

Department of Planning, Housing and Infrastructure

dphi.nsw.gov.au



Local Government (Elections) Regulation

Regulatory Impact Statement (RIS)

November 2025





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Executive Summary

The Office of Local Government (OLG) within the Department of Planning, Housing and Infrastructure (DPHI) is the primary regulator of the local government sector in NSW, and is responsible for strengthening its sustainability, performance, integrity, transparency and accountability. OLG strives to work collaboratively with the sector and is the key advisor to the NSW Government on local government matters.

OLG administers the *Local Government Act 1993* (LG Act), the key legislation under which local government is constituted, governed and which enables it to carry out its functions. The Local Government (General) Regulation 2021 (LG Regulation) plays a crucial role in supporting the implementation of the LG Act which falls within the portfolio of responsibilities of the Minister for Local Government.

The LG Regulation is to be repealed on 1 September 2026. If the LG Regulation is not remade before then, it will be repealed on that date.

OLG is undertaking a statutory review of the LG Regulation prior to new regulations being made. A Regulatory Impact Statement (RIS) has been prepared to satisfy the requirements of the *Subordinate Legislation Act 1989* (SL Act) and the NSW Government Guide to Better Regulation 2019 (Better Regulation Guide).

Following the consideration of five options outlined in this RIS, it is proposed that the LG Regulation be remade into three stand-alone instruments:

- a Local Government (Elections) Regulation (LG Elections Regulation),
- a Local Government (Council Governance and Operations) Regulation (LG Council Governance and Operations Regulation), and
- a Local Government (Approvals) Regulation (LG Approvals Regulation).

This will be done in stages with a focus on the election provisions as the first step of the statutory review and the making of a new LG Elections Regulation.

The transfer of the election provisions of the existing LG Regulation to a stand-alone LG Elections Regulation is the first step in the statutory review and is the subject of this RIS.

Submissions are invited on any of the matters raised in the RIS and any other matter contained in the proposed LG Elections Regulation. All submissions will be carefully considered and may result in amendments to the proposed LG Elections Regulation.

The proposed LG Elections Regulation will be finalised and commence in early 2026 by publication on the NSW Legislation website.

Consultation and submissions on this RIS

This RIS, a consultation Feedback Form (Attachment 1) and supporting information is available for interested parties, including councils, other stakeholders and the wider community to provide submissions until the close of business on Friday, 12th December 2025.

Details are available on the NSW Government's 'Have Your Say' webpage at <https://www.nsw.gov.au/have-your-say> and linked from OLG's 'Local Government (General) Regulation Review' webpage at www.olg.nsw.gov.au.

Privacy notice

When you provide your submission, OLG will collect your personal information, including:

- name
- postal address
- telephone number
- email address
- role/position (if applicable)
- any other personal information you provide in your submission.

Providing a submission is entirely voluntary and you are under no obligation to provide OLG with any of your personal information, except as otherwise required by law.

OLG will review and evaluate all submissions received, and amendments may be made to the proposed LG Elections Regulation.

A copy of your submission will be provided to the Legislation Review Committee of the NSW Parliament along with a final version of the proposed LG Elections Regulation following the making of the instrument.

A copy may be made **publicly available** on OLG's 'LG Elections Regulation' webpage at www.olg.nsw.gov.au.

Alternatively, if you do not want a copy of your submission and/or personal information published on OLG's webpage, please clearly state this when you submit your Feedback Form – see **Question 7** in 'Your Details'.

You can elect to have your personal information withheld from publication on OLG's webpage. If you choose this option, please do not include any personal information in the body of your submission, including any comments to the Targeted Questions, or in any attachment that may be provided as part of your submission.

OLG may choose to withhold from publication any submission considered offensive, threatening, defamatory or inappropriate.

If you want to access or amend your personal information, or want more details about privacy, please contact OLG at olg.nsw.gov.au or on (02) 4424 4100.

Have your say

Interested parties, including councils, other stakeholders and the wider community, are invited to submit written comments using the Feedback Form to OLG.

Online: NSW Government's 'Have Your Say' webpage at <https://www.nsw.gov.au/have-your-say>

By email: olg@olg.nsw.gov.au, with the subject 'LG Elections Regulation', or

By post: LG Elections Regulation
Council Governance Team
Office of Local Government
Locked Bag 3015
Nowra NSW 2541

What will happen with submissions?

