MINUTES ATTACHMENTS 5 AUGUST 2024



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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)

AUTHOR: SENIOR PROJECT MANAGER (CORPORATE SERVICES)

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 <u>as</u> 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)** 

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#### 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

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(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 <a href="Queensland Audit Office Better Practice Guidance - Insight for Regulators">Queensland Audit Office Better Practice Guidance - Insight for Regulators</a> (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 <u>Gold Coast City Council Local Law-Making Process</u>). 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

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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

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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

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(a) What is the Act/Decision being made?	<ul> <li>That the Regulatory Advisory Committee endorse the three-step approach outlined in the report</li> <li>That the Mayor and Councillors be given a briefing on the three-step approach outlined in the report</li> </ul>
(b) What human rights are affected?	Nil
(c) How are the human rights limited?	N/A
(d) Is there a good reason for limiting the relevant rights? Is the limitation fair and reasonable?	N/A
(e) Conclusion	The decision is consistent with human rights.

# ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	ICC Compliance and Enforcement Policy
2.	QAO Better Practice Insight for Regulators
3.	ICC Local Law Making Policy
4.	Gold Coast CC Local Law Making Process
5.	Estimated Timeframes and Milestones

# Barbara Dart

# SENIOR PROJECT MANAGER (CORPORATE SERVICES)

I concur with the recommendations contained in this report.

Shasha Ingbritsen

# **CORPORATE GOVERNANCE MANAGER**

I concur with the recommendations contained in this report.

Matt Smith

**GENERAL MANAGER (CORPORATE SERVICES)** 

"Together, we proudly enhance the quality of life for our community"

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Version Control and Objective ID	Version No: 2	Objective ID: A6142436
Adopted at Council Ordinary Meeting on	19 September 2020	)
Date of Review 19 September 2022		2

#### 1. Statement

This is an overarching policy that outlines Council's broad approach to enforcement and provides a framework that promotes understanding of the manner in which compliance and enforcement activities are undertaken. The Policy is supported by detailed procedures that provide further guidance to staff. It establishes clear guidelines for the exercise of Council's powers in dealing with potential unlawful activity within Council's jurisdiction. It provides practical guidance on how Council staff are to assess potential unlawful activity to determine if it requires further investigation, the courses of action available to Council for dealing with unlawful activity, how to decide whether enforcement action is warranted and, if so, the process to be used in deciding which type of enforcement action is appropriate in the circumstances.

# 2. Purpose and Principles

The purpose of this policy is to assist Council staff to act promptly, consistently and effectively in response to allegations of unlawful activity. This is to ensure that:

- Council responds quickly and effectively to allegations of unlawful activity
- Council exercises its regulatory functions consistently and without bias
- Council regulatory functions are exercised proactively
- The rules of procedural fairness are applied when making decisions that concern regulatory matters
- Enforcement action is proportionate to the offence in each case
- There is widespread understanding of the Council's approach to enforcement,
- including the circumstances which will be taken into account when assessing different enforcement options; and
- Council allocates its limited resources in the most appropriate manner consistent with the public interest, its policy objectives and current regulatory issues

Our compliance and enforcement activities will be guided by the following principles:

- Our decisions will be fair, reasonable, respectful and reliable
- Our regulatory responses will be consistent, efficient and proportionate to the risk
- Our decisions and actions will be informed by evidence
- We will be transparent, and accountable for our decisions and actions
- We will monitor, review and report on our effectiveness
- We will continue to improve the way we regulate
- We will engage to listen, learn and respond.

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## **IPSWICH CITY COUNCIL | Compliance and Enforcement of Policy**

#### 3. Strategic Plan Links

This policy aligns with the following iFuture 2021-2026 Corporate Plan themes:

- Safe, Inclusive and Creative
- Natural and Sustainable
- A Trusted and Leading Organisation

#### 4. Regulatory Authority

Section 28 of the *Local Government Act 2009* provides the power for local governments to make and enforce local laws that are necessary or convenient for the good rule and government of their local government area. In addition, Council has the responsibility of administering a range of State legislation.

