

NORTHERN TERRITORY OF AUSTRALIA

LOCAL GOVERNMENT (CONSEQUENTIAL AMENDMENTS) ACT 2008

Act No. 28 of 2008

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 28 of 2008

An Act to make amendments of a transitional or consequential nature to various Acts and subordinate legislation following the passage of the *Local Government Act*

[Assented to 14 November 2008]
[Second reading 18 September 2008]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Local Government (Consequential Amendments) Act 2008*.

2 Commencement

This Act is taken to have commenced on 1 July 2008.

3 Amendment of other Acts

Schedule 1 amends the Acts mentioned in it.

4 Amendment of subordinate legislation

Schedule 2 amends the subordinate legislation mentioned in it.

Part 2 Amendment of Local Government Act**5 Act amended**

This Part amends the *Local Government Act*.

6 New sections 270 to 272

After section 269

insert

270 Preservation of local government functions of Nhulunbuy Corporation Limited

(1) Subject to this section:

- (a) the Nhulunbuy Corporation Limited continues to have the same local government functions as it had under the former Act immediately before the date of transition; and
- (b) the *Nhulunbuy (Animal Control) By-laws* continue in force (subject to amendment or revocation under this Act) as by-laws under this Act; and
- (c) this Act applies to the Nhulunbuy Corporation Limited, in relation to its exercise of local government functions as if it were a shire council constituted under this Act.

(2) The Minister may, by *Gazette* notice:

- (a) withdraw local government functions from, or add to or modify the local government functions of, the Nhulunbuy Corporation Limited; or
- (b) modify the operation of this Act in its application to the Nhulunbuy Corporation Limited.

271 Special provision permitting certain councils to establish policy of allowing Chair of council meeting to exercise casting vote

If:

- (a) there is to be no general election for a council in 2008; and
- (b) the council wants the Chair of council meetings to be allowed to exercise a casting vote;

then, despite section 61(7)(a), the council may, by resolution passed at a meeting held before the end of the 2008 calendar year

establish a policy to that effect.

272 Continuation of *Local Government (Darwin Parking Local Rates) Regulations*

The *Local Government (Darwin Parking Local Rates) Regulations* continue in operation (subject to the amendments made by the *Local Government (Consequential Amendments) Act 2008* and subsequent amendment or revocation by later regulations) as regulations under this Act.

Part 3 Amendment of Darwin Waterfront Corporation Act

7 Act amended

This Part amends the *Darwin Waterfront Corporation Act*.

8 Amendment of section 3 (Definitions)

(1) Section 3, definition ***municipal council***

omit

(2) Section 3

insert (in alphabetical order)

council means a council constituted under the *Local Government Act*.

9 Amendment of section 15 (Rates for municipal council services)

Section 15(5)

omit

section 58 of

10 Amendment of section 19 (By-laws)

Section 19(2)

omit

municipal

Part 4 Amendment of Kava Management Act

11 Act Amended

This Part amends the *Kava Management Act*.

12 Amendment of section 3 (Interpretation)

- (1) Section 3(1), definitions ***council area***, ***incorporated association*** and ***local government council***

omit

- (2) Section 3(1)

insert (in alphabetical order)

council area means an area for which a council is constituted under the *Local Government Act*.

incorporated association means an Aboriginal corporation as defined in section 3 of the *Aboriginal Councils and Associations Act 1976 (Cth)*.

local government council means a council constituted under the *Local Government Act*.

13 Amendment of section 53 (Definitions)

- (1) Section 53, definition ***community government council***

omit

- (2) Section 53

insert (in alphabetical order)

shire council means a council constituted as a shire council under the *Local Government Act*.

14 Amendment of section 54 (Application for declaration of licence area)

Section 54(1A)

omit

community government

substitute

shire

15 Amendment of section 58D (Amendment or replacement of kava management plan)

Section 58D(1)

omit

community government

substitute

shire

Part 5 Amendment of Land Title Act

16 Act amended

This Part amends the *Land Title Act*.

17 Amendment of section 4 (Definitions)

Section 4, definition ***local government body***, paragraph (a)

omit

municipal council or community government

18 Amendment of section 35 (Notices of statutory restrictions)

Section 35(3)

omit, substitute

- (3) If, immediately before the commencement of this subsection, a restriction consisted of the right of the Crown to revoke the reservation on land held by a council on lease under legislation then in force, the right (and hence the restriction) continues in force as if the relevant legislation had continued in force.

