

# NORTHERN TERRITORY OF AUSTRALIA

## LOCAL GOVERNMENT (GENERAL) REGULATIONS 2021

As in force at 29 September 2021

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 29 September 2021

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## LOCAL GOVERNMENT (GENERAL) REGULATIONS 2021

### Regulations under the *Local Government Act 2019*

#### **Part 1                      Preliminary matters**

##### **1                      Title**

These Regulations may be cited as the *Local Government (General) Regulations 2021*.

##### **2                      Commencement**

These Regulations commence on the day on which section 343 of the *Local Government Act 2019* commences.

##### **3                      Definitions**

In these Regulations:

**assets** includes the following:

- (a) land;
- (b) leases;
- (c) buildings;
- (d) infrastructure;
- (e) plant and machinery;
- (f) motor vehicles;
- (g) furniture and fittings;
- (h) intangible assets;
- (i) inventory.

**Central Darwin**, for Part 4, see regulation 83.

**collective procurement agreement**, see regulation 45(2).

**confidential information** means information prescribed as confidential under regulation 51.

**entity**, for Part 2, Division 12, Subdivision 2, see regulation 44.

**income** includes capital receipts.

**key management personnel** has the same meaning as in the Australian Accounting Standards.

**land**, for Part 4, see regulation 82.

**material**, in relation to a budget, has the same meaning as in Accounting Standard AASB 1031 of the Australian Accounting Standards.

**municipal parking rate**, for Part 4, see regulation 82.

**parcel of land**, for Part 4, see regulation 82.

**parking usage schedule**, for Part 4, see regulation 82.

**primary records**, see regulation 54(1).

**procurement group**, see regulation 45(1).

**resolution**, in relation to a local government subsidiary, means resolution of its constituent council or councils.

**secondary records**, see regulation 54(2).

**shortfall**, for Part 4, see regulation 82.

**supplies** means goods or services required by a council or local government subsidiary.

**tender committee**, for Part 2, Division 12, Subdivision 2, see regulation 44.

**tied**, in relation to funds, means funds to which conditions on use are attached.

**untied**, in relation to funds, means funds to which no conditions on use are attached.

**use**, for Part 4, see regulation 82.

**vehicle**, for Part 4, see regulation 82.



## **Part 2                      Accounting**

### **Division 1                General instructions**

#### **4                      Power to issue general instructions**

- (1) The CEO of the Agency may issue general instructions to councils or local government subsidiaries in relation to financial administration and accounting.
- (2) A general instruction to councils or local government subsidiaries issued under this regulation must be:
  - (a) made in writing; and
  - (b) given in writing to all councils and local government subsidiaries; and
  - (c) published on the Agency's website.

#### **5                      Failure to comply with general instruction**

- (1) A council commits an offence if the council does not comply with a general instruction issued under regulation 4.  
  
Maximum penalty:        50 penalty units.
- (2) A local government subsidiary commits an offence if the local government subsidiary does not comply with a general instruction issued under regulation 4.  
  
Maximum penalty:        50 penalty units.
- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

### **Division 2                Financial administration**

#### **6                      Information to be maintained**

- (1) A council must maintain the following information:
  - (a) an organisational chart showing the council's staff structure;
  - (b) a list of relevant committees (including audit committees, council committees and any other committees established by the CEO) and the membership of those committees;
  - (c) the council's internal accounting policies and procedures;

- (d) the council's internal controls, including the following:
  - (i) the council's fraud and corruption control policy protection plan, made by the CEO;
  - (ii) procedures made by the CEO to ensure all receipts are recorded in the council's accounting records and all cash is deposited in the council's bank account in a timely manner;
  - (iii) a policy, adopted by resolution, for the use of accountable forms by members and the CEO;
  - (iv) a policy, made by the CEO, for the use and management of accountable forms by the council's staff;
  - (v) a policy, made by the CEO, for asset management;
- (e) a policy, adopted by resolution, for the responsibility for and use of council credit cards by:
  - (i) council members; and
  - (ii) the CEO;
- (f) a policy, made by the CEO, for the responsibility for and use of council credit cards by the council's staff;
- (g) a policy, adopted by resolution, in relation to relevant gifts or benefits (including entertainment and hospitality) received by the CEO;
- (h) a policy, made by the CEO, for gifts and benefits (including entertainment and hospitality) received by the council's staff;
- (i) a register, maintained by the CEO, of all authorised persons appointed under section 183 of the Act, including any limitations and conditions of appointment;
- (j) a register, maintained by the CEO, of all delegations by the council and the CEO.

*Note for subregulation (1)(g)*

*Section 112 of the Act requires a council to adopt a policy in relation to gifts or benefits received by council members.*

- (2) A local government subsidiary must maintain the following information:
- (a) the local government subsidiary's internal controls, including the following:
    - (i) the local government subsidiary's fraud and corruption control policy protection plan, made by the chief executive;
    - (ii) procedures made by the chief executive to ensure all receipts are recorded in the local government subsidiary's accounting records and all cash is deposited in the local government subsidiary's bank account in a timely manner;
    - (iii) a policy, by resolution, for the use of accountable forms by the chief executive;
    - (iv) a policy, made by the chief executive, for the use and management of accountable forms by the local government subsidiary's staff;
    - (v) a policy, made by the chief executive, for asset management;
  - (b) a policy, by resolution, for the responsibility for and use of the local government subsidiary's credit cards by the chief executive;
  - (c) a policy, made by the chief executive, for the responsibility for and use of the local government subsidiary's credit cards by the local government subsidiary's staff;
  - (d) a policy, by resolution, for gifts and benefits (including entertainment and hospitality) received by the chief executive;
  - (e) a policy, made by the chief executive, for gifts and benefits (including entertainment and hospitality) received by the local government subsidiary's staff.
- (3) The policies mentioned in subregulations (1)(e) and (f) and (2)(b) and (c) are only required to be maintained if credit cards have been issued to a person mentioned in the subregulation.
- (4) In this regulation:
- accountable forms** includes tickets, meal vouchers and other vouchers.

## **Division 3            Accounting records**

### **7            Accounting records**

- (1) A council and a local government subsidiary must keep, in electronic form, financial records that:
  - (a) correctly record and explain:
    - (i) its transactions (including transactions undertaken as trustee); and
    - (ii) its financial position and performance; and
  - (b) enable true and fair financial statements to be prepared.
- (2) The CEO of the council and the chief executive of the local government subsidiary must ensure that appropriate controls and procedures are implemented and maintained to ensure the integrity and security of the data files and programs.

## **Division 4            Budget and allocation of money**

### **8            Budget and long-term financial plan**

- (1) A council's budget and long-term financial plan must:
  - (a) be on an accrual basis; and
  - (b) include a list of budget assumptions; and
  - (c) include a list of initiatives in the budget; and
  - (d) include a list of major capital works and projected costings.
- (2) If budgeted capital expenditure for a capital item is expected to be incurred after the period provided for in the long-term financial plan, the long-term financial plan must include a statement setting out the remaining budget balance amount and the expected capital expenditure completion date.

### **9            Review of budget**

- (1) A council's budget for a financial year must be reviewed by the council as follows:
  - (a) on at least one occasion between 1 July and 31 December in the financial year;

- (b) on at least one occasion between 1 January and 30 April in the financial year.
- (2) If the council adopts an amended budget as a result of the review, and the amended budget has a material impact on the council's long-term financial plan, the council must, by resolution, amend the council's long-term financial plan at the same time as adopting the amended budget.

## **10            Budget for deficit in some circumstances**

For section 202 of the Act, a council may budget for a deficit if the reason for the deficit can be attributed to any of the following:

- (a) depreciation;
- (b) amortisation;
- (c) asset write-downs;
- (d) expenditure of tied grant funding recorded as income in a prior year;
- (e) any other non-cash item.

## **11            Reserves**

The following matters require a council resolution to take effect:

- (a) a transfer to or from council reserves;
- (b) a change in purpose of a council reserve.

## **Division 5            Annual reports**

### **12            Content of council annual report**

For section 291(1)(h) of the Act, the annual report of a council must include a comparison of the council's original budget, the council's most recently adopted budget and actual results, with a report on the reasons for the material variations between the most recently adopted budget and the actual results.

## **Division 6            Annual financial statement**

### **13            Annual financial statement – council**

For section 207(2)(b) of the Act, the following requirements are prescribed:

- (a) a separate line that states the total remuneration provided to the CEO during the financial year;
- (b) a statement as to the nature (capital or operating), amount and source of each grant or subsidy received during the financial year (distinguishing those received from the Territory, the Commonwealth and other sources);
- (c) a disclosure of all reserves set aside for specific purposes.

### **14            Annual financial statement – local government subsidiary**

The annual financial statement of a local government subsidiary must contain the following:

- (a) a separate line that states the total remuneration provided to the chief executive during the financial year;
- (b) a disclosure of all reserves set aside for specific purposes.

### **15            Certification and delivery of annual financial statement**

- (1) When the annual financial statement has been prepared, the CEO must certify in writing that:
  - (a) the statement has, to the best of the CEO's knowledge, information and belief, been properly drawn up in accordance with the applicable Australian Accounting Standards, the Act and these Regulations so as to present fairly the financial position of the council and the results for the relevant financial year; and
  - (b) the statement is in accordance with the accounting and other records of the council.
- (2) The CEO must, as soon as practicable after the annual financial statement has been audited, lay the statement before the council.
- (3) The audited annual financial statement must not be provided to the Minister until after the council has resolved to accept the annual financial statement and the CEO's certification under subregulation (1).

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**16 Copy of annual financial statement to be forwarded to NT Grants Commission**

- (1) A council commits an offence if a council does not, on or before 15 November in each year:
- (a) forward the council's audited annual financial statement for the previous financial year to the Northern Territory Grants Commission; and
  - (b) provide any further information required by the Commission in a manner and form required by the Commission.

Maximum penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

**Division 7 Financial matters**

**17 Monthly financial reports to council**

- (1) The CEO must, in each month, give the council a report setting out:
- (a) the actual income and expenditure of the council for the period from the commencement of the financial year up to the end of the previous month; and
  - (b) the most recently adopted annual budget; and
  - (c) details of any material variances between the most recent actual income and expenditure of the council and the most recently adopted annual budget.
- (2) The report must also include:
- (a) details of all cash and investments held by the council (including money held in trust); and
  - (b) the closing cash at bank balance split between tied and untied funds; and
  - (c) a statement on trade debtors and a general indication of the age of the debts owed to the council; and
  - (d) a statement on trade creditors and a general indication of the age of the debts owed by the council; and
  - (e) a statement in relation to the council's payment and reporting obligations for GST, fringe benefits tax, PAYG withholding tax, superannuation and insurance; and

- (f) other information required by the council.
- (3) If a council does not hold a meeting in a particular month, the report is to be laid before the council committee performing the council's financial functions under regulation 19 for the particular month.
- (4) The report must be in the approved form.
- (5) The report must be accompanied by:
  - (a) a certification, in writing, by the CEO to the council that, to the best of the CEO's knowledge, information and belief:
    - (i) the internal controls implemented by the council are appropriate; and
    - (ii) the council's financial report best reflects the financial affairs of the council; or
  - (b) if the CEO cannot provide the certification – written reasons for not providing the certification.

## **18            Financial reports to local government subsidiary**

- (1) A chief executive must, in the month following each quarter of a financial year, give the local government subsidiary a report setting out:
  - (a) the actual income and expenditure of the local government subsidiary for the period from the commencement of the financial year up to the end of the previous quarter; and
  - (b) the most recently adopted annual budget; and
  - (c) details of any material variances between the most recent actual income and expenditure of the local government subsidiary and the most recently adopted annual budget.
- (2) The report must also include:
  - (a) details of all cash and investments held by the local government subsidiary (including money held in trust); and
  - (b) the closing cash at bank balance split between tied and untied funds; and
  - (c) a statement on trade debtors and a general indication of the age of the debts owed to the local government subsidiary; and



- (d) a statement on trade creditors and a general indication of the age of the debts owed by the local government subsidiary; and
  - (e) a statement in relation to the local government subsidiary's payment and reporting obligations for GST, fringe benefits tax, PAYG withholding tax, superannuation and insurance; and
  - (f) other information required by the local government subsidiary.
- (3) The report must be in the approved form.
- (4) The report must be accompanied by:
  - (a) a certification, in writing, by the chief executive to the local government subsidiary that, to the best of the chief executive's knowledge, information and belief:
    - (i) the internal controls implemented by the local government subsidiary are appropriate; and
    - (ii) the local government subsidiary's financial report best reflects the financial affairs of the local government subsidiary; or
  - (b) if the chief executive cannot provide the certification – written reasons for not providing the certification.

