

10.4.2 Stage One: Shire of Toodyay Health Local Law 2026 - Initiation of Local Law Process

Date of Report:	1 April 2026
Applicant or Proponent:	Shire of Toodyay
File Reference:	LAW1
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Legislative
Attachments:	1. Current Local Law; 2. DRAFT Health Local Law 2026 (track changes included); 3. Advert for Health Local Law 2026.

PURPOSE OF THE REPORT

To seek Council approval to commence the statutory process under Section 3.12 of the *Local Government Act 1995* to make the *Shire of Toodyay Health Local Law 2026* (**Attachment 2**) so that it can be advertised for public comment.

BACKGROUND

The Shire's current *Health Local Law 2017* is outdated and partially inconsistent with the *Public Health Act 2016*, which has modernised Western Australia's public health regulatory environment. It is based heavily on the former State model health local laws and the *Health (Miscellaneous Provisions) Act 1911*, with detailed prescriptive provisions dealing with sanitation, housing, pest control, infectious diseases, lodging houses, piggeries, morgues and offensive trades.

Since 2017, the *Public Health Act 2016* has progressively commenced, shifting Western Australia's public health framework to a risk-based model and reducing reliance on local health nuisance provisions. Contemporary practice is for local health local laws to be:

- More outcomes-based;
- Narrower in scope; and
- Clearly made and enforced under the *Local Government Act 1995*, in conjunction with the *Public Health Act 2016*, rather than re-stating State public health powers.

To respond to this changed legislative environment, the draft *Health Local Law 2026* has been developed as a modern, streamlined health local law that repeals and replaces the 2017 local law.

While the review of the current local law was due in 2025, it was not initiated because the findings of the 2023 review for other local laws remained outstanding.

COMMENTS AND DETAILS

The current Health Local Law 2017 is based on provisions derived from the former *Health (Miscellaneous Provisions) Act 1911*, which has largely been replaced by the *Public Health Act 2016*. As a result, significant elements of the existing local law are outdated, overly prescriptive and do not reflect the contemporary public health framework operating in Western Australia.

The 2017 local law contains extensive technical requirements relating to matters such as sanitation, pest control, lodging houses and waste management. Many of these provisions have been repealed, superseded or are now regulated under State legislation. The level of detail and prescriptive nature of the current law limits flexibility and can present challenges in practical enforcement.

The proposed Health Local Law 2026 introduces a revised regulatory framework that is aligned with the *Public Health Act 2016*. It adopts a more contemporary, risk-based approach to public health regulation, with a focus on outcomes rather than detailed technical prescription.

The structure of the proposed local law has been significantly streamlined. The existing multiple Parts and Schedules have been replaced with a more concise format addressing key public health areas, including:

- sanitation and waste management;
- housing and lodging houses;
- public buildings and events;
- vectors and pests;
- animals and offensive trades;
- infectious diseases; and
- enforcement provisions.

The proposed local law is expressly made under the *Local Government Act 1995* and is intended to operate in conjunction with the *Public Health Act 2016*. It does not duplicate State powers or restate provisions that are the responsibility of the Chief Health Officer. This approach ensures consistency with the current legislative framework and reduces the risk of regulatory overlap.

Key regulatory areas, including accommodation standards, public facilities, waste management and environmental health risks, are retained; however, they are expressed as practical obligations relating to cleanliness, safety, sanitation and nuisance prevention. This replaces the detailed technical standards contained in the 2017 local law.

Overall, the proposed Health Local Law 2026 provides a clearer and more contemporary framework for managing public health within the Shire. It supports a more practical approach to compliance and enforcement while maintaining appropriate safeguards for community health and safety.

Section 3.12(2) of the *Local Government Act 1995* requires the person presiding at the meeting to give notice of the purpose and effect of the proposed local law.

The Officer Recommendation is drafted to satisfy this requirement if read aloud at the meeting.

It is recommended that Council resolve its intent to adopt the Health Local Law 2026.

Section 3.12 (2) states:

"At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner."

It is recommended that the Presiding Person read out the entirety the Officer's Recommendation as a means of meeting this provision.

IMPLICATIONS TO CONSIDER

Consultative:

Environmental Health Officer and Executive Manager Planning and Regulatory Services.

Strategic:

Supports the Shire's Community Strategic Plan goals regarding public health, safe housing, environmental protection, and community wellbeing.

Policy related:

Operational environmental health procedures may require updating following adoption.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995 – Section 3.5 provides the head of power for making local laws considered necessary for the good government of the district. The local law-making procedure in section 3.12 applies.

Public Health Act 2016 – Establishes the risk-based public health framework, including definitions of "public health risk" and "nuisance", and powers of the Chief Health Officer and authorised officers.

Health (Miscellaneous Provisions) Act 1911 – Now significantly superseded, but still relevant in limited areas (for example, on-site wastewater).

Local Government (Functions and General) Regulations 1996 – Part 2, including forms and constraints for infringement and modified penalties.

The draft 2026 local law expressly acknowledges that it is made under the *Local Government Act 1995* and is to be read in conjunction with the *Public Health Act 2016* and related regulations.

Risk related:

Legislative risk: The 2017 local law contains provisions that overlap or potentially conflict with the *Public Health Act 2016* regime (especially in infectious diseases, nuisance, and

public health orders). The 2026 law mitigates this risk by deferring to the PHA and focusing on local enforcement roles.

Operational risk: The previous prescriptive provisions are difficult to administer consistently; the new law combines clear obligations with flexible notice powers.

Community health risk: The new law maintains and, in some areas, strengthens the Shire's ability to respond to public health risks, including housing conditions, vector control, events and waste management.

This report mitigates the risk.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM151/07/26

MOVED Cr M Dival

SECONDED Cr J Prater

That Council pursuant to the provisions of section 3.12(3)(a) of the *Local Government Act 1995*, gives local public notice stating that it proposes to make the Shire of Toodyay Health Local Law 2026, the purpose and effect of which are:

Purpose: to protect, promote and improve public and environmental health within the district by regulating public health risks and nuisances, sanitation and housing standards, lodging houses and short-term accommodation, public buildings and events, animals, vectors and pests, offensive trades and associated activities.

Effect: that people living in, working in or visiting the district must comply with requirements designed to prevent or minimise public health risks, and the local government is empowered to administer, enforce and give effect to those requirements through notices, directions, and penalties where necessary.

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 BY ABSOLUTE MAJORITY