

# Local Authority Review Report

## March 2023

### 1. Background

Local authorities (LAs) were established in 2014 under section 53B of the former *Local Government Act 2008* (the 2008 Act). LAs were established as a response to concerns from communities that the transition from the former community government councils to regional councils led to a loss of communities' voices in the planning and delivery of council programs and services in their community.

The inclusion of LAs in the structure of regional councils is intended to ensure communities have a say in their regional councils' planning, prioritisation, funding and delivery of services and infrastructure for their community; and the provision of information and feedback to communities about the councils' decisions and activities in that community. The ultimate goal is effective, responsive council services for remote communities.

### 2. Intent of the Legislative Framework

On 1 July 2021, the intent of the 2008 Act was further strengthened when it was replaced with the *Local Government Act 2019* (the 2019 Act). In addition, the previous *Guideline 8: Regional councils and local authorities* (Guideline 8) was replaced by the new *Guideline 1: Local Authorities* (Guideline 1). The provisions in the 2019 Act were in a new chapter entitled Local Decision Making to reinforce the intent and purpose of LAs.

The 2019 Act requires regional councils to seek their LAs' advice and recommendations in relation to the council's budget; their priorities for expenditure; their service delivery; regional plans; strategic directions; and funding. Regional councils must also ensure their strategies and plans are informed by the vision and priorities of the LAs, and must work with their LAs to foster constructive working relationships between the council and community.

The 2019 Act specifically provides for expanded roles for LAs and a mechanism for giving communities a stronger voice in local government matters that affect them. Section 78 defines the functions of a LA:

- to involve local communities more closely in issues related to local government;
- ensure that local communities are given an opportunity to express their opinions on questions affecting local government;
- to allow local communities a voice in the formulation of policies for the locality as well as policies for the area and the region;
- to take the views of local communities back to the council and act as advocates on their behalf;
- to contribute to the development of the regional plan;
- to make recommendations to the council in relation to the council's budget and the part of the council's area within which the LA performs its functions.

Guideline 1 provides how LAs are to operate and be administered by their respective regional councils, including appointments and resignations, meetings, LA member payments and reporting.

### 3. Local Authority Review

In 2021, before the commencement of the 2019 Act, the Department of the Chief Minister and Cabinet (CM&C) started a desktop review (Review 1) of how well regional councils and LAs were meeting the intent of the 2008 Act and Guideline 8. The aim of Review 1 was to identify good practice across the NT as well as areas that could be further strengthened, and to determine what actions could be considered to better support the delivery of the intent of LAs given their expanded roles under the 2019 Act. Review 1 focused on the 66 LAs established across the Northern Territory for the period 1 July 2019 to 30 June 2020.

Review 1 was informed by the information available on regional councils' websites, information held and observations made by CM&C and some feedback and insights provided by regional councils. The findings and draft recommendations were provided to councils and other stakeholders in early 2022 for comment.

The Review 1 report acknowledged limitations associated with any desktop process. However it provided a platform for more discussion with councils, LA members and others, resulting in the direction outlined in this report.

Review 1 confirmed that there is noticeable diversity in the functioning of LAs and the way councils work with them, with some LAs engaging strongly with their communities and working with their councils to deliver on community priorities and aspirations, and some others struggling to meet or attain quorum to enable recommendations to be made about community priorities. Some LAs, with their councils' support, consider broader matters than council business, acting as a forum and conduit for community engagement in matters including local, Territory and Commonwealth government priorities.

In addition, feedback from councils and LA members has indicated that some of the requirements placed on them by the NT Government, or interpretations of these requirements, are impeding their ability to achieve their core functions.

