



4 October 2019

Ms Julia Knight  
Committee Secretary  
Social Policy Scrutiny Committee  
GPO Box 3721  
DARWIN NT 0801

Dear Ms Knight

**Litchfield Council submission on draft *Local Government Bill***

Thank you for the opportunity to provide comment on the draft Local Government Bill. Council first provided comment on the Draft Bill in July 2019 and appreciates that most items highlighted in that submission have been addressed.

Several areas were not addressed from this previous submission. Council believes that these warrant review under the terms of reference of the Social Policy Scrutiny Committee. Attached is Council's submission for the Committee's consideration.

Council notes that there is an intention for Regulations to be prepared that may address some of these concerns. Council requests that local government and other stakeholders be consulted on the draft Regulations.

Should you require further information please contact the Director of Community and Corporate Services, Silke Maynard on [silke.maynard@litchfield.nt.gov.au](mailto:silke.maynard@litchfield.nt.gov.au) or 8983 0640.

Yours Sincerely

Daniel Fletcher  
Chief Executive Officer

## Attachment

2019 Bill Section	Council Submission
Part 3.2 Local Government Representation Committee	<p>With the introduction of Part 3.2 Council loses its control of reviewing the electoral representation in the council area. It will be important for Litchfield Council to undertake their electoral review before the new Act comes into place.</p> <p>Council recommends that the committee should have at least five members to avoid the use of a casting vote and that the Minister appointed member on the Committee should be an elected member to ensure local interests of residents are represented.</p>
Section 35 and 200 and 237 and 238	<p>Council strongly objects to the change of date from the 31 July to 30 June to ensure Council can give due consideration to the public consultation process that is part of the annual plan development.</p> <p>Changing the date for adoption of the municipal plan will increase administrative pressure on councils for the process of annual budget development. It will require staff to brief Councillors earlier in the year and might need Council to conduct special council meetings to ensure timelines are met. Legislation requires a public consultation process of 21 days and requires Council to consider submissions made in response, with revisions made if appropriate.</p> <p>Council understands that it is best practice to have a budget approved prior to the financial year starting, yet other jurisdictions appear to give appropriate time for the adoption of budgets.</p> <p>It is to be noted that Department representatives mentioned that the proposed change is undertaken due to all other jurisdictions requiring the adoption of budgets by 30 June.</p> <p>Under Division 2 Section 6.2 (1) Local Government Act 1995 of <b>Western Australia</b> budgets need to be adopted between the 1 June and <b>31 August</b>.</p> <p>Furthermore, Chapter 8 Part 2 Section 123 (8) Local Government Act 1999 of <b>South Australia</b> requests councils to adopt an annual business plan and budget between 31 May and <b>31 August</b>.</p> <p>The <b>Queensland</b> Local Government Act 2009 under Chapter 4 Part 3 Section 107A (3) describes that a council must adopt its budget before the <b>1 August</b>.</p> <p>In line with Part 7 Division 3 Section 82 (3) (b) of the Local Government Act 1993 of <b>Tasmania</b> an annual plan must be adopted with estimates between 1 May and <b>31 August</b>. The <b>Victorian</b> Local Government Act 1989 Part 6 Section 130 (3) requests budgets to be adopted by <b>31 August</b>.</p> <p>The <b>New South Wales</b> Local Government Act is the only Act that is referring to an operational plan being prepared before the beginning of the year (Section 405 (1)).</p>

2019 Bill Section	Council Submission
Section 40	Council strongly objects against the restriction of delegating the powers and functions under the Burial and Cremations Act 2019. There is no reason why Council should not be allowed to form a Council committee under the Act to deal with the functions of a public cemetery.
Section 120-132	<p>The Draft Bill has introduced a new process for complaints of contravention of code of conduct.</p> <p>Council believes that this process will place an administrative burden on Council through the establishment of policies and procedures to deal with complaints.</p> <p>Furthermore, significant training of Councillors would be required to undertake a process of complaint handling.</p> <p>Whilst Council can maintain a policy (S121) to refer all complaints to a third party (S122) the Council still needs to decide on the complaint. This still has the potential to exasperate strained relationships that may exist between Councillors as independence of decision making may be questioned</p> <p>Council recommends that complaints need to be assessed and determination made by an independent party. Failure to comply with the determination or make a determination can then be referred to NTCAT for assessment, determination and enforcement.</p>
Section 216	<p>Council is supportive of the inclusion of this provision.</p> <p>Greater clarity is sought however from the Department of Local Government and Community Development as to how these new provisions relate to the principles set in Part 13 Division 2 Collective Procurement of the Local Government (Accounting) Regulations.</p>
Section 230	Council supports updates to this clause however believes it would be beneficial to add a definition of 'sufficient interest' instead of leaving the definition up to Council policy decision which may create inconsistency between councils.
Section 273 & 274	<p>Council notes that these are copied directly from the Local Government (Administration) Regulations Sections 18 &amp; 20.</p> <p>Council recommends that these sections are best left in regulation and not included into the act due to their procedural nature.</p>
Section 317	The Draft Bill does not identify the process prior to the appointment of the financial controller and there is no definition of 'appropriately performing its financial responsibilities' in the Draft Bill. It appears that the introduction of Section 317 gives the CEO of the Department the right to implement this position without prior notice to Council for any financial concerns the Department might have.

2019 Bill Section	Council Submission
	<p>Council recommends the appointment of a position like this should not be made without prior consultation of the Council and should include a mechanism of warning to Council and opportunity to rectify before the introduction of such financial controller.</p>
Section 329	<p>Council strongly objects to the removal of Section 245 to 247 of the current Act and inclusion the requirement for a Council resolution for the commencement of legal proceedings.</p> <p>Whilst Section 329 provides exemptions from a Council resolution for by-law offences and debt recovery there are other occasions which are operational in nature which the CEO should be able to initiate, for example Fair Work proceedings or procurement contract breaches.</p> <p>This section will delay Council's response and interfere with Council's operations, compromising the separation of powers between CEO and Council.</p>