- Local Government Regulations 2012
- Public Sector Ethics Act 1994
- Employee Code of Conduct
- Councillor Code of Conduct
- Meeting Conduct Policy
- Meeting Conduct Procedure
- Conflicts of Interest for Employees Policy
- Conflicts of Interest for Employees Procedure Identifying, Disclosing, Managing and Monitoring

## 5. Human Rights Commitment

Ipswich City Council (Council) has considered the human rights protected under the *Human Rights Act 2019 (Qld)* (the Act) when adopting and/or amending this policy. When applying this policy, Council will act and make decisions in a way that is compatible with human rights and give proper consideration to a human right relevant to the decision in accordance with the Act.

#### 6. Scope

The Policy applies to all areas of Council operations that have a compliance and enforcement component. This Policy applies a risk-based approach to compliance and enforcement management to ensure resources are focussed on those matters posing the most significant risk to the community and environment. This approach is used for both proactive compliance activities and also in response to reports alleging unlawful activity (reactive compliance). Council will undertake compliance and enforcement action where appropriate in accordance with this Policy document.

# Roles and Responsibilities

#### General

This policy applies to all Councillors and Council officers and is directly relevant to officers involved in the compliance and enforcement of Legislation and Local Laws.

Delegations from the Chief Executive Officer are required to officers to enable them to undertake investigation or compliance and enforcement action.

#### **IPSWICH CITY COUNCIL | Compliance and Enforcement of Policy**

Councillors and Officers have significant responsibilities and must ensure that they comply with the relevant Codes of Conduct and Council Policies and Procedures in the execution of their duties. In particular, they must manage any conflicts of interest.

The Chief Executive Officer shall have overall responsibility for Council's legislative compliance framework.

#### **Role of Officers**

All council officers have a responsibility to ensure that they remain abreast of Legislation and Local Laws which affect their area of work.

The Executive Leadership Team are to ensure that adequate training and instruction is given to staff to ensure that legal obligations regarding their responsibilities are identified and met.

Managers must ensure that procedures and systems are established to support compliance and enforcement actions in accordance with this Policy.

#### **Role of Councillors**

Compliance and enforcement matters are sensitive and easily susceptible to allegations of impropriety, bias or inconsistency. In order to manage those risks, and be consistent with the Councillors' Code of Conduct and the Councillor – Staff Interaction Policy, Councillors are:

- Not to attend on-site meetings with Council staff, the complainants, or persons the subject of an investigation or enforcement action, or;
- Not to direct staff in relation to particular outcomes relating to investigations, enforcement options or actions.

Councillors can assist individuals who raise concerns with them by referring them to the relevant functional area so that the appropriate action can take place.

## 8. Key Stakeholders

The following Council Departments and Branches will be consulted during the review process:

- Planning and Regulatory Services Department
- Legal and Governance Branch

# 9. Monitoring and Evaluation

This policy is to be reviewed at least every two (2) years or sooner if necessary to accommodate changes in legislation.

#### 10. Definitions

The following are the definitions of key terms in this Policy:

Council means the Ipswich City Council.

Councillor means a duly elected person of the Ipswich City Council.

# **Conflicts of Interest for Employees**

<u>Actual conflict of interest</u> means there is a real conflict between the Council employee's official duties and their personal interests.

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# **IPSWICH CITY COUNCIL | Compliance and Enforcement of Policy**

<u>Potential conflict of interest</u> means personal interests that could conflict with a Council employee's official duty. This refers to circumstances where it is foreseeable, that a conflict may arise in the future and steps should be taken now to mitigate that future risk.

<u>Perceived conflict of interest</u> means the public or a third party could form the view that personal interests could improperly influence an employee's decision or action, now or in the future. Whilst it may or may not eventuate as an actual conflict, it is important to disclose a perceived conflict of interest, for transparency purposes.

**Enforcement** means a range of procedures and actions taken by Council to ensure that a person or organisation comply with their statutory obligations.

**Public Interest** means the interests of the community as a whole or a group within the community or individuals.

**Risk** means a potential impact that may cause physical, financial, environmental or other harm resulting in loss of value of goods, loss of life or loss of amenity.

## 11. Policy Owner

The General Manager (Planning and Regulatory Services) is the policy owner and is responsible for the authoring and reviewing this policy.