OLG will review and evaluate the submissions received, and amendments may be made to the proposed LG Elections Regulation. Copies of submissions will be provided to the Legislation Review Committee of the NSW Parliament along with a final version of the proposed LG Elections Regulation following the making of the instrument.

Submissions may be published on OLG's 'LG Elections Regulation' webpage at www.olg.nsw.gov.au. If you do not want your personal details or your submission published, please clearly state this when you make your submission.

OLG may choose to withhold from publication any submission considered offensive, threatening, defamatory or inappropriate.

Introduction

As the democratic institution closest to the community, it is important that council election processes are clear and effective and align with contemporary practice. Most procedural requirements for council elections are prescribed under the LG Regulation, which needs to be reviewed and updated regularly.

This RIS has been prepared to satisfy the requirements of the SL Act and the Better Regulation Guide in relation to a review of the election provisions of the LG Regulation.

The purpose of these requirements and consultation is to ensure that the economic and social impacts of proposed regulations are thoroughly assessed. This allows Ministers and the community to be confident that the regulations serve the public interest and that their benefits outweigh the costs.

The objective of this RIS is to assess the impact – both costs and benefits – of remaking the election provisions of the LG Regulation into a stand-alone LG Elections Regulation. The goal is to determine whether this approach offers the most effective and accessible regulatory framework, providing clear and effective policy guidance on the conduct of local government elections.

The simplification and modernisation of the current LG Regulation are key considerations in the proposal to split the LG Regulation into three separate instruments focussing on elections, approvals, and council governance and operations. The transfer of the election provisions of the LG Regulation to a stand-alone LG Elections Regulation is the first step in the statutory review, aimed at maintaining the efficiency and effectiveness of local government elections.

Further information about the next steps will be published on OLG's website as it becomes available.

Future opportunities to provide submissions on the LG Council Governance and Operations Regulation and LG Approvals Regulation will be published in the NSW Government Gazette, on the Government's 'Have your say' webpage and on OLG's Local Government (General) Regulation Review webpage.

Legislation

The Local Government Act 1993

The election provisions of the LG Act are contained under ‘Chapter 10 How are people elected to civic office?’

One of the main goals of the LG Act’s election provisions is to make sure that the governing bodies of councils are chosen through democratic elections. For certain rural and remote councils, this may include a mix of elected and appointed members, as allowed by section 7(c) of the LG Act.

The Local Government (General) Regulation 2021

The election provisions of the LG Regulation are currently included in ‘Part 11 Elections, referendums and polls’ and Schedules 4–11 of the LG Regulation.

This Part (except Division 12) applies to the election of the councillors (by ward or area) and the mayor (by area) of an area by the persons entitled to vote in the area. However, Schedules 7–10 do not apply to these elections.

Division 12 and Schedules 7–10 apply to other matters as specified in Division 12 (i.e. the election of a mayor or deputy mayor by councillors, the election of the members of, and the chairperson of, a county council, and constitutional referendums, de-amalgamation referendums and council polls).

These regulations are not directly passed by Parliament but are made by the Executive branch (i.e. by the Governor on the advice of the Executive Council) based on the powers granted to them by the Act.

Proposed LG Elections Regulation

As part of the review of the LG Regulation, it is proposed that a new LG Elections Regulation be made. This new regulation would be subordinate to the LG Act and focus specifically on election-related requirements.

The current election provisions contained under Part 11 Elections, referendums and polls and Schedules 4–11 of the LG Regulation would be moved into the new LG Elections Regulation.

RIS requirements

Regulation is one of the tools governments use to help achieve important community goals—like supporting the economy, protecting the environment, and promoting social wellbeing. But regulation can also create administrative and compliance costs for businesses, not-for-profits, consumers, government, and the wider community. That is why it is important to regularly review regulations to make sure the benefits still outweigh the costs.

Under the SL Act, regulations are automatically repealed after five years unless a postponement has been granted. When a regulation is due for repeal, the responsible agency must review it and determine whether it is still needed, or if any amendments are required. The agency then decides whether to remake the regulation.

As part of this process, a RIS is prepared to outline the proposed changes and their expected impacts. Submissions on the RIS are invited from the public. This section looks at the requirements applicable to the RIS as set out by the SL Act and Better Regulation Guide.

