

# NORTHERN TERRITORY OF AUSTRALIA

## LOCAL GOVERNMENT (ROAD OPENING AND CLOSING) REGULATIONS

As in force at 23 December 1998

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 23 December 1998

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## LOCAL GOVERNMENT (ROAD OPENING AND CLOSING) REGULATIONS

### Regulations under the *Local Government Act*

#### Part 1 Preliminary

##### 1 Citation

These Regulations may be cited as the *Local Government (Road Opening and Closing) Regulations*.

##### 2 Interpretation

(1) In these Regulations, unless the contrary intention appears:

**close**, in relation to a road, means:

- (a) close the road completely to all traffic; or
- (b) partially close the road by restricting:
  - (i) the passage of traffic on, across or along the road;
  - (ii) the use of the road to vehicles that do not exceed a specific mass;
  - (iii) the use of the road to traffic that belongs to, or does not belong to, a specified class; or
  - (iv) the use or manner of use of the road in the manner considered necessary in the circumstances.

**utilities** includes water, gas and electricity reticulation systems, sewerage systems, and electronic transmission or reception cables, conduits, systems or apparatus.

(2) In these Regulations, unless the contrary intention appears, a reference to the permanent or temporary closure of a road is to be read as including a reference to the permanent or temporary closure of part of a road.

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## **Part 2                      Opening road**

### **3                      Intention to open road**

- (1) If a council intends to open a road under section 131(6) of the Act, it must prepare:
  - (a) a plan, acceptable to the Surveyor-General, showing the position of the intended road; and
  - (b) a document stating the name and last-known address of each owner of land that will adjoin the road if opened.
- (2) The council must submit the plan prepared under subregulation (1)(a) to the Surveyor-General to be approved if it accurately represents the position of the intended road.

### **4                      Formulation of proposal to open road**

As soon as practicable after the Surveyor-General has approved a plan under regulation 3(2), the council may formulate a proposal to open the road shown on the plan.

### **5                      Notice of proposal to open road**

- (1) As soon as practicable after formulating a proposal to open a road, the council must publish a notice in a newspaper circulating in the council area stating:
  - (a) the details of the proposal;
  - (b) the name and last-known address of each owner of land that will adjoin the road if opened;
  - (c) that a copy of the plan showing the position of the proposed road is available for inspection at the council office; and
  - (d) that a person may object to the proposal, not later than 28 days after publication of the notice, by advising the council in writing of the objection and the reasons for it.
- (2) The Council must keep a copy of the plan referred to in subregulation (1)(c) at the council office for public inspection, free of charge, during the hours the office is open.

## **Part 3                      Permanent closure of road**

### **6                      Intention to permanently close road**

- (1) If a council intends to permanently close a road under section 131(7) of the Act, it must prepare:
  - (a) a plan, acceptable to the Surveyor-General, showing the position of the road;
  - (b) a document stating the name and last-known address of each owner of land adjoining the road; and
  - (c) a written statement of the reasons for the council's intention to permanently close the road.
- (2) The council must submit the plan prepared under subregulation (1)(a) to the Surveyor-General to be approved if it accurately represents the position of the road.

### **7                      Ministers' consent to permanent closure**

- (1) For the purposes of section 131(8)(a) of the Act, as soon as practicable after the Surveyor-General has approved a plan under regulation 6(2), the council must seek consent to the permanent closure of the road shown on the plan by giving the Minister:
  - (a) a written notice of the council's intention to permanently close the road;
  - (b) a copy of the plan prepared under regulation 6(1)(a); and
  - (c) a copy of the statement prepared under regulation 6(1)(c).
- (2) The council must provide a copy of the documents referred to in subregulation (1) to the member of the Legislative Assembly for the electoral division in which the road intended to be closed is situated, who may make recommendations to the Minister in relation to the intended closure within 28 days of receiving the copy of the documents.
- (3) In deciding whether or not to consent to the permanent closure of a road, but without affecting the power to form an opinion or exercise a discretion, the Ministers referred to in section 131(8)(a) of the Act must have regard to recommendations made under subregulation (2) that are received within the time referred to in that subregulation.