## **19 Council committee to carry out financial functions**

- (1) If a council does not schedule an ordinary meeting at least once in each month, the council must delegate to a council committee the necessary powers to carry out, on behalf of the council, financial functions of the council in the months the council does not schedule an ordinary meeting.
- (2) If a scheduled ordinary meeting is postponed and is not held for a particular month or a scheduled council committee meeting is not held, the CEO must publish the previous month's monthly financial report on the council's website as soon as practicable.

### *Note for regulation 19*

*Section 90 of the Act provides that a council must hold an ordinary meeting at least once in each successive period of 2 months.*

**20                      Report in relation to rates in arrears**

The CEO must, at least once in a financial year, give the council a report setting out:

- (a) the number of allotments with rates in arrears for more than 2 years and the total amount of those rates in arrears; and
- (b) the number of conditionally rateable allotments with rates in arrears for more than 2 years and the total amount of those rates in arrears; and
- (c) the actions taken to recover the rates in arrears.

**Division 8                      Authorised accounts and expenditure**

**21                      Authorised accounts**

- (1) The name in which an authorised account is kept by a council or local government subsidiary must include the name of the council or local government subsidiary.
- (2) The CEO of the council or chief executive of the local government subsidiary must ensure that, at least once in each month, the balance of an authorised account is reconciled with income and expenditure that has been or should have been paid into, or from, the account.

**22                      Disbursements from authorised accounts**

- (1) A cheque issued on behalf of a council or local government subsidiary must be signed by at least 2 persons authorised by resolution of the council or local government subsidiary to sign cheques on behalf of the council or local government subsidiary.
- (2) An electronic disbursement from an authorised account must be processed by at least 2 persons authorised by resolution of the council or local government subsidiary to process electronic disbursements on behalf of the council or local government subsidiary.
- (3) An authorisation under subregulation (1) or (2) by a council:
  - (a) may only be given to one or more of the following:
    - (i) the council's principal member;
    - (ii) the CEO;
    - (iii) a staff member of the council;

- (iv) a person approved by the CEO of the Agency under subregulation (5); and
- (b) may be given subject to limitations and conditions determined by the council and specified in its resolution.
- (4) An authorisation under subregulation (1) or (2) by a local government subsidiary:
  - (a) may only be given to one or more of the following:
    - (i) the chief executive;
    - (ii) a staff member of the local government subsidiary;
    - (ii) a person approved by the CEO of the Agency under subregulation (5); and
  - (b) may be given subject to limitations and conditions determined by the local government subsidiary and specified in its resolution.
- (5) The CEO of the Agency may approve a person, with or without conditions, to be a person who may be given authorisation under subregulation (1) or (2).

## **23            Cash expenditure**

- (1) Expenditure by a council or local government subsidiary may be made in cash to an extent authorised by resolution of the council or local government subsidiary.
- (2) A council or local government subsidiary must keep an account of cash expenditure under an imprest system.

## **Division 9            Assets**

### **24            Assets**

- (1) The CEO of a council or chief executive of a local government subsidiary is responsible for the safekeeping of all council assets or local government subsidiary assets.
- (2) The CEO or chief executive must ensure that adequate records are kept of council assets or local government subsidiary assets.

### **25            Review of inventory**

A council must undertake a stocktake of its inventory once each year.

## **26            Major assets and portable and attractive assets**

- (1) A council and a local government subsidiary must keep, in electronic form:
  - (a) a register of the council's or local government subsidiary's major assets; and
  - (b) a register of the council's or local government subsidiary's portable and attractive assets.
- (2) The council's or local government subsidiary's major assets and portable and attractive assets must be recorded in the respective registers as soon as practicable after the council or local government subsidiary obtains control of the asset or disposes of an asset.

*Example for subregulation (2)*

*A council or local government subsidiary may obtain control of the asset by purchasing the asset or obtaining a controlling interest in the asset.*

- (3) The register of the council's or local government subsidiary's major assets must contain the following information in relation to each asset:
  - (a) a description of the asset;
  - (b) the date the council or local government subsidiary obtained control of the asset;
  - (c) the value of the asset;
  - (d) the condition of the asset;
  - (e) the primary location of the asset;
  - (f) the date of disposal of the asset (if applicable).
- (4) The council or local government subsidiary may determine the information required for the register of the council's or local government subsidiary's portable and attractive assets.
- (5) In this regulation:

**major asset** means an asset with a value of or above:

  - (a) \$10 000 (exclusive of GST); or
  - (b) another amount less than \$10 000 (exclusive of GST) as determined by resolution by the council or local government subsidiary.

**portable and attractive asset** means an asset with a value below the value of a major asset.

## **27            Reporting misappropriation, loss, destruction or damage**

The CEO of a council or the chief executive of a local government subsidiary must make a report to the Police Force of the Northern Territory for the following, if the CEO or chief executive considers the loss or damage is attributable to fraud, theft, misappropriation or the commission of an offence:

- (a) a loss of money that exceeds \$500;
- (b) loss or damage to an asset or assets that exceeds \$2 000.

## **28            Writing off money or assets**

- (1) If a council or local government subsidiary is satisfied, on certification in writing from the CEO or chief executive, that money has been misappropriated, or cannot be found, the council or local government subsidiary may authorise the writing off of the relevant amount in the accounts of the council or local government subsidiary.
- (2) If a council or local government subsidiary is satisfied, on certification in writing from the CEO or chief executive, that an asset has been misappropriated, destroyed, damaged beyond economical repair or cannot be found, the council or local government subsidiary may authorise the writing off of the asset in the accounts of the council or local government subsidiary.
- (3) Certification from the CEO or chief executive under this regulation must be accompanied by:
  - (a) subject to subregulation (4) – a report detailing the improvements to internal controls to avoid the write off of money or assets of the type detailed in the certificate in the future; and
  - (b) if required to be reported under regulation 27 – a statement that the misappropriation, loss, destruction or damage has been reported to the Police Force of the Northern Territory.
- (4) The report mentioned in subregulation (3)(a) is not required if an asset has been written-off because of normal wear and tear of the asset.

## **Division 10      Rates**

### **29      Assessment record and record of rates**

- (1) Before a council adopts its budget for a financial year, the CEO must:
  - (a) check all available records to ensure that all rateable land is recorded in the assessment record; and
  - (b) certify, in writing, to the council that, to the best of the CEO's knowledge, information and belief, the assessment record is a comprehensive record of all rateable land within the area.
- (2) The CEO must keep a rates record containing, for each allotment of rateable land, particulars of:
  - (a) all rates and charges levied on the allotment; and
  - (b) the interest imposed; and
  - (c) the amount of rates written off (if any); and
  - (d) the amount of payments made; and
  - (e) any rates concessions granted on the allotment.

### **30      Form of rates notice**

A rates notice must contain:

- (a) the name of the ratepayer to whom the notice is addressed; and
- (b) the number and description of the allotment to which the notice relates; and
- (c) particulars of the amount payable (including any interest and penalties accrued or imposed up to the date of the notice); and
- (d) the basis of calculation of the rates (including, where relevant, the valuation); and
- (e) a description of the ways to make payment; and
- (f) a short statement of the consequences of a failure to pay by the due date; and

- (g) a statement setting out how to apply for the correction of an entry in the assessment record.

*Note for regulation 30*

*See sections 242(3) and 243(2) of the Act for the requirements for a rates notice.*

## **Division 11          Debts**

### **31            Debt record**

- (1) The CEO of a council or chief executive of a local government subsidiary must ensure that proper records are kept of debts owed to the council or local government subsidiary.
- (2) The records must be kept in an electronic form and must be capable of being arranged:
  - (a) according to the category of the debt (distinguishing in particular between debts for, or related to, rates and other debts); and
  - (b) according to the age of the debt.

### **32            Writing off debts**

- (1) A council or local government subsidiary may, by resolution, write off unpaid rates or some other debt owed to the council or local government subsidiary.
- (2) However, a resolution is not to be passed by a council or local government subsidiary unless the CEO or chief executive certifies in writing:
  - (a) if the debt is for rates owed to the council – that there is some doubt whether the rates were properly imposed, or are recoverable at law, or it would be impracticable or uneconomical to recover the rates; or
  - (b) if the debt falls within some other category – that the CEO or chief executive has made all reasonable efforts to recover the debt and it is not reasonably possible to recover it.
- (3) The writing off of a debt under this regulation does not prevent the council or local government subsidiary from subsequently taking action for the recovery of the debt.

## **Division 12            Quotations and tenders for supplies**

### *Notes for Division 12*

- 1    *A cost specified in this Division is exclusive of GST.*
- 2    *A price specified in this Division is inclusive of GST.*

## **Subdivision 1        General requirements**

### *Note for Division 12, Subdivision 1*

*A council may delegate its power to enter into contracts below the threshold value under section 40(3)(f) of the Act.*

## **33                      Procurement policy**

- (1) A council must, by resolution, adopt a policy for the procurement of supplies that takes into account the following principles:
  - (a) the enhancement of the capabilities of local enterprises and industries;
  - (b) the employment of Aboriginal people;
  - (c) ethical behaviour and fair dealings;
  - (d) environmental protection and sustainability;
  - (e) open and effective competition;
  - (f) value for money;
  - (g) any other principle the council considers appropriate.
- (2) A local government subsidiary must, by resolution, adopt a procurement policy that takes into account the principles set out in subregulation (1).

## **34                      Quotations**

- (1) Subject to the council's or local government subsidiary's policies, a council or local government subsidiary need not obtain quotations for the provision of supplies if the cost of the supplies is less than \$10 000.



- (2) If a council or local government subsidiary proposes to obtain supplies at a cost of \$10 000, but not more than \$100 000, the council or local government subsidiary must obtain:
  - (a) quotations from at least 3 possible suppliers and the council or local government subsidiary may only accept a quotation for the provision of supplies from among those who submitted quotations; or
  - (b) public quotations under regulation 35; or
  - (c) tenders under regulation 36.
- (3) If it is not practicable to obtain quotations from 3 possible suppliers under subregulation (2)(a), the council or local government subsidiary must obtain as many as practicable and must record in writing its reasons for not obtaining the 3 quotations.

### **35            Public quotations**

- (1) This regulation applies if a council or local government subsidiary elects to obtain public quotations under regulation 34(2)(b) or subregulation (2)(a).
- (2) If a council or local government subsidiary proposes to obtain supplies at a cost of more than \$100 000, but not more than \$150 000, the council or local government subsidiary must:
  - (a) make a public request for quotations from suppliers by notice:
    - (i) in relation to a council – published in a newspaper circulating in the council's area and by notice on the council's website; or
    - (ii) in relation to a local government subsidiary – published in a newspaper circulating in the Territory and by notice on the local government subsidiary's website; or
  - (b) obtain tenders under regulation 36.
- (3) The notice specified in subregulation (2)(a) must contain a statement to the effect that notice of the successful quotation will be published on the council's or local government subsidiary's website.
- (4) The council or local government subsidiary must allow at least 5 business days for the receipt of quotations after giving the notice specified in subregulation (2)(a).

- (5) The council or local government subsidiary:
  - (a) may only accept a quotation for the provision of supplies from among those that submitted quotations; and
  - (b) must record the reason for the acceptance of the quotation in writing.
- (6) If a council or local government subsidiary accepts a quotation for the provision of supplies under this regulation, it must:
  - (a) accept the quotation by written notice to the supplier who submitted the successful quotation; and
  - (b) give notice of the successful quotation:
    - (i) in writing to each other supplier who submitted a quotation; and
    - (ii) by publishing the notice on the council's or local government subsidiary's website.
- (7) Notice for subregulation (6)(b) must include:
  - (a) the name of the supplier who submitted the successful quotation; and
  - (b) the supplies to be provided; and
  - (c) the quotation price.

### **36        Tenders by council or local government subsidiary**

- (1) This regulation applies if a council or local government subsidiary:
  - (a) elects to obtain tenders under regulation 34(2)(c) or 35(2)(b); or
  - (b) proposes to obtain supplies at a cost of more than \$150 000.
- (2) The council or local government subsidiary must first call for tenders for the provision of those supplies by notice:
  - (a) in relation to a council – published in a newspaper circulating in the council's area and by notice on the council's website; or
  - (b) in relation to a local government subsidiary – published in a newspaper circulating in the Territory and by notice on the local government subsidiary's website.