Feedback on Review 1 included the following:

#### **Role of LAs:**

- a need for greater recognition, promotion and celebration of the strengths of the LA model and more sharing of examples of LAs and their councils successfully achieving the intent of the Act;
- the need for CM&C, councils and LAs to have a clear and common understanding of the definition and scope of their core functions and requirements;

#### **Flexibility:**

- the need for flexibility in how LAs and their councils deliver on the core functions (or choose to move beyond the core) to respond to differences between communities, their aspirations and the capacity of LAs;
- providing for flexibility for those communities, LAs and councils who want to have more integrated engagement, not just on local government matters. For example, some communities would like to see a single body coordinating community input into local government and NT Government (or broader) planning, services and prioritisation; while others have indicated a preference that LA members continue to focus on local government and other groups are established or continue to provide input into NT Government and broader matters;
- recognition that some LAs are well established with consistent membership who deliver well-regarded outcomes for their communities and council, and others are less established; and that, over

time, LAs may cycle through these stages. This impacts on the levels of support needed from councils for their LAs and the level of autonomy LAs may have, and needs to be accommodated in expectations set by CM&C and required of councils;

### **Decision making**

- LAs should have as much influence and decision-making power as is appropriate to their stage of development and the delegations of the council; for example, some councils have already delegated decision making in the use of LA Project Funding (LAPF) to their LA, and some have delegated decision making over other community funding. The council is the decision-maker about the level of delegation relevant for their LA/s;

### **LA Members:**

- a need for greater role clarity, capacity building and support for LA members and LA chairs;
- the need to revisit whether proxies should be permitted for LA members;

### **Administration:**

- CM&C should remove any administrative requirements that detract from the ability of the LA and council to deliver on their core function. This needs to be balanced with good governance and accountable administrative process, reflecting that LAs are involved in the use of public resources and should be respected in their communities as informed, well governed and responsive structures;
- performance reporting should be focused on the intended outcome; i.e., the demonstration by councils of the engagement of communities through their LAs, and of the council's responsiveness to the advice, input and advocacy of their LA, including through the delivery of agreed community priorities;
- LAs should be able to set their own agendas and conduct their own meetings, while recognising the role of councils in managing administration, building capacity and responding to the varying levels of experience and capacity of members;

### **Resourcing/support**

- some LAs and their councils continue to see benefit in having CM&C representatives at meetings at least occasionally, to coordinate responses to questions from community and LAs about NT Government matters, as well as to support engagement with other NT Government agencies;
- LAPF is a valuable resource for LAs and their councils to respond to community priorities. However, some councils struggle to spend these funds in the required time frames. The support role of CM&C is important in helping councils to address any barriers to the timely expenditure of funding on community priorities as determined by the LA and council;
- Accessible information should be provided to enable communities to understand how priorities for the use of LAPF are determined, and where they are spent;
- A need for a review of the LAPF guidelines to ensure their alignment with the core intent of the LAs;
- Any changes to the LA model should avoid requiring additional council resourcing. For example, where communities and their LAs want to have a broader role than council matters, there may need to be negotiation of partnering with NTG or others to share costs.

As a result of feedback and further discussions, the focus of the Review 1 report changed considerably into this report. This report emphasises the intent of the legislative framework for LAs and provides a principles-based direction for how this intent will be strengthened across the diverse councils of regional NT.

This review does not anticipate a change in the 2019 Act in relation to the role of LAs; LAs will remain part of their regional council structure, and continue to be subject to the control and direction of their relevant regional council.

## 4. Principles

The following principles have been developed to guide the way in which CM&C, regional councils and LAs will support the effective integration and involvement of communities in the system of local government, as intended in the 2019 Act. A Draft Review Report incorporating the principles below was circulated to all Councils in October 2022 for further feedback from Councils and LAs. This is part of an iterative process to LA review that will also incorporate feedback from the Local Authority Review Implementation Reference Group. Submissions received are attached at Schedule I. An amendment to Guideline 1 will be required to fulfil the aspirations below.

