

ESC – C069 LOCAL LAW MAKING POLICY

POLICY VERSION AND REVISION

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Contents

1. Purpose……3
2. Making a Local Law that is a Model Local Law……3
3. Making an "Other" Local Law……3
4. Making a Subordinate Local Law 5
5. Making an Interim Local Law..... 7
6. Definitions 8
7. Related Legislation, Documents and References 9
8. Review 9



1. PURPOSE

This policy applies to local laws that are model local laws, each other local law, subordinate local law and interim local laws.

2. MAKING A LOCAL LAW THAT IS A MODEL LOCAL LAW

The process ("model local law making process") must be used to make a local law that is a model local law, including a model local law which contains anti-competitive provisions. However, this process is not to be used to make a proposed local law that incorporates a model local law, if the proposed local law includes more than the model local law (in which case the relevant process is that for "Making an 'other' local law" below).

Step 1 By resolution, propose to make the model local law.[1]

Step 2 If the model local law contains an anti-competitive provision, it must comply with Steps 3,4,5 and 6 of the process for making an "other' local law below.

Step 3 By resolution –

a) make the model local law;[2]

b) if the model local law repeals an existing local law, and the model local law includes more than the amendment or repeal of the existing local law, consult with the relevant government entities about the overall Sate interest in the proposed local law.

Step 4 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*.

Step 5 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 the local government's public office, at a cost no more than the cost to the local government.

Step 6 Within 14 days after the notice is published in the gazette, give the Minister –
a) a copy of the notice; and
b) a copy of the local law in electronic form

Step 7 Update the local government's register of its local laws

3. MAKING AN "OTHER" LOCAL LAW

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 –

a) a local law that incorporates only a model local law; or

b) an interim local law; or

c) a subordinate local law;

If a proposed local law seeks to modify an incorporated model local law, or include more than the model local law, it must follow this process. A model local law that contains an anti-competitive provision has to comply with steps 3, 4, 5 and 6 of this process only as outlined in step 2 of the process for making a local law that is a model local law.

1 Consider whether any existing local laws require amendment or repeal and follow the process in the Act.

2 Consider whether any existing local laws require amendment or repeal and follow the process in the Act.



Step 1 By resolution, propose to make the proposed local law.[3]

Step 2 Consult with relevant government entities about the overall State interest in the proposed local law.

Step 3 (1) Consult with the public about the proposed local law for at least 21 days (the consultation period) by:

a) 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

b) 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

c) making a copy of the proposed local law available for inspection at the local government's public office during the consultation period;

d) making copies of the proposed local laws available for purchase at the local government's public office during the consultation period;

(2) The consultation notice must state the following:-

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 the local government on or before the last day of the consultation period stating -

i. the grounds of the submission; and

ii. the facts and circumstances relied on in support of the grounds.

Step 4 If the proposed local law contains an anti-competitive provision, comply with procedures prescribed under a regulation for the review of anti-competitive provision. For avoidance of doubt, step 3 and this step 4 may be undertaken contemporaneously.

Step 5 Accept and consider every submission properly made to the local government.

A submission is properly made to the local government if it;

a) is the written submission of any person about the proposed 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 the local government on or before the last day of the consultation period.

3 Consider whether any existing local laws require amendment or repeal and follow the process in the Act.

Step 6 (1) By resolution, decide whether to –

a) make the proposed local law as advertised; or

b) make the proposed local law with amendments; or

c) not make the proposed local law[4].

(2) If the local government resolves to make the proposed local law with amendments, and the amendments are substantial, the local government may again –

a) consult with the public at step 3; and

b) accept and consider every submission properly made to the local government at step

Step 7 Let the public know 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*.

Step 8 As soon as practicable after the notice is published in the gazette ensure that a copy of the local laws may be inspected and purchased at the local government's public office, at a cost no more than the cost to the local government.

Step 9 Within 14 days after the notice is published in the gazette, give the Minister

a) a copy of the notice; and

b) a copy of the local law in electronic form.

Step 10 Update the local government's register of its local laws

4. MAKING A SUBORDINATE LOCAL LAW

The process ("subordinate local law making process") stated in this policy must be used to make a subordinate local law (a proposed subordinate local law).

