

	COUNCIL POLICY	
	Local Law Making Council Policy	
	Policy Number	CP87
	Directorate	Organisational Services
	Owner	Ken Diehm, Chief Executive Officer
	Last Approved	26/04/2023
	Review Due	26/04/2026

1. PURPOSE

This policy details Council’s process for making local laws in accordance with section 29(1) *Local Government Act 2009*.

2. SCOPE

This policy applies to the making of –

- (a) a local law that incorporates a model local law
- (b) a subordinate local law
- (c) an interim local law
- (d) a local law other than the local laws referred to in (a) – (c) above.

3. HEAD OF POWER

Local Government Act 2009 – sections 26 – 38B

4. DEFINITIONS

To assist in the interpretation of this policy the following definitions apply:

“Council” means Fraser Coast Regional Council.

“Interim Local Law” is defined in s26(4) *Local Government Act 2009* to mean a local law that has effect for 6 months or less.

“Local Law” is defined in s26(2) *Local Government Act 2009* to mean a law made by a local government.

“Minister” means the Minister (including Acting) responsible for the local government portfolio.

“Model Local Law” is defined in s26(7) and (8) *Local Government Act 2009* to mean a local law that has been approved by the Minister, by gazette notice, as being suitable for incorporation by all local governments into their local laws.

“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) a subordinate local law
- (c) an interim local law

“Subordinate Local Law” is defined in s26(5) *Local Government Act 2009* to mean a local law that:

- (a) is made under a power contained in a local law; and
- (b) provides for the detailed implementation of the broader principles contained in the local law.

5. POLICY STATEMENT

Council’s local law making process is set out below and is in accordance with the requirements of the *Local Government Act 2009*. The process detailed in this policy is to be used when council decides to make a new local law (including a local law that amends an existing local law) unless the process is amended or replaced by a future council resolution.

Council can at any time make a resolution, pursuant to section 29(1) *Local Government Act 2009*, and decide on a different process for making a local law, provided the process complies with Chapter 3, Part 1 of the Act.

5.1. Making a Local Law that Incorporates a Model Local Law

A local law that incorporates a model local law must be made using the following process.

Model Local Law Making Process	
Step 1	By resolution, Council proposes to incorporate the model law.
Step 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.
Step 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.
Step 4	By resolution, incorporate the model local law.
Step 5	Give public notice of the making of the local law in accordance with the requirements of section 29B(1) to (4) <i>Local Government Act 2009</i> .
Step 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 any of Council’s Customer Service Centres and available on Council’s website.
Step 7	Within 14 days after the notice is published in the gazette, give the Minister – <ul style="list-style-type: none"> (a) a copy of the gazette notice; (b) a copy of the local law in electronic form; and (c) if the local law contains 1 or more anti-competitive provisions – <ul style="list-style-type: none"> (i) advice of each anti-competitive provision; and (ii) the reasons for their inclusion.
Step 8	Update Council’s local law register.

5.2. Making an 'Other' Local Law

Local laws other than (an '*other*' local law) –

- (a) a local law that incorporates a model local law;
- (b) a subordinate local law; or
- (c) an interim local law

must be made using the following process.

'Other' Local Law Making Process	
Step 1	By resolution, Council proposes to make the proposed local law.
Step 2	Consult with relevant government entities about the overall State interest in the proposed local law.
Step 3	<p>If Council decides, by resolution, that the proposed local law only amends an existing local law to make a minor change, the Council may proceed to step 6 without satisfying step 3 or step 5.</p> <p>Consult with the public about the proposed local law for at least 21 days (the consultation period) with such consultation to include (but is not limited to) –</p> <ul style="list-style-type: none"> (a) publishing a notice (a consultation notice) about the proposed local law on Council's website for the duration of the consultation period; and (b) making copies of each of the consultation notice and the proposed local law available, for inspection at Council's Customer Service Centres, for the duration of the consultation period; and (c) making a copy of the proposed local law available on Council's website for the period of the consultation period; and (d) making copies of the proposed local law available for purchase at Council's Customer Service Centres during the consultation period. <p>The consultation notice must state the following –</p> <ul style="list-style-type: none"> (a) the name of the proposed local law; and (b) the purpose and general effect of the proposed local law; and (c) the length of the consultation period and the first and last days of the period; and (d) that written submissions by any person supporting or objecting to the proposed local law may be made and given to Council on or before the last day of the consultation period stating – <ul style="list-style-type: none"> (i) the grounds of the submission; and (ii) the facts and circumstances relied on in support of the grounds.
Step 4	<p>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.</p> <p>For avoidance of doubt, step 3, and this step 4, may be undertaken contemporaneously.</p>
Step 5	<p>Accept and consider every submission properly made to Council.</p> <p>A submission is properly made to Council if it –</p> <ul style="list-style-type: none"> (a) is the written submission of any person about the proposed local law; and