SL Act requirements applying to the RIS

Schedule 2 of the SL Act includes the following requirements:

- 1 A RIS must include:
 - (a) A statement of the objectives sought to be achieved and the reasons for them.
 - (b) An identification of the alternative options by which those objectives can be achieved (whether wholly or substantially).
 - (c) An assessment of the costs and benefits of the proposed statutory rule, including the costs and benefits relating to resource allocation, administration and compliance.
 - (d) An assessment of the costs and benefits of each alternative option to the making of the statutory rule (including the option of not proceeding with any action), including the costs and benefits relating to resource allocation, administration and compliance.
 - (e) An assessment as to which of the alternative options involves the greatest net benefit or the least net cost to the community.
 - (f) A statement of the consultation program to be undertaken.
- 2
 - (1) Wherever costs and benefits are referred to in this Schedule, economic and social costs and benefits, both direct and indirect, are to be taken into account and given due consideration.

- (2) Costs and benefits should be quantified, wherever possible. If this is not possible, the anticipated impacts of the proposed action and of each alternative should be stated and presented in a way that permits a comparison of the costs and benefits.

Better Regulation Guide requirements

The Better Regulation Guide assists agencies in developing regulation which is required, reasonable and responsive to the economic, social, and environmental needs of NSW through seven Better Regulation Principles. The below principles guide the development of a RIS:

- **Principle 1:** The need for government action should be established. Government action should only occur where it is in the public interest, that is, where the benefits outweigh the costs.
- **Principle 2:** The objective of government action should be clear.
- **Principle 3:** The impact of government action should be properly understood, by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options.
- **Principle 4:** Government action should be effective and proportional.
- **Principle 5:** Consultation with business, and the community, should inform regulatory development.
- **Principle 6:** The simplification, repeal, reform, modernisation or consolidation of existing regulation should be considered.
- **Principle 7:** Regulation should be periodically reviewed, and if necessary reformed, to ensure its continued efficiency and effectiveness.

This RIS addresses these principles by examining the key elements of the proposal to move the local government election provisions into a new, stand-alone LG Elections Regulation.

It details and compares the costs and benefits of the preferred option with other possible approaches, to help ensure the best outcome for councils and their communities, and the broader public.

Further information is available in the Better Regulation Guide here:

https://www.productivity.nsw.gov.au/sites/default/files/2022-05/TPP19-01_Guide-to-Better-Regulation.pdf.

Discussion of proposed LG Elections Regulation

The LG Regulation is large and covers a wide range of policy and process

In 2005, the Local Government (General) Regulation 2005 replaced 9 regulations, making it the largest regulation in the NSW statute book. The existing regulation covers processes for regulatory approvals and orders, procurement processes, investigation requirements, fees and charges and elections, amongst other matters. This consolidation has made it challenging to undertake an efficient and timely review given the number of policy areas that would need to be considered and addressed in a review.

In 2021, the Regulation was remade but a statutory review was not undertaken. Under the SL Act, the LG Regulation is due to be automatically repealed on 1 September 2026 unless remade before then.

The proposal to split the LG Regulation into three stand-alone instruments aims to address this challenge and improve regulation for the local government sector.

Proposal to split the LG Regulation into stand-alone regulations

The Better Regulation Guide emphasises the principles of simplification, repeal, reform, and consolidation to achieve efficient and effective legislation. Regular reviews of regulations are conducted to ensure these objectives are met. However, the size and scope of the LG Regulation presents challenges in conducting such reviews.

To improve clarity and better support councils, it is proposed that the current LG Regulation be divided into three-stand-alone regulations. This change would allow each regulation to focus more directly on specific areas, making them easier to understand and apply.

The three proposed instruments would cover:

- Elections
- Council Governance and Operations, and
- Approvals.

The transfer of the election provisions under Part 11 and Schedules 4 to 11 of the LG Regulation to a stand-alone LG Elections Regulation is the first step in the statutory review and aims to ensure the continued efficiency and effectiveness of local government elections and promote public confidence in their outcomes.

A more comprehensive review of the policy and intent of the election provisions can then be undertaken ahead of and as part of the preparation for a forthcoming election.

Under the SL Act, OLG must prepare and consult on a RIS for any new regulation which supports the administration of the LG Act to ensure that it is the best option available to achieve the objectives, considering both costs and benefits.

Summary of proposed changes

As part of the statutory review, it is planned to improve the structure and readability of the Regulation. Key changes include:

- **Better alignment of sections** – grouping actions and functions, including those related to conducting local government elections,
- **Renaming Parts and Divisions** – to more accurately reflect their content and purpose
- **Renumbering of Sections, Parts and Divisions** – due to the creation of a new stand-alone instrument,
- **Modernised language** – simplifying wording to make the regulation clearer and more accessible, and
- **Removal of outdated and repealed references** – eliminating sections that have already been repealed and are no longer required and better aligning the Regulation with recent legislative changes.

