10.4.5 Joint Standing Committee on Delegated Legislation Review of the Activities in Thoroughfares and Public Places and Trading Local Law 2026.

Date of Report:	18 October 2026
Applicant or Proponent:	N/A
File Reference:	F26/49-08
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	6 August 2026
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Committee Decision - Activities in Thoroughfares and Public Places and Trading Local Law 2026; (confidential) *Section 5.23* *(4) (h) information that is the subject of a direction given under section 5.23AA(2) ----- The Departmental CEO, or a person authorised by the Departmental CEO, may, in relation to any particular information, direct a local government for the purposes of section 5.23(4)(h) that a meeting may be closed to members of the public to the extent necessary to ensure that the information is dealt with at the meeting on a confidential basis. S.5.23AA(3) A direction under subsection (1) or (2) may be expressed to apply to a particular meeting or to meetings of a particular class. (under separate cover)* 2. Proposed Shire of Toodyay Activities in Thorughfares and Public Places and Trading Local Law Amendment Local Law 2027. 3. Advert for Activities in Thoroughfares and Public Places and Trading Local Law Amendment Local Law 2027.

Reasons for Attachment 1 being confidential

The letter, addressed to the Shire President, stated:

This correspondence including any attachments is confidential and privileged. Your local government may only discuss the content of this letter and any attachments with the Western Australian Local Government Association, the department responsible for local government, and the Shire's legal advisors, to the extent necessary to obtain information

the Committee seeks. Each person to whom you distribute this material must be made aware of its confidential and privileged status.

PURPOSE OF THE REPORT

To consider correspondence from the Joint Standing Committee on Delegated Legislation regarding the *Activities in Thoroughfares and Public Places and Trading Local Law 2026* and to provide the undertakings requested by the Committee.

BACKGROUND

The *Activities in Thoroughfares and Public Places and Trading Local Law 2026* was adopted by Council on 6 August 2026 and published in the Government Gazette on 31 August 2026.

Following publication, the local law was reviewed by the Joint Standing Committee on Delegated Legislation, which identified a number of drafting and cross-referencing errors and requested that the Shire provide formal undertakings to amend the local law within 12 months.

COMMENTS AND DETAILS

The Committee identified:

- An outdated definition of "Competition Principles Agreement" in clause 6.1.
- Incorrect references in clauses 6.10, 6.16 and 6.18.
- Multiple incorrect clause references in Schedule 1 Prescribed Offences.

The Committee has requested Council provide undertakings to amend these provisions and not enforce the Local Law contrary to those amendments pending completion of an amendment local law.

Officers have prepared an Amendment Local Law in accordance with section 3.12 of the *Local Government Act 1995* for Council consideration and public advertising.

Section 3.12(2) Requirement - *Activities in Thoroughfares and Public Places and Trading Local Law Amendment Local Law 2027*

The person presiding is to give notice that:

The **purpose** is to amend the *Activities in Thoroughfares and Public Places and Trading Local Law 2026* to correct drafting and clause referencing errors identified by the Joint Standing Committee on Delegated Legislation.

The **effect** is to update an interpretation provision, correct internal clause references and prescribed offence references, improve the accuracy and administration of the local law, and ensure offence provisions correctly correspond with the prescribed penalties. The amendment does not alter the policy intent or substantive operation of the local law.

IMPLICATIONS TO CONSIDER

Consultative:

No external consultation required at this stage.

The amendment local law will be advertised in accordance with section 3.12 of the *Local Government Act 1995.*

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Nil.

Financial:

Advertising and gazettal costs associated with the amendment local law can be met from existing operational budgets.

Legal and Statutory:

Section 3.12 of the *Local Government Act 1995* governs the process for amending a local law. Failure to provide the requested undertakings may increase the risk of disallowance by Parliament.

Risk related:

Failure to amend the identified provisions may result in:

- ambiguity in interpretation of the local law;
- difficulties in enforcement of prescribed offences;
- ongoing compliance concerns identified through parliamentary scrutiny; and
- potential disallowance proceedings.

Workforce related:

Nil.

MOTION/COUNCIL RESOLUTION NO. OCM265/11/26

MOVED Cr M McKeown

SECONDED Cr J Prater

That Council agrees the Shire President is not required to read aloud the first Officer's Recommendations relating to this agenda item.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills, J Prater and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 7/0

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM266/11/26

MOVED Cr S Van der Heyden

SECONDED Cr M Dival

That Council resolves to undertake to the Joint Standing Committee on Delegated Legislation that the Council will:

1. Within 12 months amend the Local Law as follows:

   (a) In clause 6.1, amend the term "Competition Principles Agreement" so that it states: "Competition Principles Agreement" means the Competition Principles Agreement executed by the Treasurers of each State and Territory of the Commonwealth of Australia on 29 November 2024".

   (b) In clause 6.10, amend the term "permit" so that it states: "A permit issued for the purpose of clause 6.11".

   (c) In clause 6.16, amend the term "permit holder" so that it states: "The person to whom a permit has been issued for the purpose of clause 6.17".

   (d) In clause 6.18, amend the reference to clause 6.16 so that it cites clause 6.17.

   (e) In Part 11, Schedule 1, amend:

   - clause 5.17(1) to 5.17;
   - clause 6.8(1)(a) to 6.9(1)(a);
   - clause 6.8(1)(b) to 6.9(1)(b);
   - clause 6.8(1)(c) to 6.9(1)(c);
   - clause 6.8(2) to 6.9(2);
   - clause 6.10 to 6.11;
   - clause 6.11(2) to 6.12(2);
   - clause 6.14 to 6.15;
   - clause 6.16 to 6.17;
   - clause 6.18 to 6.19;
   - clause 6.20(1) to 6.21(1); and
   - clause 6.20(2) to 6.21(2).

2. Not enforce the Local Law to the contrary before it is amended in accordance with undertaking 1.

3. Ensure that a copy of these undertakings accompanies the Local Law wherever the Shire makes it publicly available, whether in hard copy or electronic form.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills, J Prater and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 7/0

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM267/11/26

MOVED Cr J Prater

SECONDED Cr S Van der Heyden

That Council:

1. Notes the confidential correspondence (**Attachment 1**) received from the Joint Standing Committee on Delegated Legislation dated 12 October 2026.
2. Authorises the Shire President to sign the undertaking correspondence to the Committee.
3. Gives notice of the purpose and effect of the *Activities in Thoroughfares and Public Places and Trading Local Law Amendment Local Law 2027* (**Attachment 2**) under section 3.12(2) as follows:
   (a) The **purpose** is to amend the *Activities in Thoroughfares and Public Places and Trading Local Law 2026* to correct drafting and clause referencing errors identified by the Joint Standing Committee on Delegated Legislation.
   (b) The **effect** is to update an interpretation provision, correct internal clause references and prescribed offence references, improve the accuracy and administration of the local law, and ensure offence provisions correctly correspond with the prescribed penalties. The amendment does not alter the policy intent or substantive operation of the local law.
4. Adopts the *Activities in Thoroughfares and Public Places and Trading Local Law Amendment Local Law 2027 (***Attachment 2**) for advertising under section 3.12(3).
5. That Council authorises the Temporary Chief Executive Officer to undertake the statutory advertising process in accordance with section 3.12(3) of the *Local Government Act 1995* for the *Activities in Thoroughfares and Public Places and Trading Local Law Amendment Local Law 2027* (**Attachment 3**).

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills, J Prater and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 7/0