Queensland Audit Office better practice guidance

December 2021

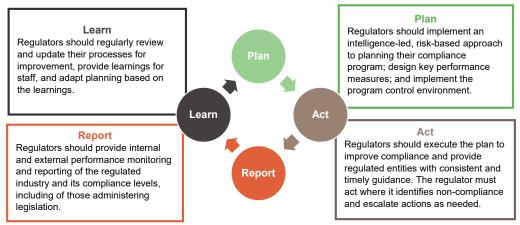
# **Insights for regulators**

Over time, a variety of Queensland Audit Office (QAO) audits have involved examining entities that perform or oversee regulatory functions, ranging from regulating firearms, food safety, pharmacy ownership, and mining and coal seam gas. Despite regulation being a core function of government, we have repeatedly found that good regulatory performance in enforcing minimum prescribed standards is often absent.

Based on our insights, we have prepared a principles-based, good practice model for all entities to self-assess against.

These practices are principles-based and are not intended to be applied rigidly. They do not override any legislative requirement or authority concerning regulatory functions nor the need to ensure effective regulatory outcomes are achieved.

# Summary of good regulatory practices



Source: Figure A, Regulating animal welfare services (Report 6: 2021–22).

# Good regulatory practices

# Plan to be intelligence-led

Understand the regulator's role, functions, and objectives

- Do the operations (what is being done) align with what should be done under the legislation?
- Do systems and processes contribute to achieving the legislative and organisational purposes and objectives?

Implement systems and plans that support effective data collection and use

 Do systems allow for effective and efficient collection and use of data for timely decision-making and planning?

Develop and implement a risk management framework

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#### Queensland Audit Office better practice guidance

December 2021

- Are there risk and compliance prioritisation frameworks in place? Do these enable focus and deployment of resources proportionate with the risks to the regulatory outcomes being sought?
- Have regulators collectively worked towards developing consistent and complementary approaches to risk-based compliance and enforcement planning?

#### Develop a compliance and monitoring plan

- Does a defensible monitoring and enforcement plan exist, based on risks and proportionate actions in response to non-compliance?
- Are compliance monitoring and enforcement plans communicated to the regulated entities and to the public to help promote public trust and confidence in the regulator, goodwill with those being regulated, and self-regulation and compliance among those being regulated?

#### Act to ensure compliance

#### Implement a compliance monitoring and enforcement plan

- Does the compliance monitoring and enforcement plan include both pro-active monitoring and enforcement (based on the regulator's own risk assessments) and re-active monitoring and enforcement (acting on complaints)?
- Is the enforcement framework clear? Does it assist regulators and guide staff in how to act on noncompliance?
- Is it clear to the regulated entities how their regulator will address non-compliance?
- Do processes ensure staff not only act when they identify non-compliance but follow through to ensure the non-compliance issue is subsequently rectified?

# Report transparently for accountability

#### Implement systems and processes for internal and external reporting

- Are there clear efficiency, economic, and quality measures in place? Are these reported publicly and internally to monitor regulator performance, including the impact of regulatory activities (for example, compliance trends)?
- Do performance measures include the efficiency with which services are delivered, timeliness of decision-making, and accuracy/quality of evidence gathered for escalating non-compliance cases?

## Learn through continuous improvement

Implement processes for reviewing and continually improving the efficiency, effectiveness, and quality of services

- Is input from internal and external stakeholders sought for addressing what is working well and what is not
  working well?
- Are there adequate resources and training to support staff to perform their roles effectively?

Source: Queensland Audit Office report to parliament: Regulating animal welfare services (Report 6: 2021–22).

# Related Queensland Audit Office reports to parliament

We used a selection of our reports to draw insights for regulators and their administrators:

- <u>Regulating animal welfare services</u> (Report 6: 2021–22)
- Regulating firearms (Report 8: 2020–21)
- <u>Licensing builders and building trades</u> (Report 16: 2019–20)
- Managing coal seam gas activities (Report 12: 2019–20)

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#### Queensland Audit Office better practice guidance

December 2021

- Managing consumer food safety in Queensland (Report 17: 2018–19)
- Managing transfers in pharmacy ownership (Report 4: 2018–19)
- Access to the National Disability Insurance Scheme for people with impaired decision-making capacity (Report 2: 2018–19)
- Follow-up of Report 15: 2013–14 Environmental regulation of the resources and waste industries (Report 1: 2017–18)
- Follow-up of Managing water quality in Great Barrier Reef catchments (Report 16: 2017–18)

# Other organisation's better practice guides

Better practice guides are available and can assist public sector entities to deliver regulator services that are efficient, effective, and/or economical.

