



Australian Government

**Department of Infrastructure, Transport,
Cities and Regional Development**

Reference number: 20#5781DOC

Cr Robin Adams
Mayor
Norfolk Island Regional Council
mayor@nirc.gov.nf

Dear Mayor

Norfolk Island Regional Council Elections—Proposed Legislative Amendments

Thank you for your submission dated 23 August 2019 in response to the Department of Infrastructure, Transport, Cities and Regional Development's June 2019 discussion paper on Norfolk Island Regional Council (NIRC) elections. I apologise for the delay in replying. The department has considered your submission and addresses each of your requested amendments below.

Requested amendments to Proposal 5

Proposal 5 would extend the time by which the Commonwealth Minister can delay a NIRC election where it would be impracticable or inconvenient to hold it as scheduled.

The discussion paper stated the power to delay an election would only be used in a limited set of circumstances. Your submission requested that the text 'impracticable or inconvenient' and 'limited set of circumstances' be defined.

It is appropriate to use the phrase 'impracticable or inconvenient' without definition as this is how it is used in the *Local Government Act 1993* (NSW). Defining the phrase 'limited set of circumstances' is not preferred as it would limit the flexibility of the measure to deal with unforeseen situations. An example of when the power to delay an election might be used is where the electoral services provider contracted to run the election becomes unable to do so shortly before the election is due to be held. In this situation, the power could be used to provide time to source a replacement provider.

Requested amendments to Proposal 7

Your submission requested that anyone who could vote in a Norfolk Island Legislative Assembly election in 2013 and who meets the residency criteria be eligible to vote at NIRC elections, and that the voting eligibility criteria require residency in Norfolk Island of six months or more.

Your requested amendments would enable some people to vote regardless of whether they are Australian citizens. Your request was considered in the context of the policy and legislative situation that exists across Australia. Aside from certain British subjects, voters are required to be Australian citizens to vote at Commonwealth elections. This is also the case for local government elections in NSW, Queensland, Western Australia, the Northern Territory and the Indian Ocean Territories. No jurisdiction in Australia has a six month residency requirement. For these reasons, your requested amendments to Proposal 7 are not preferred.

Under the law as proposed, any Norfolk Island resident who is eligible to vote at Commonwealth elections will also be eligible to vote at NIRC elections. This includes Australian citizens and British subjects who were enrolled for a Commonwealth election immediately before 26 January 1984.

If a person is unsure whether they are eligible to vote at Commonwealth elections, they should check their enrolment on the Australian Electoral Commission (AEC) website at check.aec.gov.au/ or contact the AEC at www.aec.gov.au/About_AEC/Contact_the_AEC/index.htm

Requested amendments to Proposal 9

The relevant part of Proposal 9 is that NSW residents who are registered early postal voters under the *Electoral Act 2017* (NSW) will also need to apply to be postal voters for NIRC elections in order to vote by post. Your submission requested that the references to NSW residents and NSW legislation be removed and replaced with the Norfolk Island references.

The department proposes to amend the *Local Government (General) Regulation 2005* (NSW) (NI) so a person who wishes to vote by post at the 2020 NIRC election will need to apply to be a postal voter. We do not expect it will be necessary to specifically mention NSW residents or NSW legislation. It is not possible to replace the reference to the NSW Electoral Act with a reference to an equivalent Norfolk Island law, as there is no Norfolk Island equivalent.

Thank you again for your submission. I hope this information has been helpful.

Yours sincerely



Nicole Pearson
A/g Executive Director
Territories Division

24 January 2020