<b>PRINCIPLE: Flexible governance</b>	
<b><i>What does this mean?</i></b>	<p>All LAs have a core role: to enable their community to have a say in their regional councils' planning, prioritisation, budgeting, and service delivery for their community; and to support the provision of regular feedback to their communities about council activities and the achievement of LA priorities.</p> <p>Councils and their LAs, with their communities, will determine how they deliver the role so it is adaptable to different locations, community aspirations, and capacity. CM&amp;C will facilitate the sharing of examples of good practice from LAs across the NT</p>
<b><i>What does this look like?</i></b>	<p>LAs, with their councils, decide:</p> <ul style="list-style-type: none"> <li>• whether they and their community prefer that the LA focus on council business or take a broader approach with a wider range of community matters. If a broader approach is agreed this may need negotiation of support from CM&amp;C or other partners for non-council activities. Also, if a broader approach is agreed community input should ensure it avoids duplicating other community structures, authority or roles and that the role is understood and supported;</li> <li>• inviting other community organisations to meetings or seeking representatives to the LA; working in partnership with other organisations (MOUs).</li> <li>• how and when the LA will conduct meetings and engage with their community, remove unnecessary formality;</li> <li>• how the LA will prioritise LAPF funds including how community input will be heard, how priorities will be decided, and how decisions and outcomes will be communicated to the community;</li> <li>• In many instances, LAs want the flexibility to use LAPF to leverage additional funding from other sources such as Land Councils OR to pool funding from multiple years to deliver larger projects or contribute to priority community projects that may not be within local government remit</li> <li>• whether delegated decision making will be requested from the council;</li> <li>• the nomination process for LA members, with councils seeking LA and community input into their policy on criteria for selecting LA members;</li> <li>• the number of appointed members up to a maximum of 14;</li> <li>• whether the Mayor/President will be a member of LAs beyond their own ward;</li> </ul>

PRINCIPLE: Flexible governance	
	<ul style="list-style-type: none"> <li>• the frequency of LA meetings (minimum four per year, with timing to enable input into, and feedback from, council planning);</li> <li>• the location of LA meetings - they should be held in public places to maximise opportunity for community members to attend; and</li> <li>• whether attendance at meetings via phone/video conference will be allowed.</li> <li>• the inclusion of or consultation with traditional owners</li> <li>• LA members want the flexibility and ability to appoint proxies.</li> <li>• Representation and development of young people crucial: young members, youth forum, presentations to school or inviting school groups to meetings.</li> <li>○ Representation at the LA to be based on community or council agreed protocols such as families, clans, or outstations.</li> <li>○ Streamline approvals for new people to joint LA.</li> </ul> <p>First LA meetings to recommend to council:</p> <ul style="list-style-type: none"> <li>• nomination of LA chair;</li> <li>• the kinds of priorities the LA would like to focus on for their community;</li> <li>• how information about meetings and decisions will be publicised. This must be at least on the council website for transparency for community members; and</li> <li>• the use of interpreters</li> </ul>

PRINCIPLE: Community-centred, place based engagement	
<b>What does this mean?</b>	The way the council and LA engage with each other and the community is place-based and adapts to local needs, languages, time frames and cultural protocols to encourage community involvement.
<b>What does this look like?</b>	<ul style="list-style-type: none"> <li>• LAs will recommend to their council the process for community engagement and two-way communication between the council, LA and community</li> <li>• Community engagement is supported by principles of the Remote Engagement and Coordination Strategy</li> <li>• Communication is clear and accessible.</li> <li>• LAs with their councils decide the nature and format of reports to be provided by councils to LAs – brief, diagrammatic reports are enough</li> <li>• LAs and their councils decide how the feedback about priorities is given to the LA and community in a timely way such as through the Council Community Based Manager, local council member or LA chair outside of meetings if needed</li> <li>• Regional councils support their LAs to host at least one community based event each year to support community input into LA priorities, and council planning. These events may be funded through some LAPF. For example, some LAs may hold</li> </ul>