- (4) Not later than 3 months after receiving a notice from a council under subregulation (1), the Minister must notify the council in writing whether or not the Ministers referred to in section 131(8)(a) of the Act consent to the permanent closure.

## **8 Formulation of proposal to permanently close road**

Not later than 3 months after a council receives notification under regulation 7(4) of the Ministers' consent to the permanent closure of a road, the council may formulate a proposal for that closure.

## **9 Notice of proposal to permanently close road**

- (1) As soon as practicable after a council formulates a proposal to permanently close a road, it must publish a notice in a newspaper circulating in the council area stating:
- (a) the details of the proposal;
  - (b) the name and last-known address of each owner of land adjoining the road;
  - (c) that a copy of the plan showing the position of the road is available for inspection at the council office; and
  - (d) that a person may object to the proposal, not later than 28 days after publication of the notice, by advising the council in writing of the objection and the reasons for it.
- (2) The Council must keep a copy of the plan referred to in subregulation (1)(c) at the council office for public inspection, free of charge, during the hours the office is open.
- (3) The council must also give written notice and details of the proposal to:
- (a) the Planning Authority; and
  - (b) the Agencies or bodies providing or maintaining utilities on, in or over land that will be affected by the implementation of the proposal.

## **Part 4                      Objections to and amendment of proposals**

### **10                      Objection to proposal to open road**

Not later than 28 days after details of a proposal to open a road are published under regulation 5(1), a person may object to the proposal by advising the council in writing of the objection and the reasons for it.

### **11                      Objection to proposal to permanently close road**

- (1) Not later than 28 days after details of a proposal to permanently close a road are published under regulation 9(1), a person may object to the proposal by advising the council in writing of the objection and the reasons for it.
- (2) Not later than 28 days after receiving a notice under regulation 9(3) of a proposal to permanently close a road, a person may object to the proposal by advising the council in writing of the objection and the reasons for it.

### **12                      Consideration of objections to proposal**

- (1) If a council receives objections to a proposal under regulation 10 or 11, whichever is applicable, the council must:
  - (a) consider each objection; and
  - (b) accept or reject it.
- (2) Not later than 6 months after the expiry of the time for objections limited by regulation 10 or 11, whichever is applicable, the council must:
  - (a) determine:
    - (i) whether or not to proceed with the proposal; or
    - (ii) whether to amend the proposal; and
  - (b) publish in a newspaper circulating in the council area a notice of its determination, including:
    - (i) if the council has determined to amend a proposal to open a road – the matters referred to in regulation 13(b); or

- (ii) if the council has determined to amend a proposal to permanently close a road – the matters referred to in regulation 14(b).

### **13 Amendment of proposal to open road**

If a council amends a proposal to open a road, the council must:

- (a) if the amendment requires the plan prepared under regulation 3(1)(a) to be altered:
  - (i) prepare a further plan showing the position of the proposed road;
  - (ii) submit the plan to the Surveyor-General to be approved if it accurately represents the position of the intended road; and
  - (iii) prepare a document stating the name and last-known address of each owner of land that will adjoin the road if opened;
- (b) include in the notice published under regulation 12(2)(b)(i):
  - (i) the details of the amended proposal;
  - (ii) the name and last-known address of each owner of land that will adjoin the road if opened;
  - (iii) a statement that a copy of the plan showing the position of the proposed road is available for inspection at the council office; and
  - (iv) a statement that a person may object to the amended proposal, not later than 28 days after publication of the notice, by advising the council in writing of the objection and the reasons for it; and
- (c) keep a copy of the plan referred to in paragraph (b)(iii) at the council office for public inspection, free of charge, during the hours the office is open.