Four better practice guides for regulatory activities available to public sector entities are:

- Queensland Productivity Commission's Improving regulation (March 2021)
- Queensland Treasury's Queensland Government Guide to Better Regulation (May 2019)
- Australian Government Productivity Commission's Regulator Audit Framework (March 2014)
- Canadian Audit and Accountability Foundation's Characteristics of a Regulatory Inspection and Enforcement Function (2013).

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Version Control and Objective ID	Version No: 1	Objective ID: A5974497
Adopted at Council Ordinary Meeting on	10 December 2019	
Date of Review	10 December 2023	

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# **IPSWICH CITY COUNCIL | Local Law-Making Policy**

#### 1. Statement

Council commits to making local laws that align with State Government legislation, are relevant and contemporary, and provide the community with transparency on how local laws are reviewed and made.

## 2. Purpose and Principles

Section 29(1) of the *Local Government Act 2009*, states that a local government may decide its own process for making a local law. The purpose of this policy is to define the process publicly for making a local law. The Local Government Principles from the *Local Government Act 2009* are applied.

- a) transparent and effective processes, and decision-making in the public interest; and
- b) sustainable development and management of assets and infrastructure, and delivery of effective services; and
- c) democratic representation, social inclusion and meaningful community engagement; and
- d) good governance of, and by, local government; and
- e) ethical and legal behaviour of councillors and local government employees.

There are four types of local laws that a Local Government can make:

- a local law that incorporates a model local law; and
- an "other" local law; and
- an interim local law; and
- a local law that is a subordinate local law.

The process for each type of law is below.

# 3. Strategic Plan Links

This policy aligns with the following iFuture 2021-2026 Corporate Plan theme:

A Trusted and Leading Organisation

# 4. Regulatory Authority

- Local Government Act 2009
- Legislative Standards Act 2002

## 5. Human Rights Commitment

Ipswich City Council (Council) has considered the human rights protected under the *Human Rights Act 2019 (Qld)* (the Act) when adopting and/or amending this policy. When applying this policy, Council will act and make decisions in a way that is compatible with human rights and give proper consideration to a human right relevant to the decision in accordance with the Act.

#### 6. Scope

This policy applies to the making of:

- each local law that incorporates a model local law; and
- each local law that is a subordinate local law; and
- each other local law; and
- an interim local law.

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## **IPSWICH CITY COUNCIL | Local Law-Making Policy**

#### 7. Roles and Responsibilities

Council – Responsible for the making of the local law by resolutions.

Legal Services – Responsible for the coordination of making/amending/repealing a law.

*Council Staff* – Responsible for input into making/reviewing a law.

Community/External Stakeholders – feedback and input where the process indicates public consultation.

State Government – feedback and input where the process indicates State Government interest checks are to be undertaken.

## 8. Key Stakeholders

- Staff working in areas across Council that utilise the law requirements as part of their day
  to day operations such as customer service, applications and assessment, service request
  management and enforcement of local law breaches.
- Residents, businesses and visitors to the Ipswich local government area.

#### 9. Making a local law that incorporates a model local law

The process (model local law-making process) stated in this policy must be used to make a local law that incorporates a model local law into the local laws of the local government.

- 9.1 By resolution, propose to incorporate the model local law.
- 9.2 If the model local law contains an anti-competitive provision, comply with the procedures prescribed under a regulation for the review of anti-competitive provisions.
- 9.3 If there is an existing local law about a matter in the model local law that would be inconsistent with the matter in the model local law:
  - amend or repeal the existing local law so that there is no inconsistency.
- 9.4 By resolution, incorporate the model local law.
- 9.5 Let the public know that the local law has been made, by publishing a notice of the making of the local law in accordance with the requirements of section 29B(1) to (4) inclusive of the *Local Government Act 2009*.
- 9.6 As soon as practicable after the notice is published in the gazette, ensure that a copy of the local law may be inspected and purchased at Council's Customer Service Centres and available on Council's website.
- 9.7 Within 14 days after the notice is published in the gazette, give the Minister:
  - a copy of the notice; and
  - a copy of the local law in electronic form; and
  - if the local law contains 1 or more anti-competitive provisions:
    - advice of each anti-competitive provision; and
    - the reasons for their inclusion.
- 9.8 Update the register of local laws.