- (3) The notice must contain a statement to the effect that notice of the successful tender will be published on the council's or local government subsidiary's website.
- (4) The council or local government subsidiary must allow at least 5 business days for the receipt of tenders after giving the notice specified in subregulation (2).
- (5) A tender received in response to the notice must be assessed:
  - (a) for a council – by a panel that includes at least 3 members of the staff of the council or another council or the staff of a local government subsidiary; or
  - (b) for a local government subsidiary – by a panel that includes at least 3 members of the staff of the local government subsidiary or a constituent council of the local government subsidiary.
- (6) The panel is to be convened by the CEO or chief executive and has the following functions:
  - (a) to consider the tenders received in response to the notice;
  - (b) to provide a report, in writing, to the CEO or chief executive in relation to the tenders.
- (7) The CEO or chief executive may not be a member of a panel the CEO or chief executive has convened under subregulation (6).
- (8) The CEO or chief executive must provide the report from the panel under subregulation (6) to the council or local government subsidiary.
- (9) The council or local government subsidiary may only accept a tender for the provision of supplies:
  - (a) from among those that submitted tenders; and
  - (b) after receiving the report from the CEO or chief executive under subregulation (8).
- (10) If a council or local government subsidiary accepts a tender for the provision of supplies to the council or local government subsidiary, it must:
  - (a) accept the tender by written notice to the person who submitted the successful tender; and

- (b) give notice of the successful tender:
  - (i) in writing to each other person who submitted a tender; and
  - (ii) by publishing the notice on the council's or local government subsidiary's website.

(11) Notice for subregulation (10)(b) must include:

- (a) the name of the supplier who submitted the successful tender; and
- (b) the supplies to be provided; and
- (c) the tender price.

### **37            Obtaining and keeping of quotations and tenders**

A council or local government subsidiary must:

- (a) obtain all quotations and tenders received under this Subdivision in writing; and
- (b) keep the quotations and tenders in an electronic form in the council's or local government subsidiary's record management system.

### **38            Quotations and tenders not required in certain circumstances**

- (1) A quotation or tender is not required for the provision of a supply consisting of, or related to, any of the following:
  - (a) the purchase of land, including the leasing or licensing of land;
  - (b) a contract for legal services;
  - (c) the acquisition of insurance entered into through a broker;
  - (d) the renewal of an existing licence;
  - (e) education or training in relation to existing equipment, licences, qualifications or software from a supplier endorsed by the supplier of the equipment, licence, qualification or software;
  - (f) a telecommunications service if:
    - (i) the supply is ancillary to an existing telecommunications service; and

- (ii) the council or local government subsidiary believes on reasonable grounds that it is necessary to obtain the supply from the supplier of the existing service;
- (g) recovery work during or immediately after a natural disaster and the council or local government subsidiary believes on reasonable grounds that it is necessary to obtain the supply from a particular supplier;
- (h) the acquisition of a supply from a supplier if the council or local government subsidiary believes on reasonable grounds that it is unlikely that there is more than one supplier of the supply;
- (i) the acquisition of a supply from a supplier if a Commonwealth or Territory funding agreement entered into by the council or local government subsidiary states that a particular supplier is to provide the supply;
- (j) the acquisition of a supply from a particular supplier that is the only feasible option because of an event that caused major disruption to the council or local government subsidiary;
- (k) the acquisition of a supply where:
  - (i) obtaining a quotation or tender for the supply would cause major operational inconvenience or have other serious consequences of a similar nature for the council or local government subsidiary; and
  - (ii) the council or local government subsidiary has not had prior opportunity to obtain a quotation or tender for the supply;
- (l) a contract variation mentioned in regulation 42(4).

*Examples for subregulation (1)(g)*

*Natural disasters include cyclones, floods and bushfires.*

*Example for subregulation (1)(j)*

*A public health emergency declared under the Public and Environmental Health Act 2011.*

- (2) If a council or local government subsidiary obtains any supply mentioned in subregulation (1), excluding the supply mentioned in subregulation (1)(a), (b), (c) or (l), the council or local government subsidiary must record the following information in relation to the provision of the supply:
  - (a) the name of the supplier;

- (b) the supply provided;
  - (c) the cost of the supply;
  - (d) the applicable provision of subregulation (1) relating to the provision of the supply;
  - (e) if the supply is mentioned in subregulation (1)(f) or (g) – the reason that the council or local government subsidiary believed on reasonable grounds that it was necessary to obtain the supplies from the particular supplier;
  - (f) if the supply is mentioned in subregulation (1)(h) – the reason that the council or local government subsidiary believed on reasonable grounds that it was unlikely that there was more than one supplier of the supply;
  - (g) a description of the circumstances relevant to the provision of the supply;
  - (h) any other information relevant to the provision of the supply.
- (3) If a council or local government subsidiary obtains any supply mentioned in subregulation (1), excluding the supply mentioned in subregulation (1)(a), (b), (c) or (l), and the cost of the supply is more than \$100 000, the council or local government subsidiary must publish a notice on the council's or local government subsidiary's website specifying the following information in relation to the provision of the supply:
- (a) the name of the supplier;
  - (b) the supply provided;
  - (c) the cost of the supply;
  - (d) the applicable provision of subregulation (1) relating to the provision of the supply.

### **39            Quotations and tenders not required in relation to particular entities**

- (1) Subject to any contrary direction by the council or local government subsidiary, a quotation or tender is not required if the supply is to be obtained:
- (a) from the Territory, the Commonwealth, a State or another Territory; or

- (b) under a contract to which the Territory, the Commonwealth, a State or another Territory is a party and the council or local government subsidiary is a beneficiary to the contract; or
  - (c) from another council; or
  - (d) for a local government subsidiary – from a constituent council of the local government subsidiary; or
  - (e) for a constituent council of a local government subsidiary – from the local government subsidiary; or
  - (f) under a contract that is facilitated by a procurement entity.
- (2) The CEO of the Agency may approve, with or without conditions, an entity to be a procurement entity.
- (3) The list of procurement entities approved by the CEO of the Agency must be published on the Agency's website.

#### **40            Period contract**

- (1) If a council or local government subsidiary obtains supplies under a period contract for a period that is more than one financial year, the threshold amounts for quotations or tenders are taken to be:
- (a) the highest cost stated in the contract for any given financial year; or
  - (b) otherwise – the council's or local government subsidiary's highest annual budget for the supply in any given financial year.

##### *Example for subregulation (1)(a)*

*A council intends to enter into a contract on 1 January 2022 for maintenance services for \$180 000 (exclusive of GST) for 2 years. The contract identifies the costs to be:*

- (a) for 1 January 2022 to 30 June 2022 – \$45 000; and*
- (b) for 1 July 2022 to 30 June 2023 – \$90 000; and*
- (c) for 1 July 2023 to 31 December 2023 – \$45 000.*

*The relevant threshold amount is the amount in paragraph (b).*

##### *Example for subregulation (1)(b)*

*A council intends to enter into a contract on 1 January 2022 for office cleaning services for 2 years up to a spending limit. There is no fixed cost of the contract and the contract is based on a schedule of rates (which includes an hourly rate for cleaning). The schedule must be converted to a budgeted spend for the 2021-2022, 2022-2023 and 2023-2024 financial years.*

*If the council's highest annual budget for the supply is in 2022-2023, the amount for this financial year is the relevant threshold amount.*

- (2) The threshold amount for subregulation (1)(b) is determined by converting a schedule of rates to an annual budget for the supply.

#### **41            Contract with option to extend**

If a council or local government subsidiary intends to enter into a contract for supplies that contains an option for either party to extend the contract, the calculation of the threshold amounts for quotations or tenders are calculated to assume the option is exercised.

*Example for regulation 41*

*A council intends to enter into a 1 month contract on 1 January 2022 to obtain roadwork services for \$60 000 (exclusive of GST), with an option for the council to extend the contract for an additional 2 months at the same monthly rate. The relevant threshold amount for the financial year would be \$180 000 and the council is required to call for tenders under regulation 36.*

#### **42            Contract variations**

- (1) If a council or local government subsidiary intends to enter into a contract and the contract is proposed to be varied in a manner that changes the cost of the supplies, the council or local government subsidiary may choose to accept that variation if the variation is within the scope of the original contract.
- (2) The council's or local government subsidiary's acceptance of the variation must be in writing.
- (3) If the varied contract is entered into after a quotation under regulation 34 has been accepted and the total cost of supplies exceeds \$100 000 but is less than \$150 000, the council or local government subsidiary must:
  - (a) table a report on the contract variation at the next meeting of the council or local government subsidiary; and
  - (b) publish a notice of the contract variation on the council's or local government subsidiary's website.
- (4) If the varied contract is to be entered into after a quotation under regulation 34 has been accepted or a public quotation under regulation 35 has been accepted and the total cost of supplies exceeds \$150 000, the council or local government subsidiary:
  - (a) is not required to call for tenders under regulation 36 in relation to the contract variation; and



- (b) after entering into the varied contract, must:
  - (i) table a report on the contract variation at the next meeting of the council or local government subsidiary; and
  - (ii) publish a notice of the contract variation on the council's or local government subsidiary's website.
- (5) If the varied contract is entered into after a tender under regulation 36 has been accepted and the total cost of supplies exceeds the original tender cost by more than 10%, the council or local government subsidiary must:
  - (a) table a report on the contract variation at the next meeting of the council or local government subsidiary; and
  - (b) publish a notice of the contract variation on the council's or local government subsidiary's website.
- (6) A notice of a contract variation under this regulation must include the following details:
  - (a) the name of the supplier that submitted the successful quotation or tender;
  - (b) the supplies to be provided;
  - (c) the original contract cost of supplies;
  - (d) the total contract cost of supplies;
  - (e) the percentage increase between the original contract cost of supplies and the total contract cost of supplies;
  - (f) the applicable provision of these Regulations relating to the contract variation.

#### **43            Determining cost of supplies**

In determining the cost of supplies for this Subdivision:

- (a) cost splitting is prohibited; and
- (b) the cost cannot be offset in any way.

## **Subdivision 2    Collective procurement**

### **44                      Definitions**

In this Subdivision:

***collective procurement agreement***, see regulation 45(2).

***entity*** means a council or local government subsidiary.

***procurement group***, see regulation 45(1).

***tender committee***, means the committee provided for in the collective procurement agreement under regulation 46(1)(e).

### **45                      Collective procurement**

- (1) Two or more entities that propose to obtain supplies may form a group (a ***procurement group***) to act collectively for the purpose of obtaining the supplies.
- (2) Before commencing to act as a procurement group, the entities in the group must enter into a written agreement (a ***collective procurement agreement***) setting out the arrangements for the collective procurement by the group.
- (3) If a procurement group complies with this Subdivision in relation to obtaining supplies, a council that is in the group is not required to separately comply with Subdivision 1 in relation to obtaining those supplies.

### **46                      Collective procurement agreement**

- (1) A collective procurement agreement must set out:
  - (a) the entities that constitute the group; and
  - (b) the supplies that are to be obtained; and
  - (c) which of the entities in the group is to be the lead entity for the group; and
  - (d) any matters required for regulation 47(2)(b); and
  - (e) for regulation 47(3) – the individuals who are to constitute the group's tender committee and the entity the individuals represent; and
  - (f) the decision making process for acceptance of quotations or tenders for the group; and

- (g) how administrative and other expenditure associated with the collective procurement are to be allocated between the members of the group; and
- (h) the process for settling disputes between the entities in the group about the collective procurement; and
- (i) the process by which the agreement may be terminated.

*Examples for subregulation (1)(f)*

*Whether the decision to accept a quotation for the group is to be made by the lead entity on behalf of the group, by unanimous agreement of all entities in the group, by majority vote of the entities in the group, or in some other way.*

- (2) For subregulation (1)(e):
  - (a) the committee must include at least 3 people representing at least one entity each, with each entity represented; and
  - (b) a member of the committee may be identified by name or as the person from time to time holding or occupying a named office, designation or position.

*Note for subregulation (2)(a)*

*An individual may represent more than one entity.*

- (3) A copy of the collective procurement agreement must be made available to a prospective supplier on request.

## **47            Collective procurement procedure**

- (1) Subject to this regulation, Subdivision 1, except regulation 36(5), (6), (7), (8) and (9), applies in relation to the obtaining of supplies by a procurement group as if the group were a council or local government subsidiary.
- (2) Subject to subregulations (4) and (5), the group's functions under those provisions must be exercised:
  - (a) by the lead entity on behalf of the group; or
  - (b) if the collective procurement agreement provides for a function to be exercised in a different way – in the way provided in the agreement.
- (3) If the procurement group is required to call for tenders for a contract, a tender received in response to the call must be accessible to each member of the group's tender committee as soon as practicable after the period for the receipt of tenders has expired.

- (4) The decision as to which (if any) quotation or tender is accepted must be made in accordance with the collective procurement agreement.
- (5) A notice under regulations 35(6)(b) and 36(10)(b) must:
  - (a) be given and published by each entity; and
  - (b) include a list of all entities; and
  - (c) specify the total amount of each entity's contribution to the quotation or tender price.

