website; and in other ways the returning officer considers appropriate*'.ⁱⁱⁱ

The NTEC position concerning public notices for matters relating to elections remains the same as recommended in the 2021 Local Government Elections Report. It is recommended that consideration be given to the inclusion of public notice amendments similar to the provisions of the *Queensland Local Government Electoral Act* (QLD) 2011.

The NTEC recognises it remains appropriate and effective to continue to publish certain matters relating to elections in newspapers as part of a broader communications strategy for general elections including notice of the election and voting locations.

Section 28 – Powers of (Local Government Representation) committee

Part 3.2 of the *Local Government Act 2019* establishes the Local Government Representation Committee.

The Local Government Representation Committee (Committee) consists of the Surveyor-General, the Northern Territory Electoral Commissioner, and the CEO of a prescribed corporation who is the chairperson, this is the CEO of the Local Government Association of the Northern Territory (LGANT).

Under current arrangements, the NTEC provides secretariat support to the Committee which is funded by government.

The Committee can make determinations about certain aspects of representation limited to ward boundaries, the number of elected members for each ward (limited to the number of elected members in place prior to the determination) and the introduction or removal of wards in a council area. The Committee can make recommendations in relation to the local government area including the names of wards or external boundaries of the local government area.

Prior to the establishment of the Committee, councils reviewed their constitutional arrangements, such as ward boundaries and number of members in wards making recommendations about any proposed changes to the Minister who would then determine if any changes were made. Reviews were conducted by the council or through an external provider engaged by the council, reviews were funded by each council.



Comments made at the Social Policy Scrutiny Committee meeting in September 2019 regarding the then proposed legislation introducing the Local Government Representation Committee, noted that the independent local government representation review process was a process similar to the redistribution process used for the Legislative Assembly redistribution. Involving an independent government representation committee consisting of the Northern Territory Electoral Commissioner, the Surveyor General and the CEO of LGANT. The committee will consult with councils, conduct a review, consult on draft determinations and make final determinations regarding any required changes.^{iv}

It should be noted that the redistribution process under Part 8 of the *Electoral Act (NT) 2004* is independent of government with the Redistribution Committee responsible for publishing by gazette the redistribution declaration notice, decisions of the Redistribution Committee are final. The Redistribution Report is provided to the Electoral Commissioner who is required to give a copy to the Speaker of the Legislative Assembly and make the report available for public inspection.

Independent committees tasked with looking at representative structures provides assurance that decisions about electoral boundaries or representation are impartial, free from influence and prevent manipulation in favour of certain individuals or groups of people. The independence of this decision making process promotes public confidence in representative structures and, subsequently, public trust in elections. It is acknowledged that the *Local Government Act 2019 (NT)* includes constitutive powers which can be exercised by the Administrator and conferred to the Minister in certain circumstances.^v

There are various approaches to boundary and representation reviews relating to local government councils across jurisdictions. The involvement of the Electoral Commission in the process also varies, including no involvement, involvement limited to providing enrolment data or forming part of an independent body to assess proposed changes (referred by a Minister or Local Government council) and making recommendations. In some jurisdictions local government councils instigate the review process.

In Queensland the Local Government Change Commission is an independent body responsible for assessing proposed changes to Queensland councils. The Change Commission consists of their Electoral Commissioner and any of the following people, Deputy Electoral Commissioner and a casual Commissioner.

Before the Change Commission makes an assessment, a change proposal must be first be provided to the Minister responsible for Local Government for consideration. Once a change request is received, the Minister decides whether to refer the proposal to the Change Commission for a detailed assessment. Types of assessments that can be made by the Change Commission include divisional boundary reviews, external boundary reviews and electoral arrangements reviews. Once the Change Commission finalises an assessment it must provide its recommendations to the Minister and publically release its report.

The Minister considers whether any changes recommended by the Change Commission should be recommended to the Governor General in Council to implement under a regulation.^{vi}

The NTEC position is that consideration be given to reviewing any impacts of the proposed changes on the objectives of the Representation Review Committee, conflicts and any



impacts in the representation review and decision making process concerning the representation structures of councils.

Section 54 – Filling casual vacancy generally; and Section 136 – By-elections

The Local Government Legislation Amendment Bill 2025 includes changes designed to clarify that the NTEC has the authority to conduct by-elections during the period that is less than 18 months and not less than 6 months before a local government periodic general election.

The explanation provided in the bill notes that several councils have faced difficulties with their internal appointment processes due to conflicts of interest, ambiguous procedures, and concerns about democratic implications. The amendment aims to empower local government councils to determine the best approach that suits their specific situations.

For context, the current timeframe of less than 18 months but not less than 6 months prior to the next periodic general elections (scheduled for August 2025) spans from February 23, 2024, to February 23, 2025. During this period, there has been 13 casual vacancies (Appendix 1 refers).