Proposed structure and content

The below provides a general outline of the proposed structure and content of the new LG Elections Regulation:

- **Part 1** Preliminary provisions including the name, commencement date, application of the regulation and interpretation of terms used
- **Part 2** Administration of elections, including functions of the election manager, advertising by the election manager and changes to wards
- **Part 3** Electoral rolls, including the closing date, advertising of enrolments, enrolment forms and information and its use
- **Part 4** Notice of election and nominations, including vacancies, nomination day, notice of election, nomination proposals, candidate information sheets, returning officer nomination of candidates and declaration of uncontested elections
- **Part 5** Polling places for attendance elections, including pre-poll voting offices
- **Part 6** Preparation for poll, including notice of contested election, grouping of candidates and order on ballot-papers and form of ballot-papers
- **Part 7** Further preparation for attendance elections, including supply of rolls and ballot-papers and general handling of ballot-papers

- Part 8 Special voting at attendance elections, including postal voting and handling of postal ballot-papers, registration of registered early voters, closing time and receipt of postal ballot-papers, provisional voting, including persons already marked off or omitted from the roll, enrolling, re-enrolling and transfer of enrolment, pre-poll voting procedure, offices and times, declared institution voting, mobile booths
- Part 9 Technology assisted voting, including application to vote by means of technology assisted voting, determination and procedures, auditing and monitoring, protection of hardware and software, and scrutineers
- Part 10 Ordinary voting at attendance elections, including polling place arrangements, hours of voting, and scrutineers
- Part 11 Voting at postal elections, including scrutineers, issuing of ballot-papers, and postal voting procedures
- Part 12 Scrutiny and counting, including informal ballot-papers, counting places, scrutiny of ballot-papers and counting of votes, finalising the count and recount, and declaration of the election
- Part 13 Provisions relating to activities during regulated periods, including non-complying electoral material, offences applicable during the regulated period, on pre-poll voting days and on election days, and registration of electoral material
- Part 14 Offences including penalty notices, misconduct, false statements, breach of secrecy, obstruction, and electoral bribery
- Part 15 Miscellaneous provisions including suspension, adjournment or postponement of voting, assistance to certain electors, special format of ballot-papers, security of election materials, exercise of council functions during the caretaker period and countback elections
- Part 16 Mayors, county councils and referendums, including election of mayors by councillors, chairpersons and members of county councils, and constitutional referendums and council polls
- Schedule 1 Counting of votes under optional preferential system
- Schedule 2 Counting of votes under proportional system
- Schedule 3 Election of mayor by councillors
- Schedule 4 Election of chairpersons of joint organisations
- Schedule 5 Election of chairpersons of county councils
- Schedule 6 Election of members of county councils
- Schedule 7 Countback elections
- Schedule 8 Constitutional referendums and council polls, and
- Schedule 9 Forms.

Potential for further amendments

There is a potential for further amendments if the Local Government Amendment (Elections) Bill 2025 is passed by the NSW Parliament.

The Bill, as tabled, proposes a range of amendments to the LG Act and LG Regulation relating to the administration of council elections. If passed, the proposed amendments will remove the option for councils to engage a private electoral services provider to administer their elections and provide that the NSW Electoral Commissioner is to administer all council elections in the future.

The Bill, as tabled, also contains amendments to limit pre-poll voting to 6 days, require polling places at council elections to be located in the relevant council's area except where permitted by the Regulation, and remove the option for councils to fill vacancies using a countback election from September 2028 and replace it with a requirement that, where the vacating councillor was a member of a group on the ballot paper at the election at which they were elected, they are to be replaced by the highest listed candidate from the same group who was not elected at that election. Other vacancies will be filled using a by-election.

The elections provisions of the LG Regulation are also reviewed prior to ordinary local government elections in consultation with the NSW Electoral Commission. It is intended that this review will be conducted in 2026-2027 in preparation for the local government elections in 2028 and will consider the Commission's recommendations in its report on the 2024 Local Government Elections.

The need for government action and policy objectives

The Better Regulation Guide requires that a RIS establish the need for government action in relation to proposed regulations, and that the objective of government action should be clear.