## **Division 13        Requests for information**

### **48            Requests for information**

- (1) A recognised authority may, in writing, request a council or local government subsidiary to provide the recognised authority with information in relation to any of the following in a manner and by the date specified in the request:
  - (a) the administration of the Act;
  - (b) the council's or local government subsidiary's powers and functions under the Act or another Act.
- (2) The council or local government subsidiary must respond to a request for information by the date specified in the request made under subregulation (1).
- (3) In this regulation:

***recognised authority*** means:

- (a) the Minister; or
- (b) an Agency or other authority of the Territory or the Commonwealth.

## **Division 14        Information to be publicly available**

### **49            Information to be publicly available**

The material specified in Schedule 1 is to be available on the council's and local government subsidiary's website and at the council's public office, subject to the corresponding conditions specified in Schedule 1.

## **Part 3                      Administration**

### **Division 1                Meetings**

#### **50                      Public access to meetings**

- (1) A meeting of a council, council committee or local authority must be held in a place where the public may access the place for the purpose of attending the meeting.
- (2) Despite subregulation (1), if all members of the council, council committee or local authority are attending a meeting by means of an audio or audiovisual conferencing system, the meeting must be accessible to the public by means of the audio or audiovisual conferencing system.

### **Division 2                Confidential information and business**

#### **51                      Confidential information**

- (1) For section 293(1) of the Act, the following information is prescribed as confidential:
  - (a) information about the employment of a particular individual as a member of the staff or possible member of the staff of the council that could, if publicly disclosed, cause prejudice to the individual;
  - (b) information about the personal circumstances of a resident or ratepayer;
  - (c) information that would, if publicly disclosed, be likely to:
    - (i) cause commercial prejudice to, or confer an unfair commercial advantage on, any person; or
    - (ii) prejudice the maintenance or administration of the law; or
    - (iii) prejudice the security of the council, its members or staff; or
    - (iv) subject to subregulation (3) – prejudice the interests of the council or some other person;
  - (d) information subject to an obligation of confidentiality at law, or in equity;

- (e) subject to subregulation (3) – information provided to the council on condition that it be kept confidential and would, if publicly disclosed, be likely to be contrary to the public interest;
- (f) subject to subregulation (2) – information in relation to a complaint of a contravention of the code of conduct.

*Example for subregulation (1)(d)*

*Information that may be subject to legal professional privilege.*

- (2) For subregulation (1)(f), the following information is no longer confidential after the complaint has been decided:
  - (a) a decision notice in relation to the complaint;
  - (b) a report of proceedings or findings of the complaint including a summary of decision under regulation 80 or 81.
- (3) Information mentioned in subregulation (1)(c)(iv) and (e) does not prejudice the interests of the council or some other person or is not contrary to the public interest if the information, if publicly disclosed, only causes:
  - (a) embarrassment to the council, members or the council's staff;  
or
  - (b) a loss of confidence in the council; or
  - (c) discussion of a matter that is controversial in the council area;  
or
  - (d) the council to be susceptible to adverse criticism.

## **52 Closure of meetings for confidential business**

For section 99(2) of the Act, business involving the discussion of confidential information is prescribed as confidential business.

## **53 Policy for confidential information and business**

- (1) A council must, by resolution, adopt a policy in relation to confidential information and business.
- (2) The policy must deal with the following:
  - (a) the type of confidential information that should no longer be confidential after a specified period of time;

- (b) the type of confidential information that should be subject to periodic review to determine if it should no longer be confidential.
- (3) At the conclusion of the consideration of confidential business at a meeting, the council must decide, in accordance with its policy, whether the type of confidential information considered is the type mentioned in subregulation (2)(a) or (b).

## **Division 3            Records**

### **54            Council's records**

- (1) The **primary records** of a council are:
  - (a) the agenda and minutes of meetings of the council, local authorities, audit committees and council committees; and
  - (b) minutes of meetings of electors; and
  - (c) the council's by-laws; and
  - (d) the council's annual municipal, regional or shire plans (including the council's annual budgets, long-term financial plans and amendments to the council's annual budgets and long-term financial plans); and
  - (e) the council's annual reports (including the council's annual financial statements); and
  - (f) the register of annual returns of interests; and
  - (g) the register of declared gifts and benefits; and
  - (h) the register of declared conflicts; and
  - (i) the registers referred to in regulation 55; and
  - (j) any other documents necessary for an understanding of the council's policies and operations.
- (2) A council's **secondary records** consist of other documents generated or received in the course of the council's operations.

### **55            Council to keep registers**

- (1) A council must keep a register referencing all documents executed under the council's common seal.

- (2) A council must keep a register of correspondence referencing all correspondence addressed to, or sent by, the council or its principal member.
- (3) A council must keep a register of the following information in relation to each member of the council:
  - (a) the member's name;
  - (b) whether the member was appointed or elected to the council;
  - (c) the date the member was appointed or the date the member was elected;
  - (d) the ward the member represents (if applicable);
  - (e) whether the member is a principal member, deputy principal member or ordinary member of the council;
  - (f) if the member's type of membership changes during the member's membership – the date the type of membership changed, whether the member was appointed or elected to the changed type of membership and the date of the appointment or election;
  - (g) the date of the cessation of the member's membership (if applicable).
- (4) For subregulation (3)(f), if a member is appointed to act in a position or has been appointed to a position for an interim period, that information does not need to be kept in the register.

## **56            Matters for register of declared conflicts**

- (1) This regulation applies if a member is given approval under section 115(3) of the Act.
- (2) For section 116(2)(d) of the Act, the register of declared conflicts must set out the date the member is given the approval and any conditions on which the approval is given.

## **57            Register of declared conflicts – disclosures by other members**

The CEO must maintain in the register of declared conflicts the disclosures of a conflict of interest by a member of an audit committee, council committee or local authority.



**58            Review of register of declared conflicts**

The CEO must update the register of declared conflicts within 10 business days after a meeting in which a conflict is declared.

**59            Contents of minutes of meetings**

For section 101(2)(a)(iv) of the Act, the minutes of a meeting of an audit committee, a council, a council committee and a local authority must include the following information:

- (a) the date, time and place of the meeting (including the time of opening and closing the meeting);
- (b) if the meeting is closed to the public – the time or times of the closure and the reasons for the closure;
- (c) the motions (including motions for amendments to motions) moved at the meeting and the names of the mover and seconder of each motion;
- (d) how the meeting deals with each motion;
- (e) if the meeting is adjourned – the date, time and place to which the meeting is adjourned;
- (f) for a meeting of a council – any council resolutions that take place at the meeting;
- (g) the following details:
  - (i) if a member arrives at the meeting later than its time of opening – the time the member arrived at the meeting;
  - (ii) if a member departs from the meeting earlier than its time of closing – the time the member departed the meeting;
  - (iii) if a member departs from the meeting earlier than its time of closing and returned to the meeting – the time the member returned to the meeting;
- (h) if any confidential business was considered at a meeting – the name and position of each person who attended the meeting.

*Note for paragraph (g)*

*The time of the opening or closing of a meeting is the actual time of the opening or closing of the meeting, not the scheduled time of the opening or closing of the meeting.*

**60            Custody of records**

- (1) The CEO is responsible for ensuring the proper custody of the council's records and the chief executive is responsible for ensuring the proper custody of a local government subsidiary's records.
- (2) The CEO or chief executive must ensure that the council's or the local government subsidiary's records are properly filed and indexed to facilitate access.

**61            Access to records**

- (1) Access is to be allowed to a council's or a local government subsidiary's records:
  - (a) as authorised or required by the Act or any other law in force in the Territory; or
  - (b) as required for the conduct of the council's or the local government subsidiary's business or the proper discharge by members of the audit committee, council, local authority, and council committee of their duties.
- (2) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the conduct results in another person accessing a council's or a local government subsidiary's records in contravention of subregulation (1).

Maximum penalty:        50 penalty units.

**62            Disposal and destruction of records**

- (1) A council may, not less than 6 years after the date of the last entry in a primary record, lodge that record with Northern Territory Archives.
- (2) A council may destroy or dispose of a secondary record if:
  - (a) the record is no longer required for the conduct of the affairs of the council; and
  - (b) the record is not required for audit purposes.
- (3) A person commits an offence if:
  - (a) a person intentionally engages in conduct; and

- (b) the conduct results in the destruction, damage or removal from the council's custody or the concealment of:
  - (i) a primary record of the council; or
  - (ii) a secondary record of the council that is required for the conduct of the affairs of the council or for audit purposes.

Maximum penalty:       50 penalty units.

*Note for regulation 62*

*See Part 9 of the Information Act 2002 for further requirements regarding records.*

## **Division 4            Urban farm land**

### **63            Urban farm land**

- (1) For section 221(2)(b) of the Act, a prescribed business or industry is the business or industry of:
  - (a) breeding, raising or keeping livestock; or
  - (b) the growing of fruit, vegetables or other crops.
- (2) In this regulation:

***livestock*** includes poultry, bees, fish, reptiles and crustaceans.

## **Division 5            Construction and closing of roads**

### **64            Permanent closure of road**

- (1) For section 272(2)(a) of the Act, a council must give public notice of a proposal to permanently close a road before submitting the proposal to the Minister for consent.
- (2) The proposal (which must include a plan delineating the proposed road to be closed with reasonable accuracy and detail):
  - (a) must be accessible on the council's website; and
  - (b) must be available for inspection by interested members of the public at the council's public office; and
  - (c) must be published in a newspaper circulating generally in the area.

- (3) The notice must include an invitation to any person who may object to the proposal to lodge a written objection to the proposal to the council within a reasonable period (at least 28 days) stated in the notice.
- (4) The council must consider any objections lodged in accordance with the invitation.
- (5) If, after publishing a notice under this regulation, the council substantially modifies its proposal (either as a result of objections or for some other reason), the council must publish a fresh notice under this regulation of the modified proposal.
- (6) When the council submits a proposal to the Minister for consent, the proposal must be accompanied by:
  - (a) a report setting out the steps taken by the council to comply with this regulation; and
  - (b) copies of written objections (if any) received by the council to its proposal.
- (7) The council must publish a notice in the *Gazette* specifying the details of the road that is permanently closed as soon as practicable after closing the road.

## **Division 6            Allowances**

### **65            Allowances generally**

- (1) A council may set the allowances payable by the council each financial year.
- (2) The allowances set for a financial year may not be changed by the council within the financial year to increase the allowances.
- (3) However, the council may decrease the allowances payable at any time.
- (4) If the council sets the allowances to be less than the maximum amount of the allowances determined by the Remuneration Tribunal, the allowances payable must be proportionate for all council members.

**66            Ordinary allowance**

- (1) The ordinary allowance is set for the activities required for a member in the member's role including the following:
  - (a) preparing for meetings, such as considering the agenda and business papers for a meeting;
  - (b) attending ordinary meetings of the council;
  - (c) attending social functions as a representative of the council;
  - (d) constituency responsibilities;
  - (e) representing the council outside the local government area, including delegations interstate and overseas.
- (2) The ordinary allowance must not be paid to a member in advance.

**67            Extra meeting allowance**

- (1) The extra meeting allowance is set for attendance at a meeting that is not an ordinary meeting of the council (an **extra meeting**).
- (2) An ordinary member may claim a portion of the extra meeting allowance for:
  - (a) the member's attendance at an extra meeting if the member was present for at least 75% of the time taken for the meeting; and
  - (b) if the member was required to travel to attend the extra meeting – the time for the travel in accordance with subregulation (3) or (4).
- (3) The member may claim a portion of the extra meeting allowance in relation to subregulation (2)(b) if:
  - (a) the member undertook at least 4 hours of travel (including any time in transit) for the meeting on a different day before the day on which the meeting was held; and
  - (b) the time taken to travel to the extra meeting was reasonably necessary.
- (4) The member may also claim a portion of the extra meeting allowance in relation to subregulation (2)(b) if:
  - (a) the member undertook at least 4 hours of travel (including any time in transit) from the meeting on a different day after the day on which the meeting was held; and

- (b) the time taken to travel from the extra meeting was reasonably necessary.
- (5) The claim must be made in a form approved by the council.
- (6) A council must, by resolution, adopt a policy that provides for:
  - (a) the types of extra meetings for which the extra meeting allowance is payable; and
  - (b) the amount that may be claimed by a member for each type of extra meeting; and
  - (c) the timeframe in which a member may make a claim for a portion of the extra meeting allowance after attending the meeting; and
  - (d) any other matters in relation to the extra meeting allowance.
- (7) The amount that may be claimed by a member for attendance at an extra meeting may be expressed as a fixed amount for a type of extra meeting.
- (8) The extra meeting allowance must not be paid to a member in advance of the meeting.
- (9) If a member is not paid the member's extra meeting allowance for meetings that occurred in a financial year, the allowance or the remainder of the allowance for the financial year does not carry forward to the following financial year.