Part 6 Amendment of Water Act**19 Act amended**

This Part amends the *Water Act*.

20 Amendment of section 4 (Interpretation)

Section 4(1), definition ***public authority***, paragraph (b)

omit, substitute

(b) a council constituted under the *Local Government Act*.

21 Repeal and substitution of section 8

Section 8

repeal, substitute

8 Exercise of certain functions by statutory authorities

- (1) A local government council or a prescribed statutory authority or body must not exercise functions relevant to the purposes of this Act except in accordance with this Act or as authorised by a delegation under this Act or a direction given by the Minister or the Controller.
- (2) The Minister or the Controller may give written directions to a local government council or a prescribed statutory authority or body in regard to the exercise of functions to which subsection (1) applies.

Part 7 Expiry of Act**22 Expiry**

This Act expires on the day after it commences.

Schedule 1 Amendment of Acts

section 3

Provision	Amendment	
	<i>omit</i>	<i>substitute</i>
<i>Associations Act</i>		
section 4, definition <i>community government council</i>	whole definition	<i>council</i> means a council constituted under the <i>Local Government Act</i> .
section 4, definition <i>gross receipts</i>	a municipal council or a community government council	or a council
section 4, definition <i>municipal council</i>	whole definition	
section 54(1)(b)	municipal council or community government	
<i>Care and Protection of Children Act</i>		
section 13, definition <i>local government council</i>	municipal council or community government	
<i>Commercial Passenger (Road) Transport Act</i>		
section 3(1), definition <i>road</i>	, but construed as if a reference to a municipality were a reference to the Territory	

**Construction Industry
Long Service Leave
and Benefits Act**

section 6, definition
**local government
council** municipal council or
community government

Control of Roads Act

section 5(1), definitions
**community
government council**
and **municipality** whole definition

section 5(2) whole subsection (2) In Parts III and IV,
road does not include a
road that is under the
care, control and
management of a
council under the *Local
Government Act*.

section 7 Division 4 of Part 6 Part 12.3

Crown Lands Act

section 3, definitions
**local government
council** and **local
government area** whole definition **local government area**
means an area for
which a council is
constituted under the
Local Government Act.

**local government
council** means a
council constituted
under the *Local
Government Act*.

**Disability Services
Act**

section 2(1), definition
organisation,
paragraph (b) whole paragraph (b) a council
constituted
under the *Local
Government Act*;

Disasters Act

section 37(2)	municipality (all references)	local government area
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Electoral Act

section 140(2)(g)(ii)	municipalities, community	local
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Encroachment of Buildings Act

section 3, definition local authority	municipal council or community government	
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Energy Pipelines Act

section 3(1), definition council	the council of a municipality or community government area	a council
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Evidence Act

section 64(b)	the area controlled by any municipal or community government council or other local governing body	an area subject to local government
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Firearms Act

section 78(1), definitions community government area and municipality	whole definition	local government area means an area for which a council is constituted under the <i>Local Government Act</i> .
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section 78(2) and (3)	, municipality or community	or local
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Heritage Conservation Act

section 40(2)(c)	whole paragraph	(c) a local government council;
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section 40(2)	, municipal or community government	or
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Information Act

section 4, definition local authority	whole definition	local authority means a council constituted under the <i>Local Government Act</i> .
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Interpretation Act

section 63(2)(a)	as defined in	constituted under the
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Lands Acquisition Act

Schedule 2, clause 8(a)(ii)	municipal council or community government council within the meaning of	council constituted under
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Legal Profession Act

section 467(7), definition council	whole definition	council means a council constituted under the <i>Local Government Act</i> .
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Liquor Act