	<p>(b) states –</p> <p>(i) the grounds of the submission; and</p> <p>(ii) the facts and circumstances relied on in support of the grounds; and</p> <p>(c) is given to Council on or before the last day of the consultation period.</p>
Step 6	<p>By resolution, decide whether to –</p> <p>(a) proceed with the making of the proposed local law as advertised; or</p> <p>(b) proceed with the making of the proposed local law with amendments; or</p> <p>(c) make the proposed local law as advertised; or</p> <p>(d) make the proposed local law with amendments; or</p> <p>(e) not proceed with the making of the proposed local law.</p> <p>If Council resolves to proceed with the making of the proposed local law with amendments, and the amendments are substantial, Council may again –</p> <p>(a) consult with the public at step 3; and</p> <p>(b) accept and consider every submission properly made to Council at step 5.</p> <p>For the avoidance of doubt, if an amendment changes an anti-competitive provision, Council must again comply with the procedures prescribed under a regulation for the review of anti-competitive provisions for the amended anti-competitive provision.</p>
Step 7	Give public notice of the making of the local law in accordance with the requirements of section 29B(1) to (4) <i>Local Government Act 2009</i> .
Step 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 any of Council’s Customer Service Centres and available on Council’s website.
Step 9	<p>Within 14 days after the notice is published in the gazette, give the Minister –</p> <p>(a) a copy of the gazette notice;</p> <p>(b) a copy of the local law in electronic form; and</p> <p>(c) if the local law contains 1 or more anti-competitive provisions –</p> <p>(i) advice of each anti-competitive provision; and</p> <p>(ii) the reasons for their inclusion.</p>
Step 10	Update Council’s local law register.

5.3. Making a Subordinate Local Law

5.3.1. Relationship between proposed authorising law and subordinate local law making process

- (a) Council 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 been finished.
- (b) Council may use steps 1 to 5 of the subordinate local law making process (other than actually making the subordinate local law) before the proposed authorising law is made if –
- (i) in making the proposed authorising law, Council has to satisfy –
- the model local law making process; or

- the other local law making process; and
- (ii) if the proposed authorising law is made under the other local law making process – the notice about the subordinate local under step 2 of the subordinate local law making process is published no earlier than the notice about the proposed authorising law under step 3 of the other local law making process is published.