*Example for subregulation (9)*

*A member attends an extra meeting on 30 June 2022. The member is entitled to claim the allowance for the 2021-2022 financial year in the timeframe under subregulation (6)(c), which may mean the claim is submitted after 1 July 2022 and captured in the 2021-2022 financial year accounts.*

## **68 Professional development allowance**

- (1) The professional development allowance is set for a member to attend conferences or training courses that enable the member to develop the member's capabilities in the member's role.
- (2) A council must, by resolution, adopt a policy that identifies the types of conferences or training that may be attended or undertaken by a member using the professional development allowance.
- (3) A member may claim a portion of the member's professional development allowance for the costs (including travel, accommodation and meals) in attending any training, mediation or counselling recommended by the council, a council panel, a

prescribed corporation panel or as ordered by NTCAT as a result of a complaint of a contravention of the code of conduct.

- (4) A member may claim a portion of the member's professional development allowance to claim the costs (including travel, accommodation and meals) in attending a training course approved under section 45(1) of the Act.
- (5) The professional development allowance is paid by a council in relation to a member as follows:
  - (a) by deducting from the member's unclaimed allowance entitlement the amount paid directly by the council for costs of any conference, training, mediation or counselling attended or undertaken by the member;
  - (b) reimbursing a member for the costs in attending any conference, training, mediation or counselling attended or undertaken by the member.
- (6) The claim must be made in a form approved by the council.
- (7) If a member is not paid the member's professional development allowance in a financial year, the allowance or the remainder of the allowance does not carry forward for the following financial year.
- (8) A council may, by resolution, adopt a policy for the reimbursement of attendance at a training course in a previous financial year within the term of the council.
- (9) Subject to any policy under subregulation (8), if a member has been partially reimbursed for attendance at a training course in a previous financial year within the term of the council, the remaining cost of the course may be reimbursed by deducting from the member's unclaimed allowance for the current financial year.

**69            Payment for higher duties for deputy principal member acting as principal member**

- (1) This regulation applies if, under section 59(2)(b) of the Act, a deputy principal member is carrying out the principal member's functions when the principal member is absent from official duties because of illness or for some other reason.
- (2) The deputy principal member is entitled to receive a payment for higher duties for each day that the deputy principal member is carrying out the functions.

- (3) However, the period for which the deputy principal member is carrying out the functions must be for at least 7 days before the deputy principal member is entitled to receive the payment for that period.
- (4) The payment is calculated by dividing the annual ordinary allowance of the principal member by 365.
- (5) The deputy principal member is not entitled to receive the deputy principal member's ordinary allowance for the days that the member is receiving the payment.
- (6) The deputy principal member is entitled to receive the payment for a maximum of 90 days in a financial year.

**70 Payment for higher duties for other member acting as principal member**

- (1) This regulation applies if, under section 59(3) of the Act:
  - (a) the principal member is absent from official duties; and
  - (b) there is no deputy principal member or the deputy is not available to act in the principal member's position; and
  - (c) the council, by resolution, appoints another member to act in the principal member's position for a specified period or until the principal member resumes official duties (the ***acting principal member***).
- (2) The acting principal member is entitled to receive a payment for higher duties for each day that the member is acting in the principal member's position.
- (3) The payment is calculated by dividing the annual ordinary allowance of the principal member by 365.
- (4) The acting principal member is not entitled to receive the member's ordinary allowance or extra meeting allowance for the days that the member is receiving the payment.
- (5) The acting principal member is entitled to receive the payment for a maximum of 90 days in a financial year.

**Division 7 Procedures for code of conduct complaints**

**71 Procedures for code of conduct complaints**

For section 122(4) of the Act, the procedures in this Division are prescribed.



**72 Publication of approved form for code of conduct complaint**

The approved form for a complaint that a council member has contravened the council's code of conduct must be published on the council's website.

**73 Requests and referrals from complainant**

- (1) If the complainant is a member of the council, the complainant must, at the time of making the complaint, specify whether the complainant:
  - (a) requests the council refer the complaint to a third party under section 124(1) of the Act; or
  - (b) refers the complaint to the prescribed corporation under section 124(3)(a) of the Act.
- (2) If the complainant refers the complaint to the prescribed corporation, the CEO must, within 5 days of receiving the complaint, give the respondent:
  - (a) written notice of the complaint; and
  - (b) a copy of the complaint; and
  - (c) written notice specifying:
    - (i) that the complainant has referred the complaint to the prescribed corporation under section 124(3)(a) of the Act; and
    - (ii) that the respondent may provide a written response in a statutory declaration to the CEO in relation to the complaint within 14 days of the respondent receiving the notice.
- (3) If the complainant is not a member of the council, the complainant must, at the time of making the complaint, specify whether the complainant requests the council refer the complaint to a third party under section 124(1) of the Act.

**74 Notifications to be given to respondent**

Subject to regulation 73(2), the CEO must, within 5 days of receiving the complaint, give the respondent:

- (a) written notice of the complaint; and
- (b) a copy of the complaint; and

- (c) written notice specifying:
  - (i) that the respondent may request the council refer the complaint to a third party under section 124(1) of the Act or refer the complaint to the prescribed corporation under section 124(3)(b) of the Act; and
  - (ii) that the respondent may provide a written response in a statutory declaration to the CEO in relation to the complaint within 14 days of the respondent receiving the notice.

## **75 Information to be given to complainant or decision maker**

- (1) The CEO must give the information mentioned in regulation 73(2) to the prescribed corporation as soon as practicable.
- (2) The CEO must give written notice of any request or referral by the respondent and any written response by the respondent to the complainant as soon as practicable after receiving the request, referral or response.
- (3) The CEO must give any written response by the respondent to the council, council panel or prescribed corporation (as appropriate) as soon as practicable.
- (4) The council, council panel or prescribed corporation panel (as appropriate) must consider any written response by the respondent before making a decision in relation to the complaint.

## **76 CEO to update council of progress**

- (1) At each ordinary meeting of the council, the CEO must give the council a confidential report containing the following details:
  - (a) the procedural progress of each complaint in relation to a council member for the council;
  - (b) the item of the code of conduct allegedly contravened by the member.
- (2) If there are no outstanding complaints at the time of an ordinary meeting of the council, the CEO does not need to give the council a confidential report under subregulation (1).

**77 Withdrawal of complaint**

A complainant may, in writing, withdraw a complaint at any time before the council, council panel or prescribed corporation panel has given a decision notice to the complainant and the respondent in relation to the complaint.

**78 Council panel to be constituted by members of council**

A council panel may only be constituted by members of the council.

**79 Minutes**

A council panel and a prescribed corporation panel must ensure that proper minutes of any meetings in relation to the consideration of a complaint are kept.

*Notes for regulation 79*

- 1 *Information in relation to a complaint of a contravention of the code of conduct is prescribed as confidential information.*
- 2 *The CEO must ensure that proper minutes of a council meeting are kept under section 101(1) of the Act.*

**80 Summary of decision under section 123 or 125 of Act**

- (1) As soon as practicable after the expiry of the period specified in section 126(3) of the Act, the council or council panel must provide a summary of the council's or council panel's decision under section 123 or 125(4)(b) of the Act to the CEO.
- (2) The summary of a decision must include the following information:
  - (a) the names of the complainant and respondent;
  - (b) the names of the council members or panel members, including the chairperson;
  - (c) a description of the alleged contravention;
  - (d) identification of the clauses of the code of conduct that were alleged to have been contravened;
  - (e) the decision made;
  - (f) the date of the decision.
- (3) The CEO must table the summary of the decision at the next ordinary meeting of the council.

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**81 Summary of decision under section 127 or 128 of Act**

- (1) As soon as practicable after the prescribed corporation panel has made a decision under section 127 or 128(1) of the Act, the prescribed corporation panel must provide a summary of the prescribed corporation panel's decision to the CEO.
- (2) The summary of a decision must include the following information:
  - (a) the names of the complainant and respondent;
  - (b) the names of the prescribed corporation panel members, including the chairperson;
  - (c) a description of the alleged contravention;
  - (d) identification of the clauses of the code of conduct that were alleged to have been contravened;
  - (e) the decision made;
  - (f) the date of the decision.
- (3) The CEO must table the summary of the decision at the next ordinary meeting of the council.

**Part 4 Municipal parking rate****82 Definitions**

In this Part:

**Central Darwin**, see regulation 83.

**land** includes buildings, but does not include land owned by the Commonwealth.

**municipal parking rate**, see section 240(1) of the Act.

**parcel of land** means a parcel of land comprised in a single lot registered under the *Land Title Act 2000* or, if the owner has developed 2 or more adjacent lots as a single entity, the land comprised in those adjacent lots.

**parking usage schedule** means the parking usage schedule prepared under regulation 86 and includes a parking usage schedule in relation to a particular parcel of land prepared under regulation 92(3).

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**shortfall**, in relation to a parcel of land, means the number by which the number of parking spaces referred to in regulation 86(g) in respect of the parcel of land falls short of the number referred to in regulation 86(f) in respect of that parcel.

**use**, in relation to land, means the purpose for which the land is used, classified in accordance with the table in Schedule 3.

**vehicle** means a motor vehicle as defined in section 5(1) of the *Motor Vehicles Act 1949*.

### 83 **Meaning of Central Darwin**

**Central Darwin** means the area of the municipality of the City of Darwin shown within the dotted line delineated on the plan in Schedule 2.

### 84 **Application of Part**

- (1) For section 240(3) of the Act, the municipality for which a municipal parking rate may be imposed is the municipality of Darwin.
- (2) The City of Darwin may impose a municipal parking rate for the land in Central Darwin in accordance with the requirements in this Part.

*Note for subregulation (2)*

*Section 240(1) of the Act provides that a council for a municipality may, by resolution, impose a municipal parking rate in accordance with any requirements prescribed by regulation.*

### 85 **Trading fund**

- (1) The council must establish a trading fund for the provision, operation and maintenance of land, facilities, services and improvements in relation to the parking of vehicles in Central Darwin.
- (2) The proceeds of a municipal parking rate levied under this Part must be applied by the council to the trading fund.

### 86 **Parking usage schedule**

In calculating the municipal parking rate payable by the owner or occupier of land, the CEO must, in June each year, prepare a parking usage schedule setting out the following:

- (a) particulars of each parcel of land in Central Darwin;
- (b) if the land is rateable land – the name of the person entered in the assessment record as owner or occupier of the land;

- (c) if the land is not rateable land – the name of the person who, in the opinion of the CEO, would be liable to pay rates if the land were rateable land;
- (d) if the land is in use – the use or uses of the land, and the area allocated to that use or each of those uses;
- (e) if the land is not in use – the authorised use established by reference to:
  - (i) a certificate issued under section 140 of the *Planning Act 1999* or saved under section 179 of that Act or the most recent development permit under that Act in relation to the land; or
  - (ii) if no certificate or development permit is issued or saved under the *Planning Act 1999* in relation to the land – the development provisions under that Act in relation to the land;
- (f) the number of parking spaces which should, in accordance with Schedule 3, be provided on the land having regard to the use or uses to which the land is put;
- (g) the number of parking spaces calculated in accordance with the requirements of Schedule 4 which are on the land, and which are available for use for the parking of vehicles;
- (h) if a parking usage schedule has been prepared under regulation 92(3) in relation to a change or event referred to in regulation 92(1)(b) – the date on which the change or event occurred.

## **87 Notification of parking usage schedule**

- (1) The CEO must, by 1 July in each year:
  - (a) give notice that a parking usage schedule has been prepared; and
  - (b) give notice that the place and times at which the parking usage schedule may be inspected; and
  - (c) state the date, being not less than 28 days after the date of publication of the notice, in which a review may be lodged in relation to the parking usage schedule.

- (2) The notice given under subregulation (1) is by publication of the notice:
  - (a) on the council's website; and
  - (b) in a newspaper circulating in Darwin.
- (3) A person may inspect the parking usage schedule free of charge.