Furthermore, during this period the NTEC has delivered the 2024 Territory Election and commenced post-election actions such as managing non-voters and reporting on the election. Additionally, the NTEC has delivered 3 local government by-elections for casual vacancies that occurred 18 months or more before the next general election, conducted a general election for the Barkly Regional Council, the inaugural general election for the Groote Archipelago Regional Council involving a number of variations and conducted a small number of fee-for-service elections. The NTEC also uses the period of time following the Territory Election plan and prepare the delivery of the Local Government periodic general election (August 2025).

Under existing provisions of the *Local Government Act 2019 (NT)*, a council may appoint the CEO or by resolution another person (other than the Northern Territory Electoral Commissioner) to be the returning officer for a by-election.^{vii}

Whilst acknowledging the NTEC, is the appropriate authority to conduct by-elections within its existing purpose and functions, the NTEC has concerns about its ability to conduct additional elections within the existing resourcing allocation during this period without compromising its ability to provide high quality electoral services.

Whilst the NTEC has not conducted by-elections within this period the NTEC has recently provided information and materials to support a number of councils to manage their processes to fill casual vacancies.

The NTEC operates with a small team (14 FTE) and is experiencing resourcing, budget and systems challenges. The fixed-term schedules for local government and the Legislative Assembly general elections means that the Legislative Assembly election is held 12 months prior to the periodic general election for local government councils

As a result, the NTEC has concerns that the potential requirement to hold local government by-elections during this period may compromise the service delivery of fixed-term Legislative Assembly elections and preparations and planning for the delivery of local government periodic general elections.



The NTEC, recommends that consideration be given to identifying alternative approaches to support the filling of casual vacancies within this period which may include:

- 1) Providing discretion to the Electoral Commissioner to determine not to conduct a by election where requested by a council during the period;
- 2) Local Government identifying a suitable alternative approach to filling casual vacancies that addresses concerns raised by councils. This option could be selected by councils in the first instance and/or referred by the Electoral Commissioner in instances where discretion is exercised not to conduct the by election; and
- 3) Adjusting the period where a council can leave a casual vacancy vacant to reduce the potential number of casual vacancies. It is noted that this option would require consideration of governance implications to councils.

Should the amendments proceed as drafted in the bill, the NTEC would consider that elections for casual vacancies during the period only be held during pre-defined fixed periods set by the NTEC^{viii}. Any election for a casual vacancy referred to the NTEC during this period would be held during the next fixed period with councils remaining responsible for the costs associated with NTEC conducting elections and the additional resources required to support elections during this period. This approach would allow the NTEC to continue to plan and prepare for the delivery of general elections in addition to other strategic actions whilst adequately resourcing elections requested by councils during the period.

End of submission (text)



APPENDIX 1

Council vacancies from 23.02.24 to 23.02.25 (13)	Notification date	Details
East Arnhem Regional Council – Gumurr Gattjirr Ward	06.03.24	Councillor resignation
East Arnhem Regional Council – Gumurr Miwatj Ward	06.03.24	Councillor resignation
West Arnhem Regional Council – Maningrida Ward	18.03.24	Councillor resignation
Alice Springs Town Council	19.03.24	Councillor resignation
West Arnhem Regional Council – Maningrida Ward	01.05.24	Councillor resignation
Central Desert Regional Council – Akityarre Ward	17.05.24	Councillor passed away
Coomalie Community Government Council – Batchelor Township Ward	26.06.24	Councillor resignation
Litchfield Council	08.09.24	Vacancy due to councillor being elected to Legislative Assembly
City of Darwin	08.09.24	Vacancy due to councillor being elected to Legislative Assembly
West Arnhem Regional Council – Gunbalanya Ward	04.11.24	Councillor resignation
West Arnhem Regional Council – Minjilang Ward	08.11.24	Councillor resignation
Roper Gulf Regional Council – Yugul Mangi Ward	21.11.24	Councillor resignation (absent from 2 meetings without permission)
West Daly Regional Council – Thamarrurr/Pindi Pindi Ward	03.02.25	Councillor resignation

Councils are required to notify the NTEC of casual vacancies in accordance with the Local Government Act (NT) 2019 (s51, s53, s60). Councils also refer to casual vacancies in council minutes (including resolutions) and annual reports.

ⁱ 2021 Local Government Elections Report, page 2

ⁱⁱ Ibid, page 37 – data between 21 June – 13 September 2021

ⁱⁱⁱ Local Government Electoral Act (QLD) 2021, Part 4 – Local Government Elections

^{iv} Legislative Assembly of the Northern Territory, 13th Assembly, Social Policy Scrutiny Committee, Public briefing transcript, Local Government Bill 2019, 10.30am Monday 23 September 2019, Maree De Lacey: Executive Director, Local Government and Community Development, p4

^v Local Government Act 2019, Part 2.2

^{vi} [Ecq.qld.gov.au/electoral-boundaries/local-government-boundary-reviews](http://ecq.qld.gov.au/electoral-boundaries/local-government-boundary-reviews)

^{vii} Local Government Act 2019, Section 136 (7) and (10)

^{viii} Similar to Section 136 (3) Local Government Act 2019 allowing for a by-election to be set on a date fixed by the returning officer. NTEC would set a fixed period to hold by elections where a casual vacancy occurs less than 18months but not less than 6months before the next periodic general election.