# 10. Making a local law ("other local law-making process")

The process (other local law-making process) stated in this policy must be used to make a local law (a proposed local law) other than:

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## **IPSWICH CITY COUNCIL | Local Law-Making Policy**

- a local law that incorporates a model local law; or
- an interim local law; or
- a subordinate local law.
- 10.1 By resolution, Council proposes to make the proposed local law.
- 10.2 Consult with relevant government entities about the overall State interest in the proposed local law.
- 10.3 Consult with the public about the proposed local law for at least 21 days (the consultation period) by:
  - publishing a notice (a consultation notice) about the proposed local law at least once in a newspaper circulating generally in the local government's area; and
  - displaying the consultation notice in a conspicuous place at the local government's public office from the first day of the consultation period until the end of the last day of the consultation period; and
  - making a copy of the proposed local law available for inspection at the local government's public office during the consultation period; and
  - making a copy of the proposed local law available on Council's website; and
  - making copies of the proposed local law available for purchase at the local government's public office during the consultation period.

The consultation notice must state the following:

- the name of the proposed local law; and
- the purpose and general effect of the proposed local law; and
- the length of the consultation period and the first and last days of the period; and
- that written submissions by any person supporting or objecting to the proposed local law may be made and given to the local government on or before the last day of the consultation period stating:
  - the grounds of the submission; and
  - the facts and circumstances relied on in support of the grounds.
- If the local government decides, by resolution, that the proposed local law only amends an existing local law to make a minor change, the local government may proceed to step 10.6 without satisfying step 10.3 or step 10.5.
- 10.4 If the proposed local law contains an anti-competitive provision, comply with the procedures prescribed under a regulation for the review of anti-competitive provisions. For avoidance of doubt, step 10.3, and this step 10.4, may be undertaken contemporaneously.
- 10.5 Accept and consider every submission properly made to the local government. A submission is properly made to the local government if it:
  - is the written submission of any person about the proposed local law; and
  - states:
    - the grounds of the submission; and
    - the facts and circumstances relied on in support of the grounds; and
  - is given to the local government on or before the last day of the consultation period.

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#### 10.6 By resolution, decide whether to:

- proceed with the making of the proposed local law as advertised; or
- proceed with the making of the proposed local law with amendments; or
- make the proposed local law as advertised; or
- make the proposed local law with amendments; or
- not proceed with the making of the proposed local law.

If the local government resolves to proceed with the making of the proposed local law with amendments, and the amendments are substantial, the local government may again:

- consult with the public at step 10.3; and
- accept and consider every submission properly made to the local government at 10.5.

For the avoidance of doubt, if an amendment changes an anticompetitive provision, the local government must again comply with the procedures prescribed under a regulation for the review of anticompetitive provisions for the amended anti-competitive provision.

- 10.7 Let the public know that the local law has been made, by publishing a notice of the making of the local law in accordance with the requirements of section 29B(1) to (4) inclusive of the *Local Government Act 2009*.
- 10.8 As soon as practicable after the notice is published in the gazette, ensure that a copy of the local law may be inspected and purchased at Council's Customer Service Centres and available on Council's website.
- 10.9 Within 14 days after the notice is published in the gazette, give the Minister:
  - a copy of the notice; and
  - a copy of the local law in electronic form; and
  - if the local law contains 1 or more anti-competitive provisions:
    - advice of each anti-competitive provision; and
    - the reasons for their inclusion.
- 10.10 Update the local government's register of its local laws.

# 11. Making an interim local law

The process (interim local law-making process) stated in this policy must be used to make an interim local law (which is a local law that will only have effect for 6 months or less).

- 11.1 By resolution, Council proposes to make the proposed interim local law and its expiry date.
- 11.2 Consult with relevant government entities about the overall State interest in the proposed local law.
- 11.3 If the proposed interim local law contains an anti-competitive provision, comply with the procedures prescribed under a regulation for the review of anti-competitive provisions. For avoidance of doubt, step 11.2 2, and this step 11.3, may be undertaken contemporaneously.
- 11.4 By resolution, decide whether to:
  - make the proposed interim local law with or without amendments; or

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- not proceed with the making of the proposed interim local law.
- 11.5 Let the public know that the local law has been made, by publishing a notice of the making of the local law in accordance with the requirements of section 29B(1) to (4) inclusive of the *Local Government Act 2009*.
- 11.6 As soon as practicable after the notice is published in the gazette, ensure that a copy of the local law may be inspected and purchased at Council's Customer Service Centre's and available on Council's website.
- 11.7 Within 14 days after the notice is published in the gazette, give the Minister:
  - a copy of the notice; and
  - a copy of the local law in electronic form; and
  - if the local law contains 1 or more anti-competitive provisions:
    - advice of each anti-competitive provision; and
    - the reasons for their inclusion.
- 11.8 Update the local government's register of its local laws.

