



New South Wales

Local Government (General) Amendment (COVID-19) Regulation 2020

under the

Local Government Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

SHELLEY HANCOCK, MP
Minister for Local Government

Explanatory note

The objects of this Regulation are—

- (a) to introduce the following temporary modifications to the application of provisions of the *Local Government Act 1993* in response to the public health emergency caused by the COVID-19 pandemic—
 - (i) pushing back dates on which certain things must be done by councils (including the adoption of annual operational plans, preparation and auditing of financial records and the preparation of annual reports),
 - (ii) providing additional time for the payment of an instalment of annual rates and charges,
 - (iii) permitting councils to waive payment of, or reduce, a fee in a category of cases without first giving public notice of that category if the category relates to a response to the COVID-19 pandemic,
 - (iv) removing the need for councils to make certain documents available for inspection by members of the public in the offices of the councils and to instead make these documents available by other means, and
- (b) to remove requirements on councils to publish certain notices and advertisements in newspapers and to instead require publication on council websites and in other ways that a particular council (or in the case of a notice relating to a constitutional referendum or council poll, the relevant election manager) considers necessary to bring the notice or advertisement to the attention of appropriate persons, and
- (c) to provide that a water supply restriction may be imposed by a council by notice published on the website of the council rather than in a newspaper.

This Regulation is made under the *Local Government Act 1993*, including sections 747B and 748 (the general regulation-making power) and Schedule 6.

Local Government (General) Amendment (COVID-19) Regulation 2020

under the

Local Government Act 1993

1 Name of Regulation

This Regulation is the *Local Government (General) Amendment (COVID-19) Regulation 2020*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Local Government (General) Regulation 2005

[1] Clause 77 Public notice of draft local approvals policies

Omit clause 77(a) and (b). Insert instead—

- (a) be published—
 - (i) on the website of the council, and
 - (ii) in any other manner that the council considers necessary to bring it to the attention of members of the public in the area of the council, and
- (b) be published on the website at least 7 days before the commencement of the public exhibition of the draft local policy and remain there at least until the conclusion of the period during which submissions may be made to the council in relation to the policy.

[2] Clause 78 Public notice of approval

Omit clause 78(1). Insert instead—

- (1) For the purposes of section 675 of the Act, the prescribed manner of giving public notice of the granting of an approval is to publish the notice—
 - (a) on the website of the council, and
 - (b) in any other manner that the council considers necessary to bring it to the attention of members of the public in the area of the council.

[3] Clause 78(2)(b)

Omit the paragraph. Insert instead—

- (b) a statement setting out where a record of the approval is available for inspection.

[4] Clause 100 Public notice of local orders policy

Omit clause 100(a) and (b). Insert instead—

- (a) be published—
 - (i) on the website of the council, and
 - (ii) in any other manner that the council considers necessary to bring it to the attention of members of the public in the area of the council, and
- (b) be published on the website at least 7 days before the commencement of the public exhibition of the draft local policy and remain there at least until the conclusion of the period during which submissions may be made to the council in relation to the policy.

[5] Clause 112 Consultation concerning categorisation of land as an area of cultural significance

Omit clause 112(2)(b). Insert instead—

- (b) publishing the notice—
 - (i) on the website of the council, and
 - (ii) in any other manner that the council considers necessary to bring it to the attention of Aboriginal people traditionally associated with the area in which the land is situated, and

[6] Clause 118 Additional notifications in relation to certain filming projects

Omit clause 118(3)(b). Insert instead—

- (b) a copy of the notice is to be published—
 - (i) on the website of the council, and
 - (ii) in any other manner that the council considers necessary to bring it to the attention of Aboriginal people traditionally associated with the area in which the land is situated.

[7] Clause 118(4)

Omit “and an advertisement”.

[8] Clause 137 Water supply may be restricted if there is a shortage of supply

Omit “in a newspaper circulating within the council’s area” from clause 137(4).

Insert instead “on the website of the council”.

[9] Clause 164 Definitions

Omit the definition of *relevant newspapers*.

[10] Clause 167 Open tendering

Omit clause 167(1). Insert instead—

- (1) A council that decides to use the open tendering method for a proposed contract must publish an advertisement inviting tenders for the proposed contract—
 - (a) on the website of the council, and
 - (b) in any other manner that the council considers necessary to bring it to the attention of persons who may be interested in tendering for the proposed contract.

