



New South Wales

Regional Development Amendment (Advisory Council) Regulation 2023

under the

Regional Development Act 2004

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following regulation under the *Regional Development Act 2004*.

TARA MORIARTY, MLC
Minister for Regional New South Wales

Explanatory note

The object of this regulation is to amend the *Regional Development Regulation 2018* to provide for—

- (a) the establishment of the Regional Development Advisory Council by the Minister for Regional New South Wales, and
- (b) the membership and procedures of the Council.

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1 Name of regulation

This regulation is the *Regional Development Amendment (Advisory Council) Regulation 2023*.

2 Commencement

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

Schedule 1 Amendment of Regional Development Regulation 2018

[1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—
Advisory Council—see section 4A.

[2] Sections 4A and 4B

Insert after section 4—

4A Regional Development Advisory Council—the Act, s 12

- (1) The Minister may establish a Regional Development Advisory Council (the *Advisory Council*) by appointing members to the Advisory Council in accordance with this section.
- (2) The Minister must appoint at least 5, but no more than 7, members to the Advisory Council.
- (3) The Advisory Council must comprise the following—
 - (a) at least 2, but no more than 4, members who, in the Minister's opinion, have relevant experience in 1 or more of the following—
 - (i) regional and rural economics,
 - (ii) climate adaptation and resilience,
 - (iii) the delivery of services in regional areas,
 - (iv) community service activities,
 - (v) the development of new industries,
 - (vi) finance,
 - (vii) public administration,
 - (viii) regional planning and infrastructure,
 - (ix) primary industries,
 - (x) natural resource management,
 - (b) 1 person who—
 - (i) is an Aboriginal person, and
 - (ii) has knowledge and experience of supporting economic development within Aboriginal communities,
 - (c) the Secretary of the Department of Regional NSW,
 - (d) 1 representative of—
 - (i) Regional Development Australia, or
 - (ii) another body which, in the Minister's opinion, deals with regional matters.
- (4) For subsection (3)(b)(ii), the following must be taken into account in determining if a person has knowledge and experience of supporting economic development within Aboriginal communities—
 - (a) if the person has knowledge or experience of assisting Aboriginal people to enter the workforce,
 - (b) if the person has knowledge or experience of supporting Aboriginal groups to carry out commercial activities.

- (5) The following persons are not eligible to be appointed to the Advisory Council—
- (a) a Public Service employee within the meaning of the *Government Sector Employment Act 2013*, other than the Secretary of the Department of Regional NSW,
 - (b) an officer or employee of the Commonwealth or an authority of the Commonwealth, other than the person referred to in subsection (3)(d),
 - (c) a person elected to a civic office within the meaning of the *Local Government Act 1993*.
- (6) Schedule 1 contains provisions about the members and procedure of the Advisory Council.
- (7) In this section—
- Aboriginal person** means a person who—
- (a) is of Aboriginal descent, and
 - (b) identifies as an Aboriginal person, and
 - (c) is accepted as an Aboriginal person by an Aboriginal community.

4B Keeping of information by Advisory Council—the Act, s 12

The Advisory Council must—

- (a) keep copies of the information and reports considered or prepared by the Advisory Council in carrying out its functions, and
- (b) at the request of the Minister, give the Minister a copy of information or a report kept under this section.

[3] Schedule 1

Insert after section 5—

Schedule 1 Constitution and procedure of Advisory Council

section 4A

Part 1 Preliminary

1 Definitions

In this schedule—

Chairperson—see this schedule, section 3(1).

Deputy Chairperson—see this schedule, section 3(2).

member means a member of the Advisory Council.

Part 2 Constitution

2 Terms of office of members

- (1) A member holds office for a term of not more than 3 years specified in the member's instrument of appointment.
- (2) A member is eligible, if otherwise qualified, for re-appointment.
- (3) A member must not hold office for more than 2 consecutive terms.

- (4) This section does not apply to the Secretary of the Department of Regional NSW.

3 Chairperson and Deputy Chairperson

- (1) The Minister must appoint a member to be the chairperson of the Advisory Council (*Chairperson*).
- (2) The Advisory Council must elect a member to be the deputy chairperson of the Advisory Council (*Deputy Chairperson*).
- (3) A member vacates office as Chairperson or Deputy Chairperson if the member—
- (a) ceases to be a member, or
 - (b) resigns from the office by written notice addressed to the Minister, or
 - (c) is removed from the office under this section.
- (4) The Minister may remove a member from office as Chairperson by written notice.
- (5) If the Minister removes a member from office as Chairperson, the Minister must—
- (a) give the member a written statement of the reasons for removing the member from office, and
 - (b) make the statement publicly available.
- (6) The Advisory Council may, by resolution, remove a member from office as Deputy Chairperson.
- (7) The Council's resolution to remove a member from office as Deputy Chairperson must—
- (a) set out the reasons for removing the member from office, and
 - (b) be made publicly available.

4 Vacancy in office

- (1) The office of a member becomes vacant if the member—
- (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns from office by written notice addressed to the Minister, or
 - (d) is removed from office by the Minister under this section, or
 - (e) is absent from 3 consecutive meetings of the Advisory Council of which reasonable notice has been given to the member personally or by post, unless—
 - (i) the member is on leave granted by the Advisory Council, or
 - (ii) the member is excused by the Advisory Council for having been absent from the meetings, or
 - (f) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for the benefit of the member's creditors, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more, or

- (i) is convicted outside of New South Wales of an offence that, if committed in New South Wales, would be punishable by imprisonment for 12 months or more, or
 - (j) for the Secretary of the Department of Regional NSW—ceases to be the Secretary of the Department.
- (2) The Minister may remove a member from office by written notice.
 - (3) If the Minister removes a member from office, the Minister must—
 - (a) give the member a written statement of the reasons for removing the member from office, and
 - (b) make the statement publicly available.
 - (4) If the office of a member becomes vacant, the Minister may appoint a person to fill the vacancy.