## **88 Review or correction of error**

- (1) This regulation applies in relation to:
  - (a) a person named in the parking usage schedule as the owner or occupier of a parcel of land; or
  - (b) a person who is liable for the payment of the municipal parking rate in respect of a parcel of land.
- (2) The person may, before the date specified in the notice published under regulation 87, by written notice to the council, apply for a review in relation to an entry in the parking usage schedule on the following grounds:
  - (a) that the person is not the person liable to pay the municipal parking rate in respect of the parcel of land;
  - (b) that, in relation to land in respect of which the person is liable to pay the municipal parking rate, the parking usage schedule contains an error or omission which affects the calculation of the parking spaces which should be provided on the land;
  - (c) that the number of parking spaces on the land is greater than that stated in the parking usage schedule;
  - (d) that the parking usage schedule otherwise contains an error which affects the calculation of the municipal parking rate payable.
- (3) The CEO may:
  - (a) decide the application lodged under subregulation (2); or
  - (b) refer the application lodged under subregulation (2) to the council or council committee to decide.
- (4) The CEO, council or council committee may, in writing, request further information from the person in relation to the application.
- (5) The request under subregulation (4) must be made as soon as practicable but no later than 90 days after receiving the application.

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- (6) The CEO must give the person a decision notice for the application and notify the person of the date the decision takes effect:
- (a) as soon as practicable but no later than 90 days after receiving the application; or
  - (b) if the CEO, council or council committee has requested further information under subregulation (4) – as soon as practicable but no later than 90 days after receiving the information or notification that the applicant cannot provide the information.
- (7) A decision under subregulation (6) is reviewable.
- (8) The person continues to be liable for the payment of the municipal parking rate according to the parking usage schedule despite the lodgement of an application under subregulation (2).
- (9) However, the person is entitled to the difference in municipal parking rates amounts if:
- (a) as a result of a review of or correction to the parking usage schedule, the difference in rates amounts to an entitlement; and
  - (b) person has paid to the council the amount of the difference before the result of the review of or correction to the parking usage schedule.

## **89 Calculation of municipal parking rate**

- (1) The figures set out in the parking usage schedule are to be used as the basis for the calculations made under this regulation.
- (2) Subject to regulation 92, the payment to be made by a person liable to pay the municipal parking rate in respect of a parcel of land is to be calculated to the nearest whole number in accordance with the formula:

$$A = B \times (C1 - C2)$$

where:

**A** is the amount payable.

**B** is the municipal parking rate, expressed as an amount in respect of a parking space.

**C1** is the number listed in respect of that parcel under regulation 86(f).



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**C2** is the number listed in respect of that parcel under regulation 86(g).

- (3) Subject to regulation 92, the fact that part of any land is not occupied for all or any part of a year does not affect the liability of the person to pay the municipal parking rate.
- (4) If a calculation of the municipal parking rate payable by a person in respect of a parcel of land shows that the total of the numbers listed in respect of that parcel under regulation 86(g) equals or exceeds the number listed under regulation 86(f) in respect of that parcel:
  - (a) no amount shall be payable in accordance with subregulation (2); and
  - (b) the council must not be liable to make any payment to that person; and
  - (c) the operation of regulation 96 is not affected in relation to the municipal parking rate payable by that person in relation to any other parcel of land.

## **90 Levying of municipal parking rate**

A municipal parking rate is levied by the CEO serving a rates notice on a person liable to pay the municipal parking rate.

## **91 Payment of amounts in advance**

- (1) The council may enter into an agreement with a person liable to pay the municipal parking rate for the payment of the municipal parking rate in advance as an amount arrived at by multiplying the amount determined by the council as appropriate to the term of the agreement by the shortfall.
- (2) The council may not determine an amount that discriminates between persons liable to pay the municipal parking rate for subregulation (1).

## **92 Notification requirements if use of land changes**

- (1) A person commits an offence if:
  - (a) the person is liable to pay the municipal parking rate in relation to a parcel of land in Central Darwin; and
  - (b) the person does not notify the CEO, as soon as possible, in writing that:
    - (i) the use of the land has changed; or

- (ii) a building on the land has been demolished; or
  - (iii) a building constructed on the land has been occupied, whether in part or in full, or had an occupancy certification under the *Building Act 1993* issued for the building; and
- (c) the change in the use, demolition or occupation or issue of an occupancy certification:
  - (i) occurred since the last notice under regulation 87 was published; and
  - (ii) affects or is likely to affect the parking usage schedule as it relates to the parcel of land.

Maximum penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) If the CEO considers a change in use, demolition or occupation or issue of an occupancy certification requires a parking usage schedule for that parcel of land, the CEO must prepare a parking usage schedule for that parcel of land setting out the information required under regulation 86(a) to (h).
- (4) The CEO must prepare the parking usage schedule within 28 days after becoming aware of the change in use, demolition or occupation or issue of an occupancy certification.
- (5) The CEO must, as soon as practicable, give the person liable to pay the municipal parking rate in relation to the parcel of land:
  - (a) a copy of the parking usage schedule prepared under subregulation (3); and
  - (b) a notice stating the date, being not less than 28 days after the date of the notice is given to the person, in which a review may be lodged in relation to the parking usage schedule.

### **93 Payment or refund because of adjustment**

- (1) A council must adjust the amount of the municipal parking rate payable by the person if:
  - (a) a parking usage schedule has been prepared under regulation 92(3) in relation to a change in the use of a parcel of land; and

- (b) an agreement has not been entered into under regulation 91; and
  - (c) the year in relation to which the municipal parking rate applies has not expired.
- (2) The council must require the person pay an additional amount of the municipal parking rate or refund to the person the difference between the rates.

**94 Agreement or payment if municipal parking rate adjusted to increase shortfall**

- (1) This regulation applies if:
  - (a) there is an agreement between the council and a person in relation to a parcel of land under regulation 91; and
  - (b) a parking usage schedule has been prepared under regulation 92(3) which increases the shortfall in relation to the parcel.
- (2) The person may:
  - (a) enter into an agreement under regulation 91 in relation to the person's additional liability; or
  - (b) pay the municipal parking rate in respect of the increased shortfall annually.

**95 Refund if municipal parking rate adjusted to decrease shortfall**

- (1) This regulation applies if:
  - (a) there is an agreement between the council and a person in relation to a parcel of land under regulation 91; and
  - (b) a parking usage schedule has been prepared under regulation 92(3) which decreases the shortfall in relation to the parcel.
- (2) The council must, in relation to the unexpired portion of the term of the agreement, refund to the person who entered into the agreement the amount paid by the person in respect of the decrease in the shortfall.
- (3) The method of calculating the amount of the refund must be set out in the agreement.

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**96 Rebates and exemptions**

- (1) The council may, with the approval of the Minister, exempt a person or class of persons from the payment of the municipal parking rate in respect of specified land or a specified class of land.
- (2) The council may, by resolution, reduce the municipal parking rate payable by a person in relation to a parcel of land (the **first parcel of land**) if:
  - (a) the person is the owner or occupier in relation to another parcel of land (the **second parcel of land**); and
  - (b) the second parcel of land is in the immediate vicinity of the first parcel of land; and
  - (c) the person has provided for a number of parking spaces for the second parcel of land; and
  - (d) if the second parcel of land is in Central Darwin – the number of parking spaces equals or exceeds the aggregate number listed in accordance with regulation 86(f) in the parking usage schedule for the first parcel of land and the second parcel of land; and
  - (e) if the second parcel of land is not in Central Darwin – the number of parking spaces equals or exceeds the number listed for the first parcel of land.

**97 Usage of car parking spaces**

- (1) Subject to subregulation (3), a person commits an offence if:
  - (a) the person is an owner or occupier of a parcel of land in Central Darwin; and
  - (b) uses, causes or permits the parking space included in the parking usage schedule for the parcel or land for a purpose other than the parking of a vehicle; and
  - (c) the use, cause or permission of the parking space for a purpose other than the parking of a vehicle results in the number of parking spaces available for the parking of vehicles to be less than the number listed under regulation 86(f) in that parking usage schedule or the aggregate number for regulation 96(2).

Maximum penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subregulation (1) for a defendant to prove that the use of the parking space:
  - (a) was for a period of less than 48 hours and that no similar use of that space had taken place during the previous 6 months; or
  - (b) resulted from the carrying out of emergency repairs to a service to the land or adjacent land.
- (4) Nothing in this regulation prevents the parking of a bicycle or a powered cycle in a parking space.

## **Part 5                      Miscellaneous matters**

### **98                      Prescribed corporation**

For section 9 of the Act, the Local Government Association of the Northern Territory, continued by section 346 of the Act, is the prescribed corporation.

### **99                      Timeframe for review of delegations**

For section 41 of the Act, a council must review any delegations of its functions and powers within 6 months after a general election for the council.

### **100                    Member indebted to the council**

- (1) This regulation applies if a member is indebted to the council and has not discharged the debt within 3 months after the debt becomes due and payable.
- (2) The CEO must notify the member, in writing, of the member's debt to the council as soon as practicable after the CEO becomes aware of the debt.
- (3) The notification under subregulation (2) must include a statement that if the member fails to discharge the debt within 6 months, the member may be disqualified under section 47(1)(f) of the Act.

### **101                    Absence without permission**

- (1) This regulation applies if a member is absent without the permission of the council under section 47(1)(o) of the Act.

- (2) At the first meeting that a member is absent from the meeting without permission, the council must resolve that the member is absent from the meeting without permission and the resolution must refer to section 47(1)(o) of the Act.
- (3) The CEO must notify the member, in writing, of the resolution within 7 days of the making of the resolution.
- (4) The notification in subregulation (3) must include a copy of the minutes and a statement that if the member is absent without permission from the next ordinary meeting of the council, the member may be disqualified.
- (5) If the member is absent from the next ordinary meeting of the council without permission, the council must resolve that the member is absent from the meeting without permission and the resolution must refer to section 47(1)(o) of the Act.
- (6) However, nothing in this regulation prevents a council from revoking a resolution made under it if the member provides a reason to the council for the member's absence to the satisfaction of the council.

## **102 Timeframes for requirements for meetings**

- (1) For section 97(3)(c) of the Act, a notice convening a meeting of an audit committee, a council committee or a local authority must be given to the members of the audit committee, council committee or local authority at least 3 business days before the date appointed for the meeting.
- (2) For section 97(3)(d) of the Act, a notice convening a meeting of an audit committee, a council committee or a local authority must be accessible on the council's website at least 3 business days before the date appointed for the meeting.
- (3) For section 97(3)(e) of the Act, a notice convening a meeting of an audit committee, a council committee or a local authority must be posted on a notice board at the council's public office at least 3 business days before the date appointed for the meeting.

## **103 Notice requirements for meeting of council committee or local authority**

- (1) This regulation applies if a meeting of a council committee or a local authority is convened by the CEO under section 97 of the Act.
- (2) The agenda for the meeting must include any business papers to be considered at the meeting (including any business papers for confidential business).

- (3) If business that deals with confidential information is to be considered at the meeting, the notice of the convening of the meeting must contain a statement of that fact and the provision of the Act or these Regulations under which the information is confidential.
- (4) If it is not practicable to do so, the business papers for the meeting may not be posted with the copy of the notice posted on the notice board of the council's public office, however, the notice must contain information on how to otherwise access the business papers on the council's website.
- (5) If the business papers considered at the meeting are different to the business papers published and posted for the meeting, the business papers considered at the meeting must be published on the council's website at the same time the minutes of the meeting are published under section 102(2) of the Act.
- (6) If any other papers or documents are considered at a meeting that have not been published and posted for the meeting, the papers or documents must be published on the council's website at the same time the minutes of the meeting are published under section 102(2) of the Act.

*Note for regulation 103*

*Information may be suppressed from the material that is made publicly available because the information is confidential (see section 293 of the Act and regulation 51).*

#### **104 Notice requirements for meeting of audit committee**

- (1) This regulation applies if a meeting of an audit committee is convened by the CEO under section 97 of the Act.
- (2) Any business papers to be considered at the meeting (including any business papers for confidential business) must be given to the members of the audit committee at least 3 days before the date of the meeting.

#### **105 Notice of postponement of meeting**

- (1) For section 100(5) of the Act, a notice of the postponement of a meeting and of the time and place to which the meeting has been postponed must be published on the council's website and posted on the notice board at the council's public office at least one business day within the date of the meeting being postponed.
- (2) If the meeting is postponed to the following day, the notice must be published and posted at least 4 hours before the time appointed to the meeting.

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**106 Annual return of interests – members**

- (1) This regulation applies to a member of a council.
- (2) For section 110(1) of the Act, the following details are prescribed:
  - (a) if the person has a shareholding in a public or private company (including a holding company) – the name of the company;
  - (b) if the person has an interest as a trustee or beneficiary in a family or business trust (but not an interest as a trustee in a trust in which neither the person, nor any associate of the person, is a beneficiary, or an interest in a land trust under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)) – the name of the trust, the nature of its operation and the nature of the interest;
  - (c) if the person has an interest as an owner of real estate – the location (suburb or area only) and the purpose for which it is owned;
  - (d) if the person has an interest in a registered company directorship – the name of the company;
  - (e) if the person has an interest in a partnership – the name of the partnership, the nature of the interest and the activities of the partnership;
  - (f) if the person is a member of a political party or body – the name of the party or body;
  - (g) if the person has membership in an organisation for which a conflict of interest with the person's duties could foreseeably arise or be seen to arise – the name of the organisation;
  - (h) if the person has any other interest where a conflict of interest with a person's duties could foreseeably arise or be seen to arise – the nature of the interest;
  - (i) if the person has any other substantial source of income – the nature of the source of the income.