[11] Clause 168 Selective tendering method by which invitations to tender for proposed contract are made following public advertisement asking for expressions of interest

Omit clause 168(1). Insert instead—

- (1) A council that decides to allocate a particular proposed contract using the selective tendering method referred to in clause 166(b) must publish an advertisement inviting applications from persons interested in tendering for the proposed contract—
 - (a) on the website of the council, and
 - (b) in any other manner that the council considers necessary to bring it to the attention of persons who may be interested in tendering for the proposed contract.

[12] Clause 169 Selective tendering method by which recognised contractors listed by council are invited to tender for particular kinds of proposed contracts

Omit clause 169(1). Insert instead—

- (1) A council that decides to prepare a list of suitable tenderers for the allocation of proposed contracts of a specified kind using the selective tendering method referred to in clause 166(c) must publish an advertisement inviting applications from persons interested in tendering for proposed contracts of that kind—
 - (a) on the website of the council, and

- (b) in any other manner that the council considers necessary to bring it to the attention of persons who may be interested in tendering for the proposed contract.

[13] Clause 203 Budget review statements and revision of estimates

Insert after clause 203(3)—

- (4) The budget review statement for the quarter ending 31 March 2020 for a council is to be prepared and submitted by the responsible accounting officer for the council no later than 3 months after the end of that quarter rather than no later than 2 months after the end of that quarter.
- (5) This subclause and subclause (4) are repealed on 1 July 2020.

[14] Clause 216 Council's annual financial reports to be amended in certain cases

Omit clause 216(2). Insert instead—

- (2) A council that amends its annual financial reports to give effect to such a direction must give public notice of the amendment—
 - (i) on the website of the council, and
 - (ii) in any other manner that the council considers necessary to bring it to the attention of members of the public in the area of the council.
- (3) The council must specify in the notice where the amended financial reports are available for inspection.

[15] Part 13, Division 15

Insert after Division 14—

Division 15 COVID-19 pandemic—temporary measures

Note. Section 747B of the Act authorises regulations under the Act to modify the application of the Act for the purposes of responding to the public health emergency caused by the COVID-19 pandemic.

413F Operational plan

Despite section 405(1) of the Act, the operational plan of a council for the year beginning 1 July 2020 must be adopted before 31 July 2020 rather than 30 June 2020.

413G Time for preparation and auditing of financial reports

Despite section 416(1) of the Act, a council's financial reports for the year ending 30 June 2020 must be prepared and audited within the period of 5 months after the end of that year rather than within the period of 4 months after the end of that year.

413H Annual reports

Despite section 428(1) of the Act, a council's annual report for the year ending 30 June 2020 must be prepared within the period of 6 months after the end of that year rather than within the period of 5 months after the end of that year.

413I Payment of rates and annual charges

- (1) Despite section 562(3) of the Act, an instalment (whether a single instalment or a quarterly instalment) of annual rates and charges that would have been payable by 31 August 2020 is instead payable by 30 September 2020.

- (2) The reference to 1 August in section 562(4) of the Act is taken to be a reference to 1 September in the case of a rates and charges notice served during 2020.

413J Council may waive or reduce fees

Section 610E(2) of the Act does not apply to a category of cases if the category relates to a response to the COVID-19 pandemic.

413K Inspection of documents

- (1) A requirement in section 9(2), 43, 113(5), 167, 364(1), 418(4) and 733(6) of the Act that a document be made available at the offices of a council is satisfied if the document is instead—
- (a) made available on the website of the council, and
 - (b) provided to a person on request—
 - (i) in an electronic form, or
 - (ii) in any other form requested by the person and approved by the council.
- (2) A requirement in section 47G, 302(2) and 405(4) of the Act that a document be made available at the offices of a council or a location in the area of the council is satisfied if the document is instead provided to a person on request—
- (a) in an electronic form, or
 - (b) in any other form approved by the council.

413L Repeal of Division

This Division is repealed on the repeal of section 747B of the Act.

[16] Schedule 10 Constitutional referendums and council polls

Omit item 4(b). Insert instead—

- (b) the election manager is to publish a notice setting out the date of the referendum or poll, the question to be asked at the referendum or poll and the locations and times of polling for the referendum or poll—
 - (i) on the website of the council, and
 - (ii) in any other manner that the election manager considers necessary to bring it to the attention of members of the public in the area in which a referendum is to be taken, or the area or part of the area in which a poll is to be taken,
- (b1) the election manager is to publish the notice—
 - (i) except as provided by subparagraph (ii)—as soon as practicable after being notified of the date of the referendum or poll, or
 - (ii) in the case of a referendum or poll to be held in conjunction with an election of councillors—at the same time as the election manager publishes a notice under clause 300 of this Regulation in relation to the election,