**14 Amendment of proposal to permanently close road**

If a council amends a proposal to permanently close a road, the council must:

- (a) if the amendment requires the plan prepared under regulation 6(1)(a) to be altered:
  - (i) prepare a further plan showing the position of the road;
  - (ii) submit the plan to the Surveyor-General to be approved if it accurately represents the position of the road; and
  - (iii) prepare a document stating the name and last-known address of each owner of land adjoining the road;
- (b) include in the notice published under regulation 12(2)(b)(ii):
  - (i) the details of the amended proposal;
  - (ii) the name and last-known address of each owner of land adjoining the road;
  - (iii) a statement that a copy of the plan showing the position of the road is available for inspection at the council office; and
  - (iv) a statement that a person may object to the amended proposal, not later than 28 days after publication of the notice, by advising the council in writing of the objection and the reasons for it;
- (c) keep a copy of the plan referred to in paragraph (b)(iii) at the council office for public inspection, free of charge, during the hours the office is open; and
- (d) give written notice and details of the amended proposal to:
  - (i) the Planning Authority; and
  - (ii) the Agencies or bodies providing or maintaining utilities on, in or over land that will be affected by the implementation of the amended proposal.

**15 Objection to amended proposal to open road**

Not later than 28 days after details of an amended proposal to open a road are published under regulation 12(2)(b)(i), a person may object to the amended proposal by advising the council in writing of the objection and the reasons for it.

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**16            Objection to amended proposal to permanently close road**

- (1) Not later than 28 days after details of an amended proposal to permanently close a road are published under regulation 12(2)(b)(ii), a person may object to the amended proposal by advising the council in writing of the objection and the reasons for it.
- (2) Not later than 28 days after receiving a notice under regulation 14(d) of an amended proposal to permanently close a road, a person may object to the amended proposal by advising the council in writing of the objection and the reasons for it.

**17            Consideration of objections to amended proposal**

- (1) Subject to subregulation (2), if a council receives objections to an amended proposal under regulation 15 or 16, whichever is applicable, it must consider the objections and make a determination in accordance with regulation 12 as if a reference in that regulation to a proposal were a reference to an amended proposal.
- (2) If a council is satisfied that an objection to an amended proposal is the same or substantially the same as an objection to a proposal previously considered under regulation 12, the council may disregard the objection and proceed as if it had not been made.
- (3) If a council determines to further amend an amended proposal, it must proceed in accordance with regulation 13 or 14, whichever is applicable, as if:
  - (a) a reference in those regulations to a proposal were a reference to an amended proposal; and
  - (b) a reference in those regulations to an amended proposal were a reference to a further amended proposal.

**Part 5                            Commencement and completion of work****18            Interpretation**

In this Part, a reference to an amended proposal is to be read as including a reference to a further amended proposal.

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**19 Commencement of work**

- (1) If, in the case of a proposal to open or permanently close a road:
- (a) no person has objected to the proposal or the council has rejected all objections to the proposal; and
  - (b) the council has determined to proceed with the proposal and published a notice to that effect,
- the council may commence work in accordance with the proposal.
- (2) If, in the case of an amended proposal to open or permanently close a road:
- (a) no person has objected to the amended proposal or the council has rejected or disregarded all objections to the amended proposal; and
  - (b) the council has determined to proceed with the amended proposal and published a notice to that effect,
- the council may commence work in accordance with the amended proposal.
- (3) A council must commence work under this Part not later than 6 months after the expiry of the time allowed by these Regulations for objections to a proposal or amended proposal, whichever is applicable.

**20 Notice of completion of work**

As soon as practicable after the work commenced under this Part is completed, the council must publish a notice to that effect in a newspaper circulating in the council area.

**Part 6 Construction of temporary road or temporary closure of road****21 Construction of temporary road**

Parts 2, 4 and 5 do not apply to or in relation to the construction of a temporary road under section 131(9) of the Act.

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**22 Temporary closure for reconstruction, repairs, &c.**

- (1) Subject to this regulation, a council may temporarily close a road while the road is:
  - (a) under reconstruction or repair; or
  - (b) to be used for a specific purpose or activity and the passage of vehicles along the road may constitute a danger to the public.
- (2) A council must give not less than 7 days notice of a proposed closure under subregulation (1) by publishing, in a newspaper circulating in the council area, a notice stating the details and estimated length of time of the closure.
- (3) If a road remains closed under this regulation for a period exceeding 3 months, the Council must publish, before the expiry of each 3 month period of closure, in a newspaper circulating in the council area, a notice stating the details and estimated length of time of the closure.
- (4) As soon as practicable after a road closed under this regulation is re-opened, the council must publish a notice to that effect in a newspaper circulating in the council area.