## 12. Making a subordinate local law

A subordinate local law must be made using the following process. The local government may start the process for making a subordinate local law even though the process for making the local law (including a model local law) on which the subordinate local law is to be based (the proposed authorising law) has not finished.

The local government may undertake 12.1 to 12.4 of the subordinate local law-making process before the proposed authorising law is made if:

- in making the proposed authorising law, the local government has to satisfy:
  - the model local law-making process; or
  - the other local law-making process; and
- if the proposed authorising law is made under the other local law-making process:
  - The notice about the subordinate local law under 12.2 of the subordinate local law-making process is published no earlier than the notice about the proposed authorising law under 10.3 of the other local law-making process is published.

For the avoidance of doubt, a subordinate local law made by the local government using the process detailed in this resolution may provide for the local government to, from time to time, by resolution, reference or incorporate information.

For example, under the Local Government Regulation 2012:

- the identification guidelines for the identification of anti-competitive provisions are a document made by the department and available for inspection on the department's website; and
- the public interest test procedures are a document made by the department and available for inspection on the department's website.
- 12.1 Council, by resolution, proposes to make the proposed subordinate local law.

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- 12.2 Public consultation is undertaken about the proposed subordinate local law for at least 21 days (the consultation period) by:
  - publishing a notice (also a consultation notice) about the proposed subordinate local law
    at least once in a newspaper circulating generally in the Ipswich local government area;
    and
  - displaying the consultation notice in a conspicuous place in the local government's public office for the consultation period; and
  - making a copy of the proposed subordinate local law available for inspection at the local government's public office during the consultation period; and
  - making a copy of the proposed local law available on Council's website; and
  - making copies of the proposed subordinate local law available for purchase at the local government's public office during the consultation period.

The consultation notice must state the following:

- the name of the proposed subordinate local law; and
- the name of:
  - the local law allowing the proposed subordinate local law to be made; or
  - if the local government has started the process for making a subordinate local law even though the process for making the proposed authorising law on which the subordinate local law is to be based has not finished — the proposed authorising law; and
- the purpose and general effect of the proposed subordinate local law; and
- the length of the consultation period and the first and last days of the period; and
- that written submissions by any person supporting or objecting to the proposed subordinate local law may be made and given to the local government on or before the last day of the consultation period stating:
  - the grounds of the submission; and
  - the facts and circumstances relied on in support of the grounds.
- If the local government decides, by resolution, that the proposed subordinate local law
  only amends an existing subordinate local law to make a minor change, and the
  amendment does not affect an anti-competitive provision, the local government may
  proceed to step 12.5 without satisfying any of step 12.2 to step 12.4 inclusive.
- 12.3 If the proposed subordinate local law contains an anti-competitive provision, comply with the procedures prescribed under a regulation for the review of anti-competitive provisions. For avoidance of doubt, step 12.2, and this step 12.3, may be undertaken contemporaneously.
- 12.4 Accept and consider every submission properly made to the local government. A submission is properly made to the local government if it:
  - is the written submission of any person about the proposed subordinate local law; and

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- states:
  - the grounds of the submission; and
  - the facts and circumstances relied on in support of the grounds; and
- is given to the local government on or before the last day of the consultation period.
- 12.5 By resolution, decide whether to:
  - proceed with the making of the proposed subordinate local law as advertised; or
  - proceed with the making of the proposed subordinate local law with amendments; or
  - make the proposed subordinate local law as advertised; or
  - make the proposed subordinate local law with amendments; or
  - not proceed with the making of the proposed subordinate local law.

