



Legislation Update: Changes to support Council elections

FACTSHEET

Purpose

This update contains information about changes to the law that are being made to facilitate the Norfolk Island Regional Council (Council) election in 2020, including allowing the Council to decide how the election and future elections should be run.

What changes are being made?

The *Local Government Act 1993* (NSW) (NI) (the applied Local Government Act) began to apply in Norfolk Island from 1 July 2016. As a result, the election in 2020 needs to be run in accordance with the applied Local Government Act, as well as with other relevant NSW election laws.

Deciding how to run the election

An election was held in May 2016 to elect five people who became councillors from 1 July 2016. The law currently requires the Electoral Commissioner (Commonwealth Minister responsible for Norfolk Island) to administer the 2020 election because the Council and the local government area it represents did not come into existence until 1 July 2016 (when the applied Local Government Act commenced).

Because the Council has been operating for a number of years, it is appropriate that the Council decide how the election should be run, in accordance with the applied Local Government Act. To allow for this, technical amendments will be made to the law to treat the Council election in 2020 as the second election, thereby enabling the Council to choose from one of the following options (set out under section 296AA of the applied Local Government Act) to run the election:

- sign a contract with the Electoral Commissioner. Because the Electoral Commissioner is the Commonwealth Minister responsible for Norfolk Island, this would be a contract for the Minister to run all aspects of the election. In practice, the Department of Infrastructure, Regional Development and Cities (the department) would arrange for an electoral services provider to run the election on the Minister's behalf, including performing some Electoral Commissioner functions.
- sign a contract with an electoral services provider. The provider would administer the election on the Council's behalf. As the Electoral Commissioner, the Commonwealth Minister responsible for Norfolk Island would also contract out some Electoral Commissioner functions to an electoral services provider.
- ask the General Manager of the Council to run the election. The General Manager would run the election with an electoral services provider delivering some services, including managing

candidates' proposals for nomination and the registration of electoral material, printing ballot papers, managing polling and finalising the count. As the Electoral Commissioner, the Commonwealth Minister responsible for Norfolk Island would also contract an electoral services provider to deliver some Electoral Commissioner functions.

The Council will need to make its decision at least 18 months before the election, which in practice will be before 11 March 2019 (see section 296AA(1) of the applied Local Government Act).

The applied Local Government Act says that, regardless of how it is run, the cost of running the election sits with the Council.

Administrative and technical changes

Facilitating the election also requires a number of other changes to the applied Local Government Act. These changes will make sure the law works effectively in Norfolk Island and will focus on the following key areas:

- clarifying responsibility for the various election activities and requirements
- ensuring personal information is collected, used and shared by authorised people and organisations for the purpose of running the election
- replacing references to NSW laws that do not operate in Norfolk Island with references to relevant Norfolk Island laws, for example, substituting the *Strata Schemes Development Act 2015* (NSW) with the *Community Title Act 2015* (NI) or the *Administrative Decisions Review Act 1997* (NSW) with the *Administrative Review Tribunal Act 1996* (NI)

Questions or comments?

These changes to the law will have minimal effect on the community as they deal with technical and administrative matters that will enable the election to be held. The experience of the voter and their participation in the election are not affected.

In accordance with the legislation consultation framework, the department and the Administrator are releasing information about the changes. If you have a question or comment, please contact the Administrator via:

- Phone – 22152
- Email – Office.Administrator@infrastructure.gov.au
- Office – New Military Barracks, Kingston