Government action is needed

One of the strengths of our democratic system of local government is that council decisions on service delivery, planning, infrastructure investment and regulation are made by councillors who are members of the local community and who are elected by and accountable to that community for their decisions. The election provisions of the LG Regulation are critical to ensuring this democratic accountability and promoting community confidence in council elections and their outcomes.

The LG Regulation will be automatically repealed on 1 September 2026 unless remade before then. The LG Regulation prescribes the detailed rules and procedures that facilitate implementation of the principles of the LG Act. These rules are essential for guiding how councils operate and ensuring they can effectively support their communities. The consequence of a repeal is that the provisions prescribing a range of council operations, including elections, would be repealed.

Without the LG Regulation, the NSW Government would have limited ability to assist and guide councils in carrying out key responsibilities—such as approving developments, managing public land, issuing orders, setting rates and charges, holding meetings and elections, delivering services, and maintaining good governance.

Without the election provisions, it would not be possible to hold council elections every 4 years and to fill casual vacancies as required under the LG Act. This would impact councils' ability to function effectively and to meet community needs. For example, without the LG Regulation, the 2028 local government elections could not be conducted. This would disrupt the democratic process and prevent communities from electing their local representatives.

The policy objectives

The NSW Government is reviewing the LG Regulation to ensure it continues to support councils and their communities effectively. Its main policy objectives are to:

- deliver a responsive and accessible regulatory framework that provides clear and effective policy guidance to councils,
- create a modern and user-friendly regulation that adapts to the evolving needs of local government, and

- empower councils to efficiently fulfill their functions and foster strong, healthy, and prosperous communities.

To achieve this the key objectives of the statutory review are to:

- ensure regulations continue to be in place to guide councils' operations by remaking the LG Regulation into three stand-alone instruments that focus on elections, council governance and operations, and approvals, and
- simplify and modernise regulation.

The key objectives of creating three stand-alone instruments and staggering the statutory review are to:

- reduce the burden on stakeholders by making it easier to effectively review the proposed new regulations and provide feedback,
- make it easier for councils to implement requirements to meet their obligations,
- allow for more manageable and transparent regulatory review process, and
- ensure a new stand-alone LG Elections Regulation is in place by early 2026 to support the delivery of council elections in 2028.

Options considered to achieve policy objectives

The following options have been considered as part of the review of the impact, including costs and benefits, of remaking the LG Regulation.

Option 1: Base case (no action)

Under this option, the current LG Regulation would not be replaced and would be automatically repealed on 1 September 2026.

If this happens, there would be no regulations to support local councils in the exercise of their functions, such as providing approvals, issuing orders, public land management, levying rates and charges, conducting meetings and elections, providing services and maintaining good conduct.

Without the LG Regulation, councils would face serious challenges in serving their communities effectively. For example, **it would not be possible to hold local government elections in 2028**, because the necessary rules governing the delivery of council elections would no longer exist. This would disrupt the democratic process and impact on the ability of communities to elect their local representatives.

This option does not meet the principles of better regulation and would fail to achieve the goals of the statutory review.

Option 2: LG Regulation is remade as is (status quo)

Under this option, the LG Regulation would be remade prior to its automatic repeal, but no statutory review would be undertaken.

This means that the LG Regulation would remain unchanged from the current 2021 version, which was not comprehensively reviewed. As a result, many provisions may not reflect current needs or practices and will not have been thoroughly evaluated for their continued efficiency and effectiveness.

This option does not align with better regulation principles, which call for:

- clear and effective government action
- consultation with councils, communities and other stakeholders, and
- continued simplification and modernisation of regulations.

Without a proper review, this option risks keeping outdated rules in place and misses an opportunity to improve how councils serve their communities.

Option 3: LG Regulation is remade into three stand-alone regulations in stages starting with the election provisions (simplified review) **PROPOSED OPTION**

This option proposes a staged approach to reviewing and remaking the LG Regulation. The first step would be to create a new standalone LG Elections Regulation by early 2026. A further two standalone regulations, the LG Council Governance and Operations Regulation and LG Approvals Regulation will be made progressively following a statutory review of the relevant provisions similar to this process.

By staggering the review process, the impact on the resources and time of interested stakeholders will be minimised, allowing them to more effectively review and provide input into the proposed new regulations.

This option is best aligned with the better regulation principles, because it allows for:

- a structured and manageable review process
- more time for consultation with councils, communities and stakeholders, and
- a modern, simplified and more effective regulation.

