

10.4.3 Stage One: Making the Local Government Property Local Law 2026 - Initiation of Local Law Process

Date of Report:	17 June 2026
Applicant or Proponent:	Shire of Toodyay
File Reference:	F26/49-04 (D26/2234)
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	02/04/2026
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Current Local Law; and 2. Schedule of Submissions; 3. Local Government Property Local Law (track changed).

PURPOSE OF THE REPORT

To consider the submissions received during the public advertising period for the proposed *Local Government Property Local Law 2026* (**Attachment 1**) pursuant to section 3.12(4) of the *Local Government Act 1995*; and to seek Council approval to recommence the statutory process under section 3.12(3) of the *Local Government Act 1995* to make the amended *Shire of Toodyay Local Government Property Local Law 2026* (**Attachment 2**) so that it can be advertised for public comment.

BACKGROUND

The current local law is attached (**Attachment 1**).

Council previously resolved to advertise the proposed *Local Government Property Local Law 2026* in accordance with section 3.12 of the *Local Government Act 1995*, and submissions were invited.

During the advertising period, submissions were received (**Attachment 2**). These submissions have been reviewed and are included for Council's information.

COMMENTS AND DETAILS

It has been identified that the PDF version of the proposed local law made available:

- To the Council at their 2 April 2026 Council Meeting; and
- To the public for the purpose of public advertising;

did not consistently reflect the **complete and correct WORD version of the draft local law**. This is the first time a formatting issue of this nature has occurred.

Specifically the original draft (Word version) contained complete and correctly structured provisions however, during conversion to PDF, portions of text were omitted, truncated or incorrectly displayed. This resulted in clauses appearing incomplete; subclauses not being visible; apparent duplication of lettering; and a number of provisions appearing unclear or defective.

Notably, this issue is not confined to a single clause, but occurs across multiple parts of the local law, including Part 2 and Part 10.

Advice was sought from the Department of Local Government, Industry Regulation and Safety (DLGIRS), who have indicated that:

- a correct draft local law must be available for public inspection during the submission period;
- if the draft available to the public omits relevant provisions, this is considered a significant omission; and
- in such circumstances, the prudent course of action is to re-advertise the local law and undertake a further submission period.

In order to ensure transparency in the consultation process and compliance with statutory requirements it is necessary to re-advertise the *Local Government Property Local Law 2026* (**Attachment 2**) in its correct and complete form.

The redrafted Local Law is ready for advertising and public submissions as it is the most appropriate and prudent course of action is to recommence the statutory process under section 3.12 of the *Local Government Act 1995* and re-advertise the proposed *Local Government Property Local Law 2026* in its complete and correct form.

It is recommended that Council resolve its intent to adopt the *Local Government Property 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:

Department of Local Government, Industry Regulation and Safety advised the following:

Strategic:

The Shire regulates compliance with legislation, regulations, local laws and policies.

Outcome 5. High quality town planning complements our rural ambience and heritage.

5.1. Provide responsible planning and development.

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Section 3.12 of the *Local Government Act 1995*

Risk related:

The key risks associated with proceeding to make the local law without re-advertising include:

- **Statutory compliance risk** – the requirement under section 3.12 that the draft local law be available for public inspection may not have been fully satisfied;
- **Procedural fairness risk** – members of the public were not provided with the complete draft local