section 4(1), definitions community government area, community government council and council	whole definition
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section 4(1), definition council area	whole definition	council area means the area for which a council is constituted under the <i>Local Government Act</i> .
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section 4(1), definition local government council	or community government council	constituted under the <i>Local Government Act</i>
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section 27(3)	whole subsection	(3) If the application relates to premises within the area of a
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		shire council, the Director must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.
section 32A(5)	whole subsection	(5) If the application relates to premises within the area of a shire council, the Director must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.
section 46A(4)	whole subsection	(4) If the application relates to premises within the area of a shire council, the Director must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.
section 77(2)(d) and (e)	whole paragraph	(d) if the relevant area forms the whole or part of a council area – the clerk of the council;
section 79(1)(d) and (e)	whole paragraph	(d) if the relevant area forms the whole or part of a council area – ascertain the advice of the council regarding the application.
section 119(5)	whole subsection	(5) If the application relates to premises within the area of a shire council, the Director must, as soon

		as reasonably practicable, inform the CEO of the council that the application has been made.
Litter Act		
section 3, definition municipality	whole definition	municipality means a local government area and includes a shire.
section 11A, heading	where section 220 of Local Government Act applies	
Local Government Grants Commission Act		
section 3, definition community government council	whole definition	
section 3, definition local governing body	municipal council, a community government council	council constituted under the <i>Local Government Act</i>
section 5(2)(b) and (3)	community government	shire
Northern Territory Treasury Corporation Act		
section 3, definition local government council	whole definition	local government council means a council constituted under the <i>Local Government Act</i> .
Ombudsman (Northern Territory) Act		
section 3(1), definition local government council	the council of a municipality or community government area	a council

Pastoral Land Act

section 131(1)	municipality or community	local
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Pay-roll Tax Act

section 3(1), definition local governing body , paragraph (a)	whole paragraph	(a) a council or a local government subsidiary constituted under the <i>Local Government Act</i> , or
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Place Names Act

section 4, definitions council , council area and municipality	whole definition	council means a council constituted under the <i>Local Government Act</i> . council area means an area for which a council is constituted under the <i>Local Government Act</i> .
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section 4A(2)(b)	of a municipality	
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Planning Act

section 3(1), definition consolidation , paragraph (d)	section 133	section 187(3)
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section 3(1), definition council area	whole definition	council area means an area for which a council is constituted under the <i>Local Government Act</i> .
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section 3(1), definition local authority	whole definition	local authority means a council constituted under the <i>Local Government Act</i> .
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section 3(1), definition member of a local authority and town	whole definition	
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section 5(2)(a)(iii)	section 133	section 187(3)
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section 72(a)(ii)	a trust account	an authorised deposit account
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section 72(b)	trust	
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section 73(2)(b)(ii)	penalty	
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Pounds Act

section 3, definitions <i>local area</i> and <i>local authority</i>	whole definition	<i>local area</i> means an area for which a council is constituted under the <i>Local Government Act</i> . <i>local authority</i> means a council constituted under the <i>Local Government Act</i> .
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Public Employment (Mobility) Act

section 3(1), definition <i>municipal authority</i>	municipal council or community government	
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Real Property (Unit Titles) Act

sections 9(h), 9F(g), 9G(b), 9H(b) and 15	(within the meaning of the <i>Local Government Act</i>)	
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Soil Conservation and Land Utilisation Act

section 20A, definition <i>proper authority</i> , paragraph (b)	whole paragraph	(b) in the case of land vested in a local government council – the council; or
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Stamp Duty Act

Schedule 2, item 4(d)	whole item	
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**Swimming Pool
Safety Act**

section 4(1), definition council area	whole definition	council area means the area for which a council is constituted under the <i>Local Government Act</i> .
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Unit Titles Act

section 21E(2)(b)(i)	whole subparagraph	(i) in the case of a parcel within a council area – to the council; and
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section 53(1A)(c) and (3)(b)	municipal or community government	
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**Volatile Substance
Abuse Prevention Act**

section 42(1), definitions community council and incorporated association	whole definition	community council means: (a) a shire council constituted under the <i>Local Government Act</i> , or (b) an Aboriginal corporation within the meaning of the <i>Aboriginal Councils and Associations Act 1976 (Cth)</i> .
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Schedule 2 Amendment of subordinate legislation

section 4

Provision	Amendment	
	<i>omit</i>	<i>substitute</i>
<i>Alice Springs (Animal Control) By-laws</i>		
by-law 40(2)	section 86(2)(a)	section 115
by-law 54(2)(b)(i)	section 194(4)	section 245(2)
<i>Alice Springs (Control of Public Places) By-laws</i>		
by-law 6(b)	or under section 209(2) of the Act	
by-law 58(2)(b)(i)	section 194(4)	section 245(2)
<i>Alice Springs (Council Meetings and Procedures) By-laws</i>		
by-law 2	whole by-law	
by-law 29(1)	, at the expiration of the time referred to in section 66(2) of the Act,	
by-law 29(2)	, as required by section 66(1) of the Act,	
by-law 33	For the purpose of section 68 of the Act,	Subject to the Act,
<i>Alice Springs (Todd Mall) By-laws</i>		
by-law 9(2)(b)(i)	section 194(4)	section 245(2)