The election provisions are routinely reviewed prior to ordinary local government elections in consultation with the NSW Electoral Commission. For example:

- a full review was completed in 2019 ahead of the 2021 elections,
- updates were made in 2020 in response to the COVID-19 pandemic, and
- further amendments were made in 2024 ahead of the 2024 elections.

The prescription of a standalone LG Elections Regulation will better facilitate these regular reviews ensuring that the regulation of council elections continues to be fit for purpose and aligned with best practice. The making of a standalone LG Elections Regulation in 2026 will allow a further review to be undertaken of the Regulation ahead of the 2028 local government elections.

Option 4: LG Regulation is remade as one regulation (major review)

Under this option, the LG Regulation would be remade as a single document, following a comprehensive and detailed review. However, this would require significant resources and time to undertake appropriate consultation.

While this approach would allow for a comprehensive update, it risks the automatic repeal of the LG Regulation on 1 September 2026, due to the extensive resources and time required for a thorough statutory review. Additionally, this option may limit the review parameters, impacting the efficiency and effectiveness of local government, as well as the simplification and modernisation of the current LG Regulation.

The impact on the resources and time of interested stakeholders would be substantial, potentially hindering their ability to effectively review the proposed new regulations and provide feedback. Similarly, the resources and time required from councils to implement the requirements would be significant, making it more challenging for them to meet their obligations.

Reforms are underway to implement a number of NSW Government and sector priorities including to reform the Councillor Conduct Framework, improve councils' financial sustainability and the development of comprehensive, new procurement guidelines for local government. Remaking the LG Regulation as one regulation before September 2026 would be impacted by the requirement to direct resources to the priority reforms and further complicated by these concurrent reforms which will all need new regulatory provisions.

Option 5: LG Regulation is remade into three stand-alone regulations in one stage (complex review)

This option proposes remaking the Local Government Regulation by creating **three stand-alone instruments at the same time**—covering elections, council governance and operations, and approvals.

While this approach would result in a complete update, it would require significant resources and time to undertake appropriate consultation. The complexity of this process may confuse stakeholders, making it difficult for them to understand the content of each instrument and provide feedback on the areas they are interested in.

Additionally, the extensive resources and time required for a thorough statutory review may risk the automatic repeal of the LG Regulation on 1 September 2026 before it can be remade. This option may also limit the review parameters, impacting the efficiency and effectiveness of local government, as well as the simplification and modernisation of the current LG Regulation.

The impact on the resources and time of interested stakeholders would be substantial, potentially hindering their ability to effectively review the proposed new regulations and provide feedback. Similarly, the resources and time required from councils to implement the requirements would be significant, making it more challenging for them to meet their obligations.

Costs and benefits of options

Regulatory burdens are costs imposed by regulatory requirements, including unnecessary regulation (or ‘red tape’).

Costs may be borne by businesses, government, and the community, and include:

- **administrative compliance costs** – associated with demonstrating compliance with a regulation (such as paperwork and record-keeping costs),
- **substantive compliance costs** – related to required capital and production expenditure (such as equipment and training expenses),
- **financial costs** – which are payments made directly to the Government (such as fees, levies and fines),
- **social impacts** – considerations such as quality of life, equity, community norms, public health and safety, crime reduction, and human rights protection. While these impacts often have a financial dimension, they are harder to quantify than purely financial and economic impacts, as they typically lack market value,
- **environmental impacts** – such as improved air quality, are difficult to quantify in financial terms because they lack traditional market value. However, they should still be considered in any impact assessment process, and
- **indirect costs** – relating to the impact that regulation has on market structures, and consumption patterns (such as restrictions on innovation and barriers to entry through licensing) and the cost of delays.

Well designed, and properly targeted regulation can also bring benefits to businesses, government and the community through reduced burdens. The benefits of undertaking of a statutory review may include:

- **streamlined, predictable and consistent processes** – eliminating those that are redundant or have negative side effects can reduce the time and effort required for businesses to comply, leading to increased efficiency and productivity,
- **improved quality** – enhancing the quality of products and services through effective regulatory measures,
- **improved compliance and administrative** – decreasing the financial and resource burdens of regulations while still achieving their intended goals,
- **enhanced innovation** – by reducing unnecessary regulatory burdens, businesses can allocate more resources to research and development, fostering innovation and competitiveness,
- **improved transparency and public trust** – transparent and effective regulations can enhance public trust in government institutions and businesses, leading to a more stable and supportive community environment,
- **environmental protection** – regulations aimed at reducing pollution and conserving natural resources can lead to a healthier environment, benefiting both the community and future generations,
- **economic growth** – by creating a fair and predictable regulatory environment, businesses are more likely to invest and expand, contributing to overall economic growth and job creation, and
- **social equity** – regulations that promote fair labour practices and protect vulnerable populations can lead to a more equitable society, improving the quality of life for all community members.