If the local government resolves to proceed with the making of the proposed subordinate local law with amendments, and the amendments are substantial, the local government may again:

- consult with the public at step 12.2; and
- accept and consider every submission properly made to the local government at step 12.4.
- For the avoidance of doubt, if an amendment changes an anticompetitive provision, the local government must again comply with the procedures prescribed under a regulation for the review of anticompetitive provisions for the amended anti-competitive provision.
- 12.6 Let the public know that the subordinate local law has been made, by publishing a notice of the making of the subordinate local law in accordance with the requirements of section 29B(1) to (4) inclusive of the *Local Government Act 2009*.
- 12.7 As soon as practicable after the notice is published in the gazette, ensure that a copy of the local law may be inspected and purchased at Council's Customer Service Centre and available on Council's website.
- 12.8 Within 14 days after the notice is published in the gazette, give the Minister:
  - a copy of the notice; and
  - a copy of the subordinate local law in electronic form; and
  - if the subordinate local law contains 1 or more anti-competitive provisions:
    - advice of each anti-competitive provision; and
    - the reasons for their inclusion.
- 12.9 Update the local government's register of its local laws.

# 13. Monitoring and Evaluation

- Local Laws should be reviewed at least once every four years to be relevant and contemporary.
- Evaluation could occur through surveys with key stakeholders on how the process works.

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#### 14. Definitions

Local Law has the same meaning as defined in Section 26 of the Local Government Act 2009.

Subordinate Local Law has the same meaning as defined in Section 26 of the Local Government Act 2009.

*Model Local Law* has the same meaning as defined in Section 26 of the *Local Government Act* 2009.

Other Local Law-Making Process means any other type of local law-making process, with the exception of the following local law-making processes: (a) a local law that incorporates a model local law; (b) an interim local law; (c) a subordinate local law.

*Interim Local Law* has the same meaning as defined in Section 26 of the *Local Government Act 2009*.

*Minor change* means an amendment that will not change the policy intent and includes changes to the name of an Act or a spelling/grammatical error.

## 15. Policy Owner

The General Manager (Corporate Services) is the policy owner and the Manager, Legal and Governance (General Counsel) is responsible for the authorising and reviewing this policy.

STEP	ACTION	APPROXIMATE TIMEFRAME
Planning	Consultation with key stakeholders, benchmarking, drafting proposed law(s) and identifying any anti-competitive provisions	4 months
	Council resolves whether to:	
0 1	propose to make the local law(s)	0
Council	<ul> <li>propose to make the local law(s) with further amendments</li> </ul>	2 months
	not proceed with the making of the proposed local law(s)	
State consultation	Consultation with relevant government entities about the overall State interest in the proposed local law(s)	1 month
Public consultation	A public notice of consultation is published in the Gold Coast Bulletin and on the City's website advising the community that they can review the proposed law(s) and related information online or at Council's Customer Service Centres. Community is invited to provide feedback on the proposed law(s) by completing a submission form. The City accept and consider every submission properly made.	2 months
	Council resolves whether to:	
	<ul> <li>make the proposed local law(s) as advertised</li> </ul>	
Council resolution	<ul> <li>make the proposed local law(s) with further amendments</li> </ul>	2 months
esolution	<ul> <li>make the proposed local law(s) with further amendments by repeating State and public consultation steps</li> </ul>	
	<ul> <li>not proceed with the making of the proposed local law(s)</li> </ul>	
Public notification	A notice advising of making of new local law is published in the Queensland Government Gazette and on the City's website. Copies of the new local law(s) are made available online and at Council's Customer Service Centres.	1 month
		12 months

Estimate timeframes for proposed 3 step approach

STEP 1 & 2: Regulation Policy Development and local law-making process (Aug 24 – Feb 25)

STEP 3: Comprehensive Local Law Review (Aug 24 –Mar/Apr 26)

Table 1: Development of Regulation Policy (Step 1) and Local Law-Making Process (Step 2)

Phase	Other details	Draft Milestone Dates	Councillor Consultation   and/or Decision Gate ◆ (Regulatory Advisory Committee)
PHASE 1 Information gathering and preparation	<ul> <li>Collection of other Council's approaches to regulation</li> <li>Development of key strategic questions for phase 2 exploration</li> </ul>	Aug – September 2024	N/A
PHASE 2 Development of key components for strategic policy position AND discussion on repealing the Local Law-Making Process Policy/Public Process	Workshop with Councillors, ELT and relevant Branch Managers on developing a regulation policy     Includes discussion on why we move from a policy to a 'process' for making local laws going forward and local law review schedules going forward	October – November 2024	All Councillor Consultation (in person workshop/s)
PHASE 3 Drafting and consultation	<ul> <li>Drafting of policy for feedback from Councillors, ELT and key staff followed by</li> <li>Workshop with community panels for feedback followed by</li> <li>Brief to Councillors, ELT and key staff to close the loop and finalise drafting.</li> </ul>	December 2024 to January 2025	<ul> <li>►All Councillor</li> <li>Consultation and feedback before workshop with</li> <li>Community Panel on regulation policy.</li> <li>►All Councillor briefing note/consultation before finalising draft policy and local law making process.</li> </ul>
PHASE 4 Presentation of policy and process to Council	Reports to Council for consideration of a regulatory policy and local law-making process     Updating website etc	February 2025	◆ Decision gate: Regulatory Advisory Committee > Finance & Governance Committee > Council