**Associations
Regulations**

regulation 16(5)	whole subregulation	(5) In this regulation: council means a council constituted under the <i>Local Government Act</i> .
Schedules 5, 6 and 7	whole Schedule	

Building Regulations

Schedule 2, column1	Council of the municipality in which the building is situated, or, where there is no such council, the Agency having responsibility for roads and stormwater drainage under the <i>Local Government Act</i> .	Council for the local government area in which the building is situated or, if the building is not situated in a local government area, the Agency having responsibility for roads and stormwater drainage.
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**Consumer Affairs and
Fair Trading
(Pawnbrokers and
Second-hand Dealers)
Regulations**

Schedule, item 4	municipal council, or a community government council, within the meaning of	council constituted under
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**Court Security
Regulations**

regulation 2(2)(e)	section 225	Part 18.2
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**Darwin City Council
By-laws**

by-law 21(2)(b)(i)	section 194(4)	section 245(2)
by-law 147(1)	whole clause	

by-law 174(1)	, at the expiration of the time referred to in section 17 of the Act,	
by-law 174(2)	, as required by section 17 of the Act,	
by-law 178	For the purpose of section 55 of the Act,	Subject to the Act,
by-law 184(1), definition authorised person	section 204	Part 9.6
by-law 203(a)	section 119	section 116
Katherine Town Council By-laws		
by-law 137(1)	whole clause	
by-law 164(1)	, at the expiration of the time referred to in section 17 of the Act,	
by-law 164(2)	, as required by section 17 of the Act,	
by-law 168	For the purpose of section 55 of the Act,	Subject to the Act,
Local Government (Darwin Parking Local Rates) Regulations		
regulation 1A	whole regulation	
regulation 2, definition local rate	whole definition	local rate or local rates means special rates under section 156 of the Act.
regulation 4(b)	rate book kept under section 148 of the Act	assessment record
regulation 5(1)	whole subregulation	(1) The provisions of the Act for correction of entries in the assessment record apply to the parking usage schedule (with

		necessary modifications).
regulation 8(2)	section 160(2) of	
regulation 9(2)	rate book kept under section 59 of the Act	assessment record
<i>Palmerston (Animal Management) By-laws</i>		
by-law 17(2)(b)(i)	section 194(4)	section 245(2)
<i>Palmerston (Procedures for Meetings) By-laws</i>		
by-law 33	prescribed under section 56 of the Act as confidential	classified by regulations under the Act as confidential business
<i>Palmerston (Public Places) By-laws</i>		
by-law 23(2)(b)(i)	section 194(4)	section 245(2)
<i>Palmerston (Signs, Hoardings and Advertising) By-laws</i>		
by-law 11(2)(b)(i)	section 194(4)	section 245(2)
<i>Real Property (Unit Titles) Regulations</i>		
regulation 10(2)(b)(ii)	council area	area
Schedule 1, Form 11, Note 1, paragraph (a)	whole paragraph	(a) in the case of land within the area of a council – the council for the area; and
<i>Tennant Creek (Control of Public Places) By-laws</i>		
by-law 44(5)	section 235	section 116

**Tennant Creek
(Flammable
Undergrowth) By-laws**

by-law 3, definition council	whole definition	council means the Barkly Shire Council.
by-law 3, definition municipality	whole definition	municipality means the former municipality of Tennant Creek.

**Tennant Creek
(Garbage) By-laws**

by-law 11(2)	section 235	section 116
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**Victims of Crime
Assistance
Regulations**

regulation 26(a)(vi)	whole subparagraph	(vi) a by-law of a council constituted under the <i>Local Government Act</i> ,
regulation 26(c)	whole paragraph	(c) a person found guilty of an offence prosecuted by a council constituted under the <i>Local Government Act</i> .