Options analysis

The following table highlights the cost-benefit analysis that has been undertaken for each of the identified options.

Table 1: Cost-benefit analysis

Costs	Benefits
Option 1 Base case (no action)	
• the cost of allowing the LG Regulation to lapse would be significant, • will incur the greatest cost to local communities as they will be unable to receive services from councils, • prevents councils from exercising many of their functions, including but not limited to, providing approvals, issuing orders, public land management, levying rates and charges,	• there are no benefits arising from the option of allowing the automatic repeal of the LG Regulation to proceed.

Costs	Benefits
conducting meetings and elections, providing services and maintaining good conduct, • will prevent authorised persons from enforcing the LG Act or applying penalties for offences, and • prevents local government elections from being conducted in 2028, significantly impacting democratic decision making and outcomes.	
Option 2 LG Regulation is remade as is (status quo)	
• will not achieve policy objectives, • requires ongoing substantial resources and time for consultation process for any future reviews, • missed opportunity to undertake a comprehensive review, • does not enable the creation of efficiencies or improvement to the effectiveness of regulation, and • does not enable the simplification or modernisation of regulation.	• will enable councils to continue to exercise their functions, and • limited resources required to remake the LG Regulation in this way.
Option 3 LG Regulation is remade into three stand-alone regulations in stages starting with the elections provisions (simplified review)	
	PROPOSED OPTION
• will have a resource and time cost for stakeholders and local communities. • There is a theoretical cost in that a regulated approach doesn't recognise innovation in the running of elections and locks in the processes of the State Electoral Commission. However, in practice the Parliament has rejected the idea of each council setting its procedures for elections,	• will enable the new LG Elections Regulation to be made by early 2026, • will enable a structured and staged review of the LG Regulation, reducing the impact on required resources and time to undertake appropriate consultation, • will enable a more complete review to be undertaken, • will clarify requirements around conducting local government elections, approvals, and governance and operations for councils and communities, • will enable simplification and modernisation of the LG Elections Regulation, • will enable continued efficiency and effectiveness of local government, • will reduce the impact on the resources and time of interested stakeholders and their ability to effectively review the proposed new regulations and provide feedback,

Costs	Benefits
	will reduce the impact on the resources and time of councils to implement requirements and make it easier for them to meet obligations
Option 4 LG Regulation is remade as one regulation (major review)	
- will not achieve policy objectives, - will require significant resources and time to undertake appropriate consultation, - risks ability to remake the LG Regulation prior to the automatic repeal, - may limit the review parameters and impact the efficiency and effectiveness to enable it to be remade before the automatic repeal, - may limit the simplification and modernisation of the current LG Regulation to enable it to be remade before the automatic repeal, - will impact on the resources and time of interested stakeholders and the community's ability to effectively review the proposed new regulations and provide feedback, and - will impact on the resources and time of councils to implement requirements and ease for them to meet obligations.	- will enable councils to continue to exercise their functions, - will enable a thorough review of all provisions, and - If the review can be completed on time, allows the update and modernisation of provisions.
Option 5 LG Regulation is remade into three stand-alone regulations in one stage (complex review)	
- will require significant resources and time to undertake appropriate consultation, - may be confusing for stakeholders to clearly understand the split in provisions and how to provide feedback on the areas they are interested in, - will require significant resources and time to undertake appropriate consultation, - may risk the automatic repeal of the LG Regulation on 1 September 2026 prior to it being remade due to the resources and time required for an appropriate statutory review, - may limit the review parameters and impact the efficiency and effectiveness of local government, and the simplification and modernisation of the LG Elections Regulation, LG Approvals Regulation and LG Council Governance and Operations Regulation,	- will clarify requirements around conducting local government elections, approvals, and governance and operations for councils and communities, and - will enable continued efficiency and effectiveness of local government.

Costs	Benefits
• will impact on the resources and time of interested stakeholders and their ability to effectively review the proposed new regulations and provide feedback, and • will impact on the resources and time of councils to implement requirements and ease for them to meet obligations.	

Conclusion

Preferred option

Option 3 is the preferred option to achieve the objectives stated above.