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 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-

a) In making the proposed authorising law, the local government has to satisfy

i. The model local law making process; or

ii. The other local making process; or

iii. The interim local law making process; and

b) If the proposed authorising law is made under the other local law making process – the notice about the subordinate local law under step 2 of the subordinate local law making process is published no earlier than the

[4] Consider whether any existing local laws require amendment or repeal and follow the process in the Act



notice about the proposed authorising law under step 3 of the other local law making process is published.

Step 1 By resolution, propose to make the proposed subordinate local law[5].

Step 2 (1) Consult with the public about the proposed subordinate local law for at least 21 days (the consultation period) by-

a) Publishing a notice (also a consultation notice) about the proposed subordinate local law at least once in a newspaper circulating generally in the local governments area; and

b) Displaying the consultation notice in a conspicuous place in 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

c) Making a copy of the proposed subordinate local law available for inspection at the local government's public office during the consultation period; and

d) Making copies of the proposed subordinate local law available for purchase at the local government's public office during the consultation period.

(2) The consultation must state the following –

a) The name of the proposed subordinate local law; and

b) The name of –

i. the local law allowing the proposed subordinate local law to be made; or

ii. 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

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 the local government on or before the last day of the consultation period stating –

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 provision. For avoidance of doubt, step 2, and step 3, may be undertaken contemporaneously.

Step 4 (1) Accept and consider every submission properly made to the local government.

(2) A submission is properly made to the local government if it –

a) is the written submission of any person about the proposed subordinate local law; and

5 Consider whether any existing local laws require amendment or repeal and follow the process in the Act



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 the local government on or before the last day of the consultation period.

Step 5 (1) By resolution, decide whether to –

a) make the proposed subordinate local law as advertising; or

b) make the proposed subordinate local law with amendments; or

c) not proceed with the making of the proposed subordinate local law[6].

(2) 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 –

a) consult with the public at step 2; and

b) accept and consider every submission properly made to the local government at step 4.

(3) For the avoidance of doubt, if an amendment changes an anti-competitive provision, the local government 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 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.*

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 the local government's public office, at a cost no more than a cost to the local government.

Step 8 Within 14 days after the notice is published in the gazette, give the Minister

a) a copy of the notice; and

b) a copy of the subordinate local law in electronic form.

Step 9 Update the local government's register of its local laws

5. MAKING AN INTERIM LOCAL LAW

The process ("interim local law making process") stated in this policy must be used to make a local law that is an interim local law.

Step 1 By resolution, propose to make the interim local law, including setting the proposed expiry date of the interim local law.[7]

6 Consider whether any existing local laws require amendment or repeal and follow the process in the Act

7 Consider whether any existing local laws require amendment or repeal and follow the process in the Act



Step 2 Consult with relevant government entities about the overall State interest in the proposed local law.

Step 3 By resolution make the interim local law (which includes a provision setting the expiry date of the interim local law)[8]

Step 4 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*.

Step 5 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 the local government's public office, at a cost no more than the cost to the local government.

Step 6 Within 14 days after the notice is published in the gazette, give the minister

a) a copy of the notice; and

b) a copy of the subordinate local law in electronic form.

Step 7 Update the local government's register of its local laws

6. DEFINITIONS

Anti-Competitive Provision	A provision within a local law that restricts competition and therefore requires review under procedures prescribed by regulation.
Consultation Notice	A public notice published during the consultation period that states the name, purpose, effect, consultation dates and submission requirements for a proposed local law.
Consultation Period	The minimum 21-day period during which the public may inspect the proposed law and make written submissions.
Interim Local Law	A temporary local law made with a set expiry date, using the interim local law making process.
Model Local Law	A local law made using the model local law making process. It may include anti-competitive provisions.
Other Local Law	A proposed local law that is not a model local law, interim local law or subordinate local law, including any law that modifies or adds to a model local law.
Proposed Authorising Law	The local law (model, other or interim) that provides the legal authority for a subordinate local law.
Register of Local Laws	The official register maintained by the Local Government listing all current local laws, updated after each law is made.

8 Consider whether any existing local laws require amendment or repeal and follow the process in the Act



Subordinate Local Law	A law made under authority of an existing local law, using the subordinate local law making process.

7. RELATED LEGISLATION, DOCUMENTS AND REFERENCES

Local Government Act 2009

8. REVIEW

It is the responsibility of the Chief Executive Officer to monitor the adequacy of this policy and implement and approve appropriate changes. This policy will be formally reviewed every two (2) years or as required by Council.