5 Suspension of members

- (1) The Minister may suspend a member, by written notice, for the period specified in the notice.
- (2) During the period of suspension, the member must not carry out the functions of a member or officeholder of the Advisory Committee.
- (3) The Minister may revoke the suspension.

6 Acting members

- (1) The Minister may, from time to time, appoint a person to act in the office of a member if the member is unable to act because of illness, absence or another cause.
Example of another cause— if a member has been suspended
- (2) The person, while acting—
 - (a) is taken to be a member, and
 - (b) has all the functions of the member, including, if the member is the Chairperson or Deputy Chairperson, the functions of the Chairperson or Deputy Chairperson.
- (3) The Minister may revoke an appointment made under this section.

7 Application of Government Sector Employment Act 2013

The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.

Part 3 Procedure

8 General procedure

- (1) The Advisory Council may, subject to this schedule, determine procedures for—
 - (a) the calling of Advisory Council meetings, and
 - (b) the conduct of business by the Advisory Council.
- (2) The agenda for all meetings of the Advisory Council must include an item relating to the disclosure of—
 - (a) pecuniary interests in a matter being considered, or about to be considered, by the Advisory Council, and

- (b) other conflicts of interest.

9 First meeting

The Minister may call the first meeting of the Advisory Council in the way the Minister thinks fit.

10 Quorum

The quorum for a meeting of the Advisory Council is a majority of members for the time being.

11 Presiding member

- (1) The Chairperson must preside at a meeting of the Advisory Council.
- (2) If the Chairperson is absent—
 - (a) the Deputy Chairperson must preside, or
 - (b) if the Deputy Chairperson is absent—1 of the members present at the meeting, as elected by the members present, must preside.
- (3) The person presiding at a meeting has—
 - (a) a deliberative vote, and
 - (b) if there is an equality of votes—a second or casting vote.

12 Voting

A decision supported by a majority of the votes cast at a meeting of the Advisory Council at which a quorum is present is the decision of the Advisory Council.

13 Minutes

The Advisory Council must keep full and accurate minutes of the proceedings of each meeting of the Advisory Council.

14 Conduct of business

- (1) The Advisory Council may, if it thinks fit, transact its business—
 - (a) by the circulation of papers, including by email or other electronic means, among all members, or
 - (b) at a meeting at which all or some members participate by telephone, audio-visual link or other means, but only if a member who speaks on a matter at the meeting can be heard by the other members.
- (2) If the Advisory Council transacts its business by the circulation of papers under subsection (1)(a), a written resolution approved in writing by a majority of the members is taken to be a decision of the Advisory Council made at an Advisory Council meeting.
- (3) For the purposes of a meeting held under subsection (1)(b) or the approval of a resolution under subsection (2), each member has the same voting rights as at an ordinary meeting.
- (4) A resolution approved under subsection (2) must be recorded in the minutes of the meeting.

15 Disclosure of pecuniary interests

- (1) This section applies if—

- (a) a member has a pecuniary interest in a matter being considered, or about to be considered, at an Advisory Council meeting, and
 - (b) the pecuniary interest appears to raise a conflict with the proper performance of the member's duties in relation to the matter.
- (2) The member must disclose the nature of the member's pecuniary interest—
 - (a) to the Chairperson—as soon as possible after becoming aware of the pecuniary interest, and
 - (b) to the remainder of the Advisory Council—at the next Advisory Council meeting after becoming aware of the pecuniary interest.
- (3) For subsection (1), a pecuniary interest held by the following persons is taken to be a pecuniary interest of the member—
 - (a) the member's spouse or de facto partner,
 - (b) another relative of the member,
 - (c) a business partner or employer of the member,
 - (d) a company or other body of which the member, or member's business partner or employer, is a member.
- (4) Subsection (3) does not apply if the member is not aware of the pecuniary interest.
- (5) A member's disclosure of the following matters is sufficient disclosure of a pecuniary interest in relation to a matter that may relate to a company, body or person—
 - (a) that the member, spouse, de facto partner, relative, business partner or employer is a member of, or employed by, the company or body,
 - (b) that the member, spouse, de facto partner, relative, business partner or employer is a business partner of, or employed by, the person,
 - (c) that the member, spouse, de facto partner, relative, business partner or employer has another interest in relation to the company, body or person.
- (6) Particulars of a disclosure made under this section must be recorded by the Advisory Council and must be available for inspection on the request of a person.
- (7) If a member has disclosed a pecuniary interest in a matter, the member must not, unless the Minister or the Advisory Council otherwise determines—
 - (a) be present at an Advisory Council meeting while the matter is considered, or
 - (b) participate in the making of an Advisory Council decision in relation to the matter.
- (8) For the purposes of the making of a determination under subsection (7), the member must not—
 - (a) be present at an Advisory Council meeting at which the determination is made, or
 - (b) take part in the making of the determination.
- (9) Contravention of this section does not invalidate an Advisory Council decision.