The current LG Regulation is the largest regulation in the NSW statute book covering a wide range of policy areas. This has posed an insurmountable challenge to undertaking the periodic reviews and updates required under the SL Act. Splitting the LG Regulation and remaking it into three stand-alone regulations in stages starting with the election provisions will address this and allow a balanced review approach.

Option 3 is the only option that will ensure that councils can continue to operate effectively beyond 1 September 2026, by allowing enough time for a proper review and the Government to make the proposed LG Elections Regulation, LG Council Governance and Operations Regulation, and LG Approvals Regulation in 2026 prior to the automatic repeal of the LG Regulation.

While Option 3 will require a significant commitment of resources, it:

- minimises the impact on councils and stakeholders
- allows for focused consultation on each area
- improves clarity and useability of the regulations
- supports better regulation principles, including transparency, effectiveness and proportionality, and
- provides the opportunity to simplify and modernise the regulations.

Importantly, no significant costs are expected from remaking the LG Regulation in stages.

Option 3 is considered the best way forward because it would allow for a more focused and targeted approach to regulation, clarity around requirements, and enhance the efficiency and effectiveness of local government.

It also mitigates against the risks expected to arise under Options 1, 2, 4 and 5. Further, Option 3 is the most cost-effective option. No significant costs are expected to arise from the making

of the proposed LG Elections Regulation, LG Approvals Regulation and LG Council Governance and Operations Regulation in stages or as stand-alone instruments.

Option 3 will provide DPHI and OLG an opportunity to modernise these instruments, including by simplifying their format, structure, content and language. These changes will improve readability and minimise confusion amongst affected stakeholders.

Alternative unviable options

To ensure councils can continue to operate effectively, the LG Act must be supported by a regulation that provides clear rules and procedures. Without it, councils would face serious governance challenges, confusion, and a lack of guidance – impacting their ability to serve communities and uphold democratic processes.

Option 1 will have a significant negative impact on local democratic decision making and outcomes as no supporting rules or procedures will exist to support local government functions.

This option will not comply with better regulation principles which require effective and proportional government action, informed regulatory development through consultation with business and the community and simplification and modernisation of regulatory requirements. For these reasons, **Option 1 – Base case (no action)** is not considered a viable option.

Remaking the LG Regulation without a statutory review would maintain the status quo and may be seen as an easy option. However, **Option 2 – LG Regulation is remade as is (status quo)**, is not considered a viable option because it does not promote the better regulation principles, will not achieve policy objectives and would be a missed opportunity to make more informed improvements.

Undertaking a major review of the LG Regulation at one time requires substantial resources and timeframes to appropriately undertake the necessary consultation. **Option 4 – LG Regulation is remade in its current form (major review)** is not considered a viable option as the size and scope of the LG Regulation presents challenges in conducting such a review. This option will have a significant impact on the ability of interested stakeholders to provide feedback and the ability of councils to implement any changes. While this option will achieve the policy objectives, it is too resource intensive and risks missing the deadline to have the LG Regulation remade before its automatic repeal on 1 September 2026.

Undertaking a complex review of the LG Regulation that includes making three stand-alone instruments at the same time presents the same challenges and additional complexity that may cause confusion when consulting. Embarking on this option would take substantial resources and timeframes for the necessary consultation process, which may distract from other necessary reforms. This will also have a significant impact on the ability of interested

stakeholders to provide feedback and the ability of councils to implement any changes. While this option may achieve the policy objectives, it is resource intensive and risks missing the deadline to have the three instruments made prior to the automatic repeal of the LG Regulation.

For efficient and timely review and for these reasons **Option 5 – LG Regulation is remade into three stand-alone regulations in one stage (complex review)** is not considered a viable option.

Overall, an assessment of the costs and benefits of the 5 options indicates that Option 3 is the preferred option because it offers the greatest net benefits and lowest costs when compared with Options 1, 2, 4 and 5.

Consultation

The proposal to split the LG Regulation into three stand-alone instruments is supported by the NSW Government.

OLG has advised the NSW Electoral Commission about the proposal and the Commission will be invited to provide feedback as part of the statutory review process. OLG will also work closely with the Commission in 2026-2027 to undertake a further review of the election provisions in preparation for the local government elections in 2028.

Broader community feedback on the proposal to make the LG Elections Regulation is being sought, and the community is invited to provide submissions. Submissions on the remake of the other instruments will be sought from the public in due course.

Attachments

Attachment	Title
1	Feedback Form