PRINCIPLE: Community-centred, place based engagement	
	<p>community barbecues twice per year: to provide input into LA priorities and council plans for their area; and to receive feedback about how the LA and council has responded to that input.</p> <ul style="list-style-type: none"> <li>• Information is provided by regional councils in LA meeting agenda papers on:               <ul style="list-style-type: none"> <li>○ Decisions that council has made based on the LA’s recommendations and advice</li> <li>○ Council resources and service delivery in the community.</li> <li>○ Progress / status updates on LA project recommendations.</li> <li>○ The amount of funding that is available to the LA for community priorities.</li> </ul> </li> <li>• Consider changing to name of Local Authority so people understand better what an LA does.</li> </ul>

PRINCIPLE: Empowerment	
<b>What does this mean?</b>	LAs have authority to effectively carry out their core role as intended in the Act.
<b>What does this look like?</b>	<p>Where LAs seek to do so, regional councils consider opportunities for delegation of relevant decisions to LAs consistent with the <i>Local Government Act 2019</i>, including decision making about priorities for LA project funds</p> <p>Councils, with CM&amp;C and LGANT assistance, provide training and resources to support professional development of LA chairs and members in governance and the LA role; and clearly communicate the role of LAs and regional councils to communities.</p> <p>Sitting fees for LA members to be reviewed and based on the length of meetings, to bring equity and parity with other organisations in communities.</p> <p>Be an advocate for our communities – to governments and other organisations.</p>

PRINCIPLE: Outcome-focused	
<b>What does this mean?</b>	LAs (and communities) can see that their recommendations to the council, based on community engagement, are being acted on; where this is not the case, they are informed of the reason.
<b>What does this look like?</b>	Council annual reports include information that demonstrates how they have engaged with communities via their LA, and the outcomes delivered in response to LA

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	<p>recommendations/decisions. Mitigate and manage project delays through a combination of measures including changes to LAPF guidelines.</p> <p>Have a road map for each LA of projects and plans.</p> <p>Governance is neutral and open to consider all options in order the deliver community benefit.</p> <p>Compliance activity by CM&amp;C will focus on the intended outcome of LAs</p>

PRINCIPLE: Accountability	
<b>What does this mean?</b>	<p>LAs and their councils continue to demonstrate high standards in governance and the use of public resources</p>
<b>What does this look like?</b>	<p>LAs have opportunities for professional development in governance consistent with their core role through their council and/or with support from CM&amp;C and/or LGANT if requested.</p> <p>Decision making is transparent, focused on the best interests of the community as a whole, and conflicts of interest are managed. Information is accessible to community members about meetings, meeting proceedings, and opportunities for participation.</p> <p>Meetings are generally open to community members unless there is a defined need for confidentiality consistent with the provisions in the <i>Local Government Act 2019</i>.</p> <p>More community meetings and resourcing of these.</p> <p>Conduct community surveys.</p> <p>LA members to take an oath to serve diligently and do their best for the community, obey the rules of governance and commit to the code of conduct and being positive and constructive. Code of Conduct could be translated into language.</p> <p>LAs to develop rules and standards for how they work.</p> <p>Support LA members to go to Council meetings.</p> <p>Councils and LAs to use all available channels of communication to share information including social media, pamphlets, public address systems and video loops in public places, community radio stations, community screens, and notice boards.</p> <p>Make sure Councillors attend Local Authority meetings.</p>



## 5. Next Steps

This report will be provided to regional councils and other stakeholders for comment and input. Regional councils are encouraged to engage with their LAs in developing feedback. CM&C is available to assist as needed.

An implementation plan will be drafted for feedback from regional councils and LAs through their respective councils. The implementation plan will be developed through a reference group led by CM&C with the Local Government Association of the NT, and council and LA representatives.

The final LA Review report and Implementation Plan will be provided to the Minister for Local Government for consideration and approval. It is intended that this will be completed by the middle of 2023.

The LA Project Fund grant funding guidelines will be reviewed in 2022-23 in consultation with regional councils along with Guideline 1. Any recommendations for changes will then be advised to the Minister for Local Government for consideration for implementation in 2023-24.