

NORTHERN TERRITORY OF AUSTRALIA

LOCAL GOVERNMENT (ROAD OPENING AND CLOSING) REGULATIONS

As in force at 1 June 2004

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As in force at 1 June 2004

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.

road means a road that is under the care, control and management of a municipal council or community government council by virtue of section 131 of the Act.

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.

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 4 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 Development Consent 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 Development Consent 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.

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.

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

Division 1 Construction of temporary 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.

Division 2 Temporary closure due to repairs, possible deterioration etc.

22 Temporary closure for reconstruction, repairs etc.

- (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 duration 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 duration of the closure.
- (4) If the duration of the closure of a road is substantially different from the estimated duration stated in the most recent notice relating to that road published under this regulation, the council must, as soon as practicable after the road is re-opened, publish in a newspaper circulating in the council area a notice of the re-opening.

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 duration of the closure:
 - (a) in a newspaper circulating in the council area; and
 - (b) if practicable – by radio or television broadcast, or both.
- (4) 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 duration of the closure.
- (5) If the duration of the closure of a road is different from the estimated duration stated in the most recent notice relating to that road published under this regulation, the council must, as soon as practicable after the road is re-opened, publish in a newspaper circulating in the council area a notice of the re-opening.

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 duration 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 duration 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.

Division 3 Temporary closure to protect persons, property etc.

24A Temporary closure to protect persons, property etc.

- (1) A council may temporarily close a road if it is satisfied that the closure is necessary or desirable:
- (a) for the protection of persons, property or animals on the road or on land adjoining the road; or
 - (b) due to any other exceptional circumstance.
- (2) The temporary closure of a road under this regulation may operate, for a duration not exceeding 3 years, in one of the following ways:
- (a) for a period or periods of time during particular days of the week (including every day of the week) as determined by the council;
 - (b) for a period of days, weeks, months or years as determined by the council.

24B Notices relating to proposed closure

- (1) If a council proposes to temporarily close a road under regulation 24A, it must give written notice of the proposal:
- (a) to the Minister; and
 - (b) to the member of the Legislative Assembly for the electoral division in which the road is situated,
- who may, within 28 days of receiving notice, make recommendations to the council in relation to the proposed closure.
- (2) The notice given under subregulation (1) is to be accompanied by a plan showing the position of the road to be closed and is to contain the following information:
- (a) the name and description of the road;
 - (b) the reasons for the council's proposal to temporarily close the road;

- (c) the proposed operation of the closure, including:
 - (i) whether the road is to be closed completely to all traffic or partially closed by means of a specified restriction;
 - (ii) the duration of the operation of the closure and the period or periods when the road is to be closed during that operation, as applicable; and
 - (iii) the locations where traffic control devices for the purposes of the closure will be erected;
 - (d) the name and last-known address of each owner of land adjoining the road.
- (3) The council must publish in a newspaper circulating in the council area a notice of the proposed temporary closure:
- (a) containing the information referred to in subregulation (2);
 - (b) stating that a person may object to the proposed closure, 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) including, if the council considers it necessary or desirable, a plan showing the position of the road to be closed.
- (4) The council must give written notice and details of the proposed temporary closure to the Agencies or bodies providing or maintaining utilities on, in or over land that will be affected by the closure.

24C Objections etc. relating to proposed closure

- (1) If the council receives objections to the proposed temporary closure made within the time specified in the notice published under regulation 24B(3), the council must:
- (a) consider each objection; and
 - (b) accept or reject it.
- (2) Not later than 3 months after the expiry of the time for objections specified in the notice published under regulation 24B(3), the council must:
- (a) determine whether or not to proceed with the closure;

- (b) if proceeding with the closure – determine whether to vary the operation of the closure as notified under regulation 24B(3); and
 - (c) publish in a newspaper circulating in the council area a notice of its determination, including any variations as determined under paragraph (b).
- (3) The council may determine to vary the operation of the closure only in a manner that will not substantially alter the proposal as notified under regulation 24B(3).
- (4) In deciding whether or not to proceed with the closure, but without affecting the power to form an opinion or exercise a discretion, the council must have regard to recommendations made under regulation 24B(1) within the time referred to in that subregulation.