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Table 2: Comprehensive Local Law Review (Step 3)

Phase	Other details	Draft Milestone Dates	Councillor Consultation   and/or Decision Gate   (Regulatory Advisory Committee)
PHASE 1 Information Gathering, analysis and research (Quantitative and qualitative analysis)	Collection of data from CES, Pathway and other systems to understand volumes etc of service requests over the last 4-5 years. Research of other councils, arising public policy matters, and Council's strategic goals to collate info. Survey of council officers including Mayor's office and divisional officers (based on their experience what should we/shouldn't we be regulating and why, best tool – high level) Procurement process started for phase 6 (engagement of external legal drafters).	August to October 2024	N/A
PHASE 2 Strategic exploration	Presentation of data with Councillors, ELT and Branch Managers (via email etc) Workshops with Councillors, ELT and Branch Managers on exploration of data and on key strategic matters (eg what should we/shouldn't we be regulating; is there anything we have missed; what is	November to December 2025 Workshop no later than early Dec	●All Councillor Consultation (in person workshop/s)

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PHASE 3 Community engagement – key strategic items	•	the right tool for regulation eg local law, planning scheme, contract)  Consult with staff and community panels on key strategic items uncovered in strategic exploration phase with Councillors, ELT etc – did we get it	January and February 2025	
PHASE 4 Local Law Framework	•	right?  Presentation of draft local law framework with Councillors, ELT and Branch Managers, key staff (workshop/briefing and email for feedback) Framework to be finalised/endorsed. (Framework means what local laws and subordinate locals will be drafted)	March 2025	<ul> <li>♠All Councillor         Consultation (in         person workshop/s)</li> <li>♠Decision gate to         approve Local Law         Framework:         Regulatory Advisory         Committee &gt; Finance         &amp; Governance         Committee &gt; Council</li> </ul>
PHASE 5 Local Law and Subordinate Local Law Development	•	Workshops with staff to develop drafting instructions for each new local law and subordinate local law (based on new framework). Includes risk based approached to operations/activities (will be guided by new policy).	April to June 2025  Need three months to workshop with staff given the volume of content to process and then final consultation before being sent to external legal firm.	►All Councillor Consultation (briefing note provided with copy of drafting instructions for feedback)
PHASE 6 Local Law-Making Process – Drafting Instructions	•	Local law-making process commences with drafting instructions issued (to external legal firm) which includes any anti-competitive test plans Draft laws received and reviewed.	July to September 2025  (allow two months for firm to draft new laws and another month to review/make changes/test etc to finalise)	N/A

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PHASE 7 Local Law-Making Process	Council report with required resolutions and draft laws to commence public consultation; anticompetitive tests; state interest checks.      Undertake public consultation; anticompetitive tests; state interest checks.      Consideration of submissions/feedback and how it will be addressed      Presentation of report to Council with laws for adoption      Ministerial notification, gazettal notice etc      Uploaded to council's website	October 2025 to March /April 2026  October Comm/Coun cil mtg  of weeks for public consultation and anticompetitive consultation  weeks for state interest checks  2-3 weeks for consideration of feedback/su bmissions but dependent on volume received.	◆ Decision gate to commence local law-making process in Oct 2025: Regulatory Advisory Committee > Finance & Governance Committee > Council   ◆ Decision gate to finalise local law-making process in March/April 2026: Regulatory Advisory Committee > Finance & Governance Committee > Council
PHASE 8 Implementation of new laws	Required updates to systems; forms; websites; PINs; signage; etc. This will be a comprehensive list.     Implementation work can commence during phase 7 to be prepared but exact details might not be known/confirmed until after State Interest Checks. Some implementations may continue for a few months after go live date.	March/April 2026 and onwards	N/A

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