**23 Temporary closure in emergency**

- (1) Subject to this regulation, a council may temporarily close a road if:
  - (a) it is impassable because of damage or an obstruction;
  - (b) it could be dangerous to use the road; or
  - (c) emergency repairs or road works are to be carried out on the road or an adjoining road.
- (2) If a council temporarily closes a road referred to in subregulation (1) for 24 hours or less, the council need not publish a notice of the closure.
- (3) If a council temporarily closes a road referred to in subregulation (1) for a period exceeding 24 hours, the council must publish, as soon as practicable, a notice stating the details and estimated length of time of the closure:
  - (a) in a newspaper circulating in the council area; and
  - (b) if practicable – by radio or television broadcast, or both.

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- (3) If a road remains closed under this regulation for a period exceeding 3 months, the Council must publish, before the expiry of each 3 month period of the closure, in a newspaper circulating in the council area, a notice stating the details and estimated length of time of the closure.
  - (4) As soon as practicable after a road closed under subregulation (3) is re-opened, the council must publish a notice to that effect in a newspaper circulating in the council area.

## **24 Closure, &c., to avoid deterioration**

- (1) Subject to this regulation, a council may temporarily close a road if the council is satisfied that because of:
  - (a) flooding or the possibility of flooding;
  - (b) abnormally dry conditions; or
  - (c) other exceptional circumstances,the passage of vehicles on the road may subject it to deterioration.
- (2) As soon as practicable after closing a road under subregulation (1), a council must publish a notice stating the details and estimated length of time of the closure:
  - (a) in a newspaper circulating in the council area; and
  - (b) if practicable – by radio or television broadcast, or both.
- (3) If a road remains closed under this regulation for a period exceeding 3 months, the Council must publish, before the expiry of each 3 month period of closure, in a newspaper circulating in the council area, a notice stating the details and estimated length of time of the closure.
- (4) As soon as practicable after a road closed under this regulation is re-opened, the council must publish a notice to that effect in a newspaper circulating in the council area.

## **25 Erection of barriers, &c.**

- (1) If a council temporarily closes a road under this Part, the council may cause a traffic control device, barrier or fence to be erected on, across or at the approaches to the road as it considers appropriate.

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- (2) A person must not interfere with a traffic control device, barrier or fence erected under subregulation (1) without the council's permission.

Penalty: \$1,000.

- (3) A person must comply with the instructions on a traffic control device, barrier or fence erected under subregulation (1).

Penalty: \$3,000 or imprisonment for 6 months.

## **Part 7                      Miscellaneous**

### **26                      Repeal**

The *Local Government (Road Opening and Closing) Regulations* (Regulations 1994, No. 17) are repealed.

### **27                      Savings and transitional**

- (1) In this regulation, the ***repealed regulations*** means the *Local Government (Road Opening and Closing) Regulations* as in force immediately before the commencement of these Regulations.

- (2) Without limiting section 12 of the Interpretation Act, all:

(a) proposals, decisions or objections made, approvals or notices given or actions taken; and

(b) all matters in process,

under the repealed regulations immediately before the commencement of these Regulations are to continue as if made, given, taken or in process under the relevant corresponding provisions of these Regulations, and those provisions with the necessary changes are to be construed accordingly.

- (3) If, before the commencement of these Regulations:

(a) a council had given the Minister the notice of intention to permanently close a road required by section 131(8) of the Act; and

(b) the Minister and the Minister administering the *Control of Roads Act* (other than Part IV) had not made a decision whether or not to consent to that permanent closure,

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the Ministers must continue to consider and determine the matter under the repealed Regulations as if these Regulations had never commenced.

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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
Gaz = Gazette  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

### 2 LIST OF LEGISLATION

***Local Government (Road Opening and Closing) Regulations (SL No. 54, 1998)***

Notified	23 December 1998
Commenced	23 December 1998