**107 Annual return of interests – staff**

- (1) This regulation applies to the following persons:
  - (a) a CEO;
  - (b) a council senior staff member;



- (c) a chief executive;
  - (d) a local government subsidiary senior staff member.
- (2) For section 178(1) and (2) of the Act, the following details are prescribed if the person has an actual or perceived conflict of interest because of the circumstance mentioned:
- (a) if the person has a shareholding in a public or private company (including a holding company) – the name of the company;
  - (b) if the person has an interest as a trustee or beneficiary in a family or business trust (but not an interest as a trustee in a trust in which neither the person, nor any associate of the person, is a beneficiary, or an interest in a land trust under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)) – the name of the trust, the nature of its operation and the nature of the interest;
  - (c) if the person has an interest as an owner of real estate – the location (suburb or area only) and the purpose for which it is owned;
  - (d) if the person has an interest in a registered company directorship – the name of the company;
  - (e) if the person has an interest in a partnership – the name of the partnership, the nature of the interest and the activities of the partnership;
  - (f) if the person has membership in an organisation – the name of the organisation;
  - (g) if the person has any other interest – the nature of the interest;
  - (h) if the person has any other substantial source of income – the nature of the source of the income.

## **108 Prescribed form for annual return of interests for members**

For section 110(2) of the Act, the prescribed form is set out in Schedule 5.

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**109 Requirements for appointment to office of CEO**

- (1) For section 165(6)(a) of the Act, the following requirements apply in relation to the appointment of a person to the office of CEO:
  - (a) the position is to be publicly advertised, including by newspaper circulating in the area;
  - (b) the advertisement must set out the eligibility requirements under section 166 of the Act;
  - (c) the recruitment panel must consist of at least one person who is independent from the council;
  - (d) the panel obtains written references for an applicant's past 3 years of work history from the applicant's supervisors or managers (or, if the applicant was a CEO of another council, the principal member of the council);
  - (e) the panel verifies the applicant's qualifications and professional memberships;
  - (f) the panel makes enquiries to determine the applicant's eligibility with reference to section 166 of the Act.
- (2) A CEO's contract of employment must include provisions in relation to the following:
  - (a) the term of the contract of employment, including the commencement date and the expiry date;
  - (b) probation period;
  - (c) key performance indicators and regular performance reviews;
  - (d) termination of employment;
  - (e) cash and non-cash benefits and entitlements;
  - (f) leave entitlements and requirements in relation to providing notice before taking leave.
- (3) A CEO's probation period must be at least 6 months.
- (4) A council may, by resolution:
  - (a) reappoint a CEO; and
  - (b) vary the terms of the reappointed CEO's contract of employment.

**110 Vacancy in office of CEO**

If there is a vacancy in the office of the CEO, the council may appoint a temporary CEO for a period specified by the council or until a CEO is appointed under section 165 of the Act.

*Note for regulation 110*

*Section 169 of the Act provides that the council must advertise the vacancy within 6 weeks of the vacancy occurring.*

**111 Submissions in relation to conditionally rateable land**

A council's submissions to the Minister in relation to conditionally rateable land must include the following:

- (a) a report on the council's consultation with the pastoral or mining industries (as applicable) about the levels of conditional rates the council is proposing;
- (b) a list of the council services that the residents of, or workers on, conditionally rateable land have the opportunity to utilise;
- (c) a comparative analysis of the amount of rates contributed to the council by different categories of ratepayer;
- (d) the projected impact of the proposed change to the levels of conditional rates on the council's budget and service provision;
- (e) a business case setting out how revenue from the proposed levels of conditional rates would be expended (as applicable).

**Part 6 Transitional matters for Local Government (General) Regulations 2021****112 Definitions**

In this Part:

***commencement*** means the commencement of this Part.

***former accounting Regulations*** means the *Local Government (Accounting) Regulations 2008*.

***former parking Regulations*** means the *Local Government (Darwin Parking Local Rates) Regulations 1982*.

**113 Council or local government subsidiary to maintain information within 12 months after commencement**

A council or local government subsidiary must maintain the information specified in regulation 6 not later than 12 months after the commencement.

**114 Council to adopt policies within 12 months after commencement**

- (1) A council must adopt the following policies not later than 12 months after the commencement:
  - (a) a policy for procurement of supplies under regulation 33;
  - (b) a policy in relation to confidential information and business under regulation 53.
- (2) Despite subregulation (1), if the council is required to act in accordance with a policy within the period mentioned in the subregulation, the council must adopt the policy before taking the action.

**115 Local government subsidiary to adopt policies within 12 months after commencement**

- (1) A local government subsidiary must adopt a policy for procurement of supplies under regulation 33 not later than 12 months after the commencement.
- (2) Despite subregulation (1), if the local government subsidiary is required to act in accordance with the policy within the period mentioned in the subregulation, the local government subsidiary must adopt the policy before taking the action.

**116 Registers to be established**

- (1) A council or local government subsidiary must establish the following registers not later than 12 months after the commencement:
  - (a) a register of the council's or local government subsidiary's major assets under regulation 26(1)(a);
  - (b) a register of the council's or local government subsidiary's portable and attractive assets under regulation 26(1)(b).
- (2) A council must establish a register of information in relation to each member of a council under regulation 55(3) not later than 12 months after the commencement.

**117                      Quotations, tenders and collective procurement**

- (1) If a council or local government subsidiary started a process for a quotation, tender or collective procurement under Part 13 of the former accounting Regulations before the commencement, that Part continues to apply in relation to the process.
- (2) Despite subregulation (1), the council or local government subsidiary may elect to continue the process for the quotation, tender or collective procurement under Part 2, Division 12 of these Regulations.

**118                      Established trading fund**

A trading fund established before the commencement by a council under the former parking Regulations is taken to be a trading fund established under regulation 85(1) of these Regulations.

**119                      Parking usage schedule**

The parking usage schedule, prepared under regulation 4 of the former parking Regulations, as in force immediately before the commencement, remains in force after the commencement as if it was made under regulation 86.

**120                      Rates levied under former parking Regulations**

- (1) The former parking Regulations, as in force immediately before the commencement, continue to apply to any local rates levied for the 2021 – 2022 financial year.
- (2) Part 4 of these Regulations apply to any rates levied for the financial year after the 2021 – 2022 financial year.

**Part 7                      Transitional regulations**

**Division 1                General matters**

**121                      Definitions**

In this Part:

***commencement*** means the commencement of section 367 of the new Act.

***former Act*** means the *Local Government Act 2008*, as in force immediately before the commencement.

***new Act*** means the *Local Government Act 2019*.

***repealed***, in relation to a section, means the section of the former Act as in force immediately before the commencement.

**122            Declaration**

The regulations in this Part are made under section 367 of the new Act.

**Division 2            Miscellaneous matters**

**123            Inspectors**

An inspector appointed under repealed section 202 continues to be an inspector under the new Act as if the person had been appointed under section 294 of the new Act.

**124            Ongoing compliance reviews**

- (1) On the commencement, a compliance review under Part 15.2 of the former Act that is being carried out immediately before the commencement is taken to be a compliance review under Part 15.2 of the new Act.
- (2) Parts 15.2, 15.4 and 15.5 of the new Act apply to a compliance review mentioned in subregulation (1) after the commencement.

**125            Ongoing investigations**

- (1) On the commencement, an investigation under Part 15.3 of the former Act that is being carried out immediately before the commencement is taken to be an investigation under Part 15.3 of the new Act.
- (2) Parts 15.3, 15.4 and 15.5 of the new Act apply to an investigation mentioned in subregulation (1) after the commencement.

**126            Authorised persons**

An authorised person appointed under repealed section 112 is taken to be an authorised person appointed under section 183 of the new Act.

**127            Local government subsidiaries**

A local government subsidiary constituted and approved by the Minister immediately before the commencement is taken to be a local government subsidiary constituted and approved by the Minister under section 69(1) of the new Act after the commencement.

**128                      Terms and conditions of membership**

- (1) Chapter 4, Part 4.2, Division 3 of the former Act applies to a member of a council until the periodic general election held under section 135(1)(a) of the new Act.
- (2) Chapter 4, Part 4.2, Division 3 of the new Act applies to a member of a council after the periodic general election held under section 135(1)(a) of the new Act, irrespective of whether the member was a member of the council before the periodic general election.

**129                      Council committees**

A council committee established by resolution immediately before the commencement is taken to be a council committee established under section 82 of the new Act after the commencement.

**130                      Adoption of budget**

- (1) Chapter 10, Part 10.5 of the former Act applies to a council adopting its budget for the financial year in which the new Act commences.
- (2) Chapter 10, Part 10.5 of the new Act applies to a council adopting its budget for the financial year after the financial year in which the new Act commences.

**131                      Annual financial statement**

- (1) Repealed section 131 applies to the first annual financial statement a council must prepare after the commencement.
- (2) Section 207 of the new Act applies to the subsequent annual financial statements a council must prepare after the commencement.
- (3) Despite subregulation (1), a council may elect to prepare the first annual financial statement after the commencement in accordance with section 207 of the new Act.

**132                      Annual report**

- (1) Part 14.1 of the former Act applies to the first annual report a council must give the Minister after the commencement.
- (2) Part 14.1 of the new Act applies to the subsequent annual reports a council must give to the Minister after the commencement.

- (3) Despite subregulation (1), a council may elect to prepare the first annual report after the commencement in accordance with Part 14.1 of the new Act.

**133                      Conditionally rateable land continued**

- (1) This regulation applies to land within a local government area that, immediately before commencement, is conditionally rateable land that is not within the ambit of a notice published under repealed section 142.
- (2) The land continues to be conditionally rateable land that is not within the ambit of the notice for the 2021 – 2022 financial year.
- (3) Section 219 of the new Act applies to the land for the financial year after the 2021 – 2022 financial year.

**134                      Exempt land continued**

- (1) This regulation applies to land within a local government area that, immediately before commencement, is exempt land under repealed section 144.
- (2) The land continues to be exempt land under repealed section 144 for the 2021 – 2022 financial year.
- (3) Section 222 of the new Act applies to the land for the financial year after the 2021 – 2022 financial year.

**135                      General rates, special rates and charges**

- (1) Chapter 11, Parts 11.5 and 11.6 of the former Act apply to general rates, special rates and charges imposed in the 2021 – 2022 financial year.
- (2) Chapter 11, Parts 11.5 (except Division 3) and 11.6 of the new Act apply to the imposition of general rates, special rates and charges imposed in the financial year after the 2021 – 2022 financial year.

**136                      Exemptions under *Local Government (Accounting) Regulations 2008***

- (1) Despite the repeal of the former accounting Regulations, regulation 31 of those Regulations continues in force after the commencement.
- (2) For subregulation (1), any exemption in force under regulation 31 of the former accounting Regulations immediately before the commencement is taken to be an exemption from the equivalent provision of these Regulations.



- (3) In this regulation:

***former accounting Regulations*** means the *Local Government (Accounting) Regulations 2008*.

**137        By-laws proposed before commencement**

- (1) Subregulation (2) applies if, before the commencement, a council:
- (a) proposed to make a by-law under the former Act; and
  - (b) complied with repealed section 190(1) in relation to the by-law; and
  - (c) did not make the proposed by-law.
- (2) The council is taken to have complied with section 278(1) of the new Act in relation to the by-law after the commencement.
- (3) This regulation is made under section 367 of the new Act.

**138        By-laws made before commencement**

- (1) Subregulation (2) applies if, before the commencement:
- (a) a council made a by-law under Chapter 13, Part 13.1 of the former Act; and
  - (b) the by-law did not take effect.
- (2) The council is taken to have made the by-law under Chapter 13, Part 13.1 of the new Act after the commencement.
- (3) This regulation is made under section 367 of the new Act.