24D Commencement of closure

If the council determines under regulation 24C to proceed with the temporary closure, it must commence the operation of the closure not later than 3 months after making the determination.

24E Alteration of operation of closure

- (1) A council may determine to alter the operation of the temporary closure of a road by one or both of the following methods:
- (a) by altering the period or periods of closure;
 - (b) by extending the duration of the operation, but only if the duration as altered will not exceed 3 years from the date of commencement of the operation of the temporary closure under regulation 24D.
- (2) If a council proposes to alter the operation of the temporary closure of a road, it must, not less than 2 months before the end of the period of operation, publish in a newspaper circulating in the council area a notice stating:
- (a) the reasons for the council's proposal to alter the operation;
 - (b) the manner in which the operation is to be altered; and
 - (c) that a person may object to the proposed alteration, not later than 21 days after publication of the notice, by advising the council in writing of the objection and the reasons for it.

- (3) The council must give written notice and details of the proposed alteration:
 - (a) to the Minister and to the member of the Legislative Assembly for the electoral division in which the road is situated who may, within 21 days of receiving notice, make recommendations to the council in relation to the proposed alteration; and
 - (b) to the Agencies or bodies providing or maintaining utilities on, in or over land that will be affected by the closure.

24F Objections etc. relating to proposed alteration

- (1) If the council receives objections to the proposed alteration made within the time specified in the notice published under regulation 24E, the council must:
 - (a) consider each objection; and
 - (b) accept or reject it.
- (2) Not later than one month after the expiry of the time for objections specified in the notice published under regulation 24E, the council must:
 - (a) determine whether or not to proceed with the alteration;
 - (b) if proceeding with the alteration – determine whether to vary the alteration as notified under regulation 24E; and
 - (c) publish in a newspaper circulating in the council area a notice of its determination, including variations as determined under paragraph (b).
- (3) The council may determine to vary the alteration of the operation of the closure only in a manner that will not substantially alter the proposal as notified under regulation 24E.
- (4) In deciding whether or not to proceed with the alteration, but without affecting the power to form an opinion or exercise a discretion, the council must have regard to recommendations made under regulation 24E(4)(a) within the time referred to in that subregulation.

24G Revocation of closure

A council may, at any time during the operation of a temporary closure of a road under this Division, revoke its determination to close the road and publish in a newspaper circulating in the council area a notice of the revocation.

Division 4 Traffic control devices

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

Penalty: 20 penalty units.

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

Penalty: 20 penalty units.

26 Removal of barriers etc.

As soon as practicable after a council re-opens a road that was temporarily closed under this Part, the council must remove all traffic control devices, barriers or fences erected for the purposes of the closure.

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

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

Notified	23 December 1998
Commenced	23 December 1998

Amendments of Local Government (Road Opening and Closing) Regulations (SL No. 5, 1998)

Notified	10 April 2002
Commenced	10 April 2002

Local Government Amendment Act 2004 (Act No. 15, 2004)

Assent date	15 March 2004
Commenced	1 June 2004 (Gaz S14, 28 May 2004)

3 LIST OF AMENDMENTS

r 2	amd No. 5, 2002, r 2
r 7	amd No. 5, 2002, r 10
r 9	amd No. 5, 2002, r 10
r 14	amd No. 5, 2002, r 10
pt 6	
div 1 hdg	ins No. 5, 2002, r 3
pt 6	
div 2 hdg	ins No. 5, 2002, r 4
r 22	amd No. 5, 2002, r 5
r 23	amd No. 5, 2002, r 6
r 24	amd No. 5, 2002, r 10
pt 6	
div 3 hdg	ins No. 5, 2002, r 7
rr 24A – 24G	ins No. 5, 2002, r 7
pt 6	
div 4 hdg	ins No. 5, 2002, r 8
r 25	amd No. 5, 2002, r 10; Act No. 15, 2004, s 71
r 26	ins No. 5, 2002, r 9

ENDNOTES

pt 7 hdg rep No. 5, 2002, r 10
rr 26 – 27 rep No. 5, 2002, r 10