5.3.2. A subordinate local law must be made using the following process.

Subordinate Local Law Making Process	
Step 1	By resolution, Council proposes to make the proposed subordinate local law.
Step 2	<p>If Council decides, by resolution, that –</p> <ul style="list-style-type: none"> (a) the proposed subordinate local law only amends an existing subordinate local law to make an insubstantial change; and (b) the amendment does not affect an anti-competitive provision <p>Council may proceed to step 5 without satisfying step 2 to step 4.</p> <p>Consult with the public about the proposed subordinate local law for at least 21 days (the consultation period) with such consultation to include (but is not limited to) –</p> <ul style="list-style-type: none"> (a) publishing a notice (a consultation notice) about the proposed subordinate local law on Council’s website for the duration of the consultation period (b) making copies of each of the consultation notice and the proposed subordinate local law available, for inspection at Council’s Customer Service Centres, for the duration of the consultation period; and (c) making a copy of the proposed subordinate local law available on Council’s website for the period of the consultation period; and (d) making copies of the proposed subordinate local law available for purchase at Council’s Customer Service Centres during the consultation period <p>The consultation notice must state the following –</p> <ul style="list-style-type: none"> (a) the name of the proposed subordinate local law; and (b) the name of – <ul style="list-style-type: none"> (i) the local law allowing the proposed subordinate local law to be made; or (ii) if Council has started the process for making a subordinate local law even though the process for making the proposed authorising law on which the subordinate law is to be based has not finished – the proposed authorising law; and (c) the purpose and general effect of the proposed subordinate local law; and (d) the length of the consultation period and the first and last days of the period; and (e) that written submissions by any person supporting or objecting to the proposed subordinate local law may be made and given to Council on or before the last day of the consultation period stating – <ul style="list-style-type: none"> (i) the grounds of the submission; and (ii) the facts and circumstances relied on in support of the grounds.
Step 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 2, and this step 3, may be undertaken contemporaneously.
Step 4	Accept and consider every submission properly made to Council. A submission is properly made to Council if it – (a) is the written submission of any person about the proposed subordinate local law; and (b) states – (i) the grounds of the submission; and (ii) the facts and circumstances relied on in support of the grounds; and (c) is given to Council on or before the last day of the consultation period.
Step 5	By resolution, decide whether to – (a) proceed with the making of the proposed subordinate local law as advertised; or (b) proceed with the making of the proposed subordinate local law with amendments; or (c) make the proposed subordinate local law as advertised; or (d) make the proposed subordinate local law with amendments; or (e) not proceed with the making of the proposed subordinate local law. If Council resolves to proceed with the making of the proposed subordinate local law with amendments, and the amendments are substantial, Council may again – (a) consult with the public at step 2; and (b) accept and consider every submission properly made to Council at step 4. For the avoidance of doubt, if an amendment changes an anti-competitive provision, the Council must again comply with the procedures prescribed under a regulation for the review of anti-competitive provisions for the amended anti-competitive provision.
Step 6	Give public notice of the making of the subordinate local law in accordance with the requirements of section 29B(1) to (4) <i>Local Government Act 2009</i> .
Step 7	As soon as practicable after the notice is published in the gazette, ensure that a copy of the subordinate local law may be inspected and purchased at any of Council's Customer Service Centres and available on Council's website.
Step 8	Within 14 days after the notice is published in the gazette, give the Minister – (a) a copy of the gazette notice; (b) a copy of the subordinate local law in electronic form; and (c) if the local law contains 1 or more anti-competitive provisions – (i) advice of each anti-competitive provision; and (ii) the reasons for their inclusion.
Step 9	Update Council's local law register.

5.4. Making an Interim Local law

An interim local law must be made using the following process.

Interim Local Law Making Process	
Step 1	By resolution, Council propose to make the proposed interim local law.
Step 2	Consult with the relevant government entities about the overall State interest in the proposed interim local law
Step 3	By resolution, Council decides whether to – (a) proceed with the making of the proposed interim local law in the form submitted to relevant government entities; or (b) proceed with the making of the proposed interim local law with amendments; or (c) make the proposed interim local law; or (d) make the proposed interim local law with amendments; or (e) not proceed with the making of the proposed interim local law. If the Council resolves to proceed with the making of the proposed interim local law with amendments, and the amendments are substantial, Council may again consult with relevant government entities at step 2. Note – the proposed interim local law must include an expiry date of 6 months or less after the commencement day.
Step 4	Give public notice of the making of the interim local law in accordance with the requirements of section 29B(1) to (4) <i>Local Government Act 2009</i> .
Step 5	As soon as practicable after the notice is published in the gazette, ensure that a copy of the interim local law may be inspected and purchased at any of Council's Customer Service Centres and available on Council's website.
Step 6	Within 14 days after the notice is published in the gazette, give the Minister – (a) a copy of the gazette notice; and (b) a copy of the interim local law in electronic form.
Step 7	Update Council's local law register.

6. ASSOCIATED DOCUMENTS

- Local Law Register (#2149771)

7. REVIEW

This Policy will be reviewed when related legislation/documents are amended or replaced, other circumstances as determined from time to time by Council or at intervals of no more than three years.

Version Control

Version Number	Key Changes	Approval Authority	Approval Date	Document Number
1	Draft Policy			
2	Draft Policy – Legal Advice			
3	New Policy	Council	26/04/2023	4736222
4				