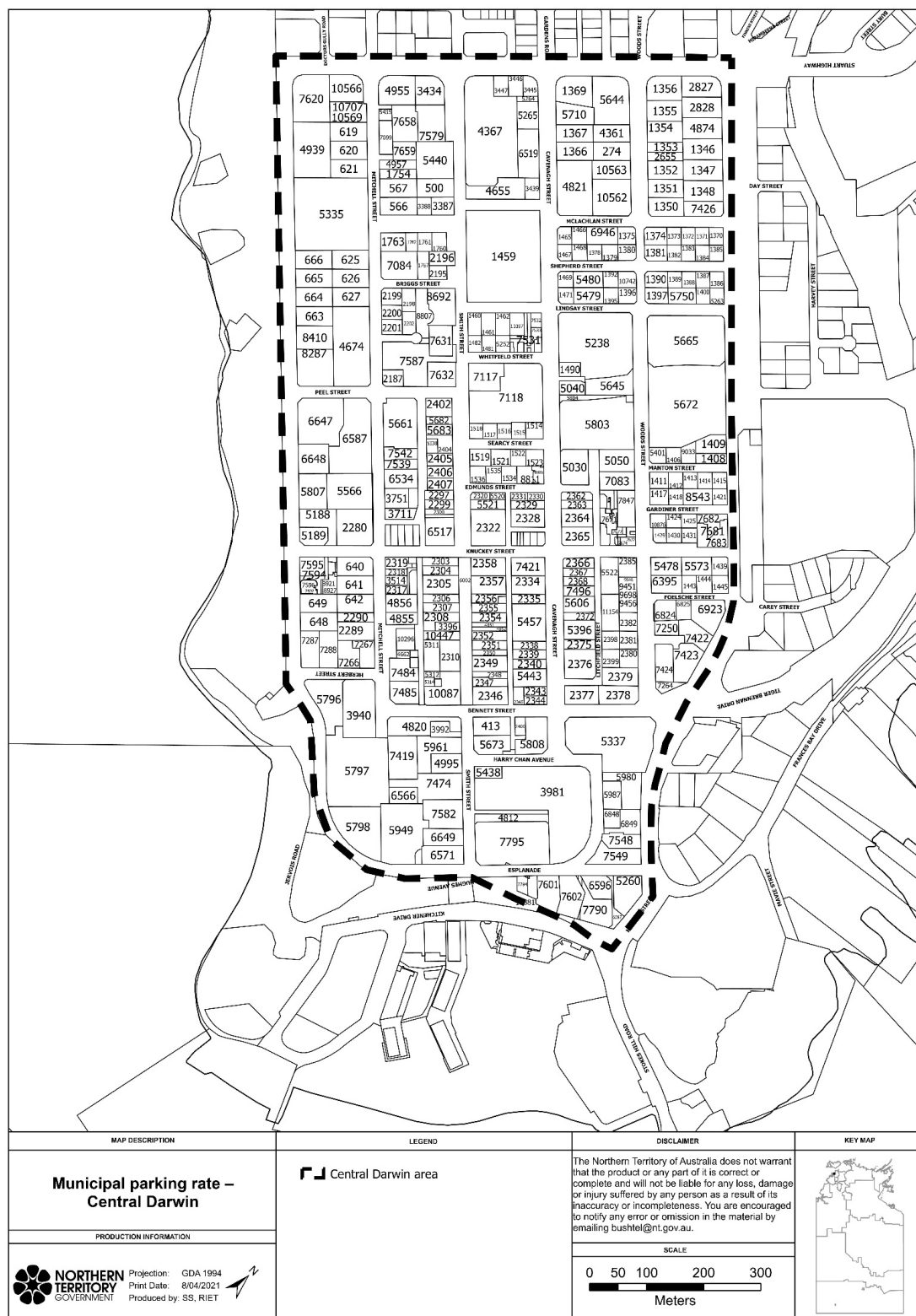
## Schedule 1 Information to be publicly available

regulation 49

Material	Conditions
A notice requesting quotations from suppliers (regulation 35(1)).	The material need not be available after the period for the receipt of quotations has closed or if the public request for quotations is cancelled.
A notice of the successful quotation after making a public request for quotations (regulation 35(6)(b)(ii)).	The material need not be available after 3 years from the last day of the financial year in which the council or local government subsidiary accepted the quotation.
A notice calling for tenders for the provision of supplies (regulation 36(1)).	The material need not be available after the period for the receipt of tenders has closed or if the call for tenders is cancelled.
A notice of the successful tender after calling for tenders for the provision of supplies (regulation 36(10)(b)(ii)).	The material need not be available after 3 years from the last day of the financial year in which the council or local government subsidiary accepted the tender.
A notice of the provision of supplies that did not require quotation or tender (regulation 38(3)).	The material need not be available after 3 years from the last day of the financial year in which the council or local government subsidiary obtained the supplies.
A notice of a contract variation (regulation 42).	The material need not be available after 3 years from the last day of the financial year in which the notice was published.

## Schedule 2 Central Darwin

regulation 83



## Schedule 3     Parking requirements

regulation 86(f)

### 1            Definitions

In this Schedule:

***dwelling unit*** means a building or part of a building designed, constructed or adapted for human habitation as a self-contained unit.

***net floor area***, see clause 2.

### 2            Meaning of *net floor area*

The ***net floor area***, in relation to a building, includes all that area between the internal surfaces of external walls other than:

- (a) stairs, lift shafts, escalators, cleaners cupboards and tea rooms (if provided as standard facilities in a building); and
- (b) all areas which are available for unrestricted use by members of the public who are not occupants or owners of the parcel of land or part of it; and
- (c) toilets and washrooms; and
- (d) areas set aside as plant lift motor rooms; and
- (e) areas set aside for the use of service or delivery vehicles; and
- (f) areas set aside for parking or access to parking; and
- (g) any other area declared by the council, by resolution, to be excluded areas.

### 3            Calculation

If a calculation made in accordance with the figures set out in the Table in clause 4 results in a number that is not a whole number, the number of parking spaces required is the next higher whole number.

#### 4            **Number of parking spaces**

The number of parking spaces mentioned in regulation 86(f) is calculated with reference to the following Table:

**Table**

<b>Use</b>	<b>Minimum no. of parking spaces required</b>
1     Commercial (including catering businesses, drive-in take-away food outlets, general stores, indoor recreation establishments (including cinemas and theatres), licensed clubs, licensed restaurants, medical clinics, medical consulting rooms, motels and hotels (excluding guest suites and bedrooms), motor repair establishments, nurseries, offices (except if elsewhere referred to in this Table), passenger terminals, service industry establishments, service stations, shops, showrooms, taverns, transport terminals, vehicle sales yards, veterinary clinics and warehouses)	3 per 100 m <sup>2</sup> net floor area
2     Institutional (including ambulance stations, courts of justice, fire stations, child care centres, community centres, education establishments, funeral parlours, group housing (transitional), institutional establishments, institutional residences, places of public worship and radio or TV installations)	2 per 100 m <sup>2</sup> net floor area
3     Residential (including detached dwellings, dwelling units, guest houses and hostels, units for aged persons and guest suites and bedrooms in motels and hotels)	0.6 per dwelling unit

## **Schedule 4 Provision of parking spaces**

regulation 86(g)

### **1 General requirements**

Subject to clause 4, parking spaces required to be provided in respect of a parcel of land must:

- (a) be provided in a parking area set aside for the purpose and clearly identified as a parking space; and
- (b) be reasonably accessible for use for parking; and
- (c) have a surface reasonably suitable for the parking of vehicles during all weather conditions.

### **2 Access to parking area**

Subject to clause 4, a parking area must be laid out or designed so vehicles can enter and leave it in a forward gear.

### **3 Driveways**

Subject to clause 4, if a vehicle driveway provides access to or egress from a parking area, it must measure 6 m wide for two-way traffic flows and 3.5 m wide for one-way traffic flows and a corner or junction must have a minimum radius of 5 m.

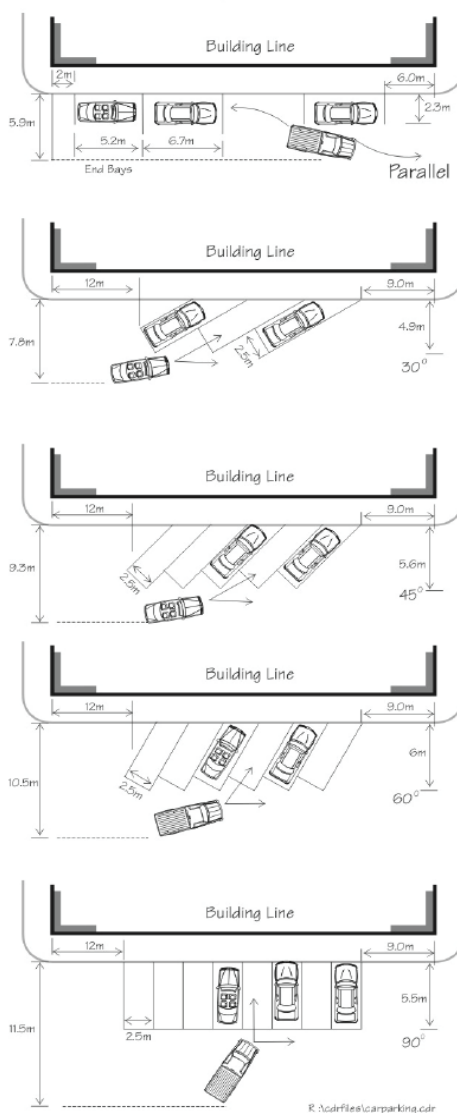
### **4 Exemptions**

- (1) A council may, by resolution, exempt the owner of a parcel of land from the need to comply with the requirements of this Schedule, if the council is satisfied that:
  - (a) the parking area on the parcel of land is adequate for the parking of vehicles; and
  - (b) the parking area can safely and conveniently be used.
- (3) The council must specify the manner in which the parking area may be laid out or designed and used.
- (3) The parking spaces provided in a parking area laid out or designed in accordance with this clause must be taken into account in the calculation of the municipal parking rate.

## 5 Calculation of parking spaces

- (1) Subject to clause 4, in determining the number of parking spaces that are available for use for the parking of vehicles in a parking area, the CEO must determine them as nearly as practicable in accordance with the diagrams set out below.
- (2) Subclause (1) applies notwithstanding the configuration actually nominated by markings or otherwise on, in or in relation to the parking area.

### Parking space sizes



**Schedule 5 Annual return of interests for council members**

regulation 108

Name: \_\_\_\_\_

Council: \_\_\_\_\_

Initials: \_\_\_\_\_

A council member must give the details required for each type of interest that the council member holds.

If extra pages are needed, each extra page must be numbered and identified as part of this form and must include the name of the council member, the name of the council and initials of the council member.

<b>(a) Shareholding in a public or private company (including a holding company)</b>		
<b>Name of the company</b>		
<b>(b) Interest as trustee or beneficiary in a family or business trust (excluding: an interest as a trustee in a trust where neither the member or any associate of the member is a beneficiary; or an interest in a land trust under the <i>Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)</i>)</b>		
<b>Name of the trust</b>	<b>Nature of the trust's operation</b>	<b>Nature of the interest</b>
<b>(c) Interest as owner of real estate</b>		
<b>Location (suburb or area only)</b>	<b>Purpose for which it is owned</b>	



<b>(d) Registered company directorship</b>		
<b>Name of the company</b>		
<b>(e) Interest in partnership</b>		
<b>Name of the partnership</b>	<b>Activities of the partnership</b>	<b>Nature of the interest</b>
<b>(f) Political membership</b>		
<b>Name of the political party or body</b>		
<b>(g) Membership in an organisation where a conflict of interest with the member's public duties could foreseeably arise or be seen to arise</b>		
<b>Name of the organisation</b>		
<b>(h) Any other interest where a conflict of interest with a member's public duties could foreseeably arise or be seen to arise</b>		
<b>Nature of the interest</b>		
<b>(i) Any other substantial source of income</b>		
<i>Note: The general rule is income of over \$1 000 per annum might be notifiable.</i>		
<b>Nature of the income</b>		

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I confirm that the information provided in this form reflects all the interests I should declare under section 110 of the *Local Government Act 2019* and regulation 106(2) of the *Local Government (General) Regulations 2021*.

Council member signature: \_\_\_\_\_ Date: \_\_\_\_\_

Full name of witness: \_\_\_\_\_

Witness signature: \_\_\_\_\_ Date: \_\_\_\_\_

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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 (General) Regulations 2021 (SL No. 9, 2021)***

Notified	30 June 2021
Commenced	1 July 2021 (r 2, s 2 <i>Local Government Act 2019</i> (Act No. 39, 2019) and <i>Gaz</i> S27, 30 June 2021)

***Local Government (General) Amendment Regulations 2021 (SL No. 15, 2021)***

Notified	29 September 2021
Commenced	rr 4 – 5: 29 September 2021; rem: 1 July 2021 (r 2)

### 3 LIST OF AMENDMENTS

r 54	amd No. 15, 2021, r 4
r 82	amd No. 15, 2021, r 5
rr 137 – 138	ins No. 15, 2021, r 6