



**City of
Ipswich**

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REGULATION ADVISORY COMMITTEE
MEETING AGENDA

5 AUGUST
2024

Doc ID No: A10437506

ITEM: 1
SUBJECT: STRATEGIC REGULATION AND LOCAL LAW REVIEW (3 STEP APPROACH)
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DATE: 24 JULY 2024

EXECUTIVE SUMMARY

This is a report concerning the proposed local law review and the opportunity to take a strategic approach to regulation.

RECOMMENDATIONS

The Regulation Advisory Committee held 5 August 2024 agreed to vary the recommendations as follows:

- A. That ~~the Regulatory Advisory Committee endorse~~ Council adopt the three-step approach as generally outlined in the report.
- B. That the Mayor and Councillors be given a briefing on the three-step approach as generally outlined in the report.

RELATED PARTIES

There are no known conflicts of interest or related parties at time of writing.

IFUTURE THEME

A Trusted and Leading Organisation

PURPOSE OF REPORT/BACKGROUND

Council's current local laws require a comprehensive review to enable them to be more adaptable to emerging council and community needs both at a strategic and operational level.

A local law review provides an opportunity for a holistic approach to enable the best regulatory outcomes for Council to occur and avoid 'band aid' solutions to address specific issues. In summary this is:

- Step 1** **Development of a Regulation Policy** (sets Councils strategic position for regulation and would replace the current Compliance and Enforcement Policy)

Step 2 Repeal the current **Local Law-Making Process Policy** and replace with a ‘process’ that is a more contemporary/modern procedure and aligns more closely with the direction of the *Local Government Act 2009*. This process would be made public on Council’s website. A supporting **Local Law-Making Procedure** will be developed to clarify the roles and responsibilities within Council (staff) for the development, making and revision of local laws. This will also include a scheduled approach for updating/amending local laws on a regular basis. Councillor consultation will also be incorporated within the Procedure.

Step 3 **Comprehensive Local Law Review** – Creation of a new suite of local laws. Creating a new suite of laws will be more efficient than amending the current suite. This is explained further in the report.

Why should we undertake these steps?

Regulation is often necessary to achieve social, environmental, and economic objectives. It includes any laws or other government endorsed rules where there is an expectation of compliance. However, poor regulation can stifle business and jobs, have other adverse social or environmental impacts, and might not even address the problem it was intended to solve.

Councils in Queensland are responsible for a range of regulatory functions that are administered through various tools such as local laws, planning schemes, and State legislation. The broad range of functions and services means that Councils are often dealing with a range of different organisations and entities to provide a quality compliance service.

At Ipswich City Council we have many strategies that are trying to achieve objectives that may be at conflict with what our local laws allow. This is not a deliberate action, rather a product of changing communities, economies, and environments over time. Examples of this may be where Ipswich is wanting to be an event friendly or small business friendly city. While the intent or object of our laws and legislation is to protect health, safety, amenity, and the environment, they may also be deterring, inhibiting, or prohibiting us from facilitating opportunities for, as the example, events and small business.

In the last ten years attempts have been made to rectify this but they have been more of a reactive approach to deal with emerging needs (e.g. Local Law Review 2019, e-scooter pilots, Food Truck Friendly initiatives).

With the need to undertake a comprehensive review of our current local laws comes the opportunity to take a holistic view of regulation and how, as a Council and a city, we can truly strive for the community vision of **a city of opportunity for all**. This is about finding the balance between compliance and furthering our strategic goals.

Step 1 – Development of a Regulation Policy

Before we undertake a comprehensive local law review, we need to understand Council’s regulatory position. This is best achieved through an overarching Regulation Policy that will provide our strategic position. Council currently has a Compliance and Enforcement Policy

(Attachment 1). This has been valuable; however, it needs to be not only reactive but proactive as well. This all-round approach to regulation will affect all departments of Council. It is intended to improve the quality of regulation through a robust, transparent, and evidence-based process to identify the option that effectively addresses the policy problem while benefiting society most. Key to this is asking ourselves –

- is our current regulatory approach in line with our vision to make Ipswich a city of opportunity for all? If not, why?
- What regulatory outcomes are we wanting to achieve?
- What are our key enablers and regulatory functions to help us achieve those regulatory outcomes?
- What principles are going to underpin and guide our regulatory activities?
- What role does self-regulation play?

A range of documents will be referred to in the strategic exploration, for example, the [Queensland Audit Office Better Practice Guidance - Insight for Regulators \(2021\)](#) (**Attachment 2**) as well as other guidelines on best practice regulation in Australia and Council's own approach to risk (Corporate Risk Register and risk appetite statements as they apply to regulation). The development of council's strategic policy position on regulation is a much needed first step.

Step 2 – Repeal Local Law-Making Process (Policy)

Our current process for making local laws is a policy that was created in 2019 as part of TP19 of the Business Transformation Program. At the time this was created Council utilised what some other Councils had as their policy. However, this policy doesn't provide a strategic policy position. It is procedural in nature and is no longer contemporary. The *Local Government Act 2009* states in Section 29 (1) *A local government may decide its own process for making a local law to the extent that the process is not inconsistent with this part.* (Chapter 3 – Part 1).

Attached is the current policy (**Attachment 3**) and what format is being proposed (**Attachment 4**) (this example is the [Gold Coast City Council Local Law-Making Process](#)). The proposed format is better due to its ease of readability and understanding. The LG Act states it should be a process, not a policy. While many other Councils in Qld still have policies in place, Councils are moving to publishing just the process (not having a policy). With a new process format in place, it will be tested straight away with Step 3 below. In addition to the proposed process format, throughout Step 2 we would also look to establish a step-by-step procedure for staff on how we will develop and review local laws going forward to reduce the workload and costs on council in future e.g. a schedule of local laws to be reviewed, for example, every year. The roles and responsibilities of the various areas in Council in relation to the creation, review and amendment of local laws will also be made clear.

Step 3 – Comprehensive Local Law Review (a new suite of laws)

Once we understand councils' approach to regulation with the development/adoption of a regulatory policy, we can then look at a comprehensive review of our local laws. It is proposed to create a new suite of laws to replace the existing set. Amending the current set would be messy, less efficient, and more costly due to the drafting that would be required. A new suite also allows us to establish a framework that makes sense to the reader (officers

and community) and enables the easy location of pertinent information. It also provides us the ability to create subordinate laws more easily as public policy matters arise in the future without significantly interfering with the core framework.

Currently, using the example of our *Local Law No. 7 (Local Govt Controlled Areas and Roads)2013*, we have one local law and one subordinate local law that deals with all matters/activities that could occur in those spaces. This can be difficult for the reader to understand and follow the path from local law to subordinate law and find what they need. The proposed framework would see specific subordinate local laws sit under the local law to make it easier to understand. We may not need a specific subordinate local law for each single matter and be able to group some together, but there will be activities and matters that necessitate their own subordinate. Similarly, there may need to be stand-alone local laws for particular topics (e.g. cemeteries).

To commence the local law review we need to also be strategic, guided by the new regulation policy and initially ask:

- Why do we regulate what we do?
- What are we currently regulating that perhaps we shouldn't?
- What are we not currently regulating that we perhaps should be?
- In thinking about regulation, what is the best tool to manage that issue? (Local law, planning scheme, contracts, agreements, insurance requirements)
- For local law issues what is the risk-based approach? – what should be minimum standards (no approvals) versus approvals (licence/permit)?
- For local law issues and planning scheme – it is an opportunity to ensure that there is clear understanding about what tool does what i.e. land use (scheme) versus the operation of an activity (local law). For example, calling a licenced activity in the local laws 'Operation of a Cattery' instead of 'Cattery' like it is currently. Where we can make that demarcation clearer in the review we should.
- This strategic process could result in recommendations for amendments to the planning scheme and moving some matters out of local laws to contracts/agreements.
- Note: In consideration of all of the above Council needs to be considering resourcing impacts (capacity/volumes of work, available resourcing, additional resourcing)
- In understanding the above questions, we can then look at what the local law framework would look like.

Proposed Local Law-Making Landscape

- For Steps 1, 2 and 3 identified in this report, the majority of costs will be internally focussed until June 2025 i.e. dedicated resourcing. For the comprehensive local law review, significant budget will be required in the 2025-2026 year for legal drafting, public consultation, marketing etc related to the comprehensive local law review. It is anticipated that legal drafting alone would be approximately \$250,000 and would include anti-competitive tests. Some activities, e.g. community engagement, need to

be considered in the broader scheme of council projects to understand capacity and priority which includes inhouse vs consultancy approaches.

- Majority of tasks associated with Step 3 will be delivered internally until June/July 2025 so that costs can be budgeted for in 2025-2026.
- Significant time from key stakeholders would need to be invested in the delivery of the local law projects.
- Support from internal services would be needed e.g. procurement; marketing; community engagement.

Attachment 5 provides the potential timeframes for all local law projects followed by more detailed timeframes/key milestones for Steps 1, 2 and 3 (Tables 1 and 2)

The draft milestones are provided to give an indication of tasks, timeframe, consultation and decision points/gates.

LEGAL IMPLICATIONS

This report and its recommendations are consistent with the following legislative provisions:
Local Government Act 2009
Local Government Regulation 2012

POLICY IMPLICATIONS

The three-step approach will have policy implications related to developing a new regulation policy and a new suite of laws. The specific implications will not be known until a later date.

RISK MANAGEMENT IMPLICATIONS

Captured broadly in the purpose of the report/background and/or attachments.

FINANCIAL/RESOURCE IMPLICATIONS

Captured broadly in the purpose of the report/background and/or attachments.

COMMUNITY AND OTHER CONSULTATION

Captured broadly in the purpose of the report/background and/or attachments.

CONCLUSION

This is a report concerning the proposed local law review and the opportunity to take a strategic approach to regulation culminating in a three-step approach detailed in the report.

HUMAN RIGHTS IMPLICATIONS

HUMAN RIGHTS IMPACTS	
OTHER DECISION	
	objective:id:A10465058

