

NORTHERN TERRITORY OF AUSTRALIA

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS

Subordinate Legislation No. 25 of 2008

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 25 of 2008*

Local Government (Administration) Regulations

I, Thomas Ian Pauling, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Local Government Act*.

Dated 29 August 2008

T. I. Pauling
Administrator

By His Honour's Command

D. R. Knight
Minister for Local Government

* Notified in the *Northern Territory Government Gazette* on 29 August 2008.

Part 1 Preliminary

1 Citation

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

2 Definitions

In these regulations:

appoint includes co-opt.

appointed member, of the Committee, means any member except the Chair.

Committee means the Local Government (Administration and Legislation) Advisory Committee.

confidential information means information classified as confidential under regulation 9.

public notice – a council gives public notice by publishing the notice in a newspaper circulating in the council's area.

Part 2 Local Government (Administration and Legislation) Advisory Committee

3 Establishment of Committee

The Local Government (Administration and Legislation) Advisory Committee is established.

4 Role of Committee

The Committee is established to provide advice to the Minister and the Agency on legislative, administrative and operational questions relevant to local government.

5 Composition of the Committee

- (1) The Committee is constituted of the following members:
 - (a) 1 (the Chair) will be the CEO of LGANT or the CEO's nominee;
 - (b) 1 will be a person appointed by LGANT to the Committee;
 - (c) 2 will be persons appointed to the Committee by the Agency;

- (d) 2 will be persons appointed to the Committee by Local Government Managers Australia;
 - (e) 2 will be council officers co-opted to the Committee after a selection process approved by the Minister.
- (2) A body by which an appointed member of the Committee is appointed must review the appointment of the member once in each year.
 - (3) A person ceases to be an appointed member of the Committee if:
 - (a) the person resigns by written notice given to the Minister; or
 - (b) the person's appointment is not confirmed by the appointing body on an annual review; or
 - (c) the person breaches terms and conditions of membership determined by the Minister.
 - (4) On the occurrence of a vacancy in the office of an appointed member, the relevant appointing body must make a fresh appointment.

6 Proceedings of Committee

- (1) The Committee is to meet at least once in each quarter.
- (2) A meeting may be convened by the Chair of the Committee, or the Minister.
- (3) A quorum for a meeting of the Committee consists of 4 members.
- (4) The Chair will preside at a meeting of the Committee or, in the Chair's absence, a member chosen to preside by the members present.
- (5) Decisions are to be made by majority vote of the members present and, if the votes are equal, the person presiding may exercise a second or casting vote.
- (6) The validity of proceedings of the Committee is unaffected by a vacancy or vacancies in its membership.

Part 3 Meetings

7 Public access to meetings

A meeting of a council must not be held in a particular place unless:

- (a) the public is allowed free access to the place for the purpose of attending the meeting; or
- (b) the only restrictions on public access are imposed under the Act.

Example

If a permit is required to enter land, a meeting could not be held on that land.

Part 4 Confidential information and business

8 Classes of confidential information

The following information is classified 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) prejudice the interests of the council or some other person;
- (d) information subject to an obligation of confidentiality at law, or in equity;
- (e) information provided to the council on condition that it be kept confidential.

9 Closure of meetings for confidential business

For section 65(2) of the Act, business involving the discussion of confidential information is classified as confidential business.

Part 5 Records**10 Council's records**

- (1) The **primary records** of a council are:
 - (a) minutes of meetings of the council, council committees and local boards; and
 - (b) minutes of meetings of electors; and
 - (c) the register of interests of members of the council, local boards and council committees; and
 - (d) the council's by-laws; and
 - (e) the council's code of conduct; and
 - (f) the council's annual budgets and amendments to the council's annual budgets; and
 - (g) the council's annual financial statements; and
 - (h) the council's annual reports; and
 - (i) the registers kept under this Part; 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.

11 Council to keep registers

- (1) A council must keep a register containing copies of all documents executed under the council's common seal.
- (2) A council must keep a register of correspondence containing copies of all correspondence addressed to, or sent by, the council or its principal member.
- (3) A council must keep a register of the results of all elections and polls.

- (4) A register must be kept under this regulation by computer.

12 Contents of register of interests

The register of interests to be kept under section 74(2) of the Act must contain:

- (a) the name of the member making the disclosure; and
- (b) the nature of the interest that gives rise to the conflict of interest; and
- (c) the nature of the question on which the conflict of interest arises.

13 Contents of minutes of meetings

The minutes of a meeting of the council, a local board or council committee must, in addition to the information required by section 67(2) of the Act, 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.

14 Custody of records

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

15 Access to records

- (1) Access is to be allowed to a council'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 business or the proper discharge by members of the council, local boards and council committees of their duties as such.
- (2) A person must not allow access to a council's records except as provided in subregulation (1).

Fault element: Intention.

Maximum penalty: 50 penalty units.

16 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 in 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 must not destroy, damage, remove from the council's custody or conceal:
 - (a) a primary record of the council; or
 - (b) a secondary record of the council that is required for the conduct of the affairs of the council or for audit purposes.

Fault element: Intention.

Maximum penalty: 50 penalty units.

Part 6 Urban farm land

17 Urban farm land

- (1) For section 143(2)(b), 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 subregulation (1), **livestock** includes poultry, bees, fish, reptiles and crustaceans.

Part 7 Construction and closing of roads

18 Establishment of new road

- (1) Before a council establishes a new road in its area, it must give public notice of the proposal to do so.
- (2) The proposal (which must include a plan delineating the proposed new road 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.
- (3) The notice must include an invitation to any person who may object to the proposal to lodge a written objection to the proposal within a reasonable period (at least 28 days) stated in the notice.
- (4) The council must consider any written 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) This regulation does not apply to the establishment of a road on a temporary basis.

19 Permanent closure of road

- (1) Before a council submits for the Minister's consent a proposal to close a road in its area on a permanent basis, it must give public notice of the proposal.
- (2) The proposal (which must include a plan delineating the road to be closed with reasonable accuracy and detail) must be accessible on the council's website.
- (3) The notice must include an invitation to any person who may object to the proposal to lodge a written objection to the proposal 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 for permanent road closure 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.

20 Substantial temporary road closure

- (1) If a council proposes to close a road temporarily but for a substantial period (at least 1 month), the council must, before proceeding with its proposal, consult with the Minister (or the Minister's nominee) and the MLA for the electoral division in which the road is situated.
- (2) The council:
 - (a) must carefully consider written submissions made by the Minister (or the Minister's nominee) and the MLA in the course of the consultation; and
 - (b) must not proceed with the closure unless satisfied that the reasons for the closure justify the disruption to traffic resulting from the closure.
- (3) However, this regulation does not apply if:
 - (a) the road to be temporarily closed is a laneway; or
 - (b) the road closure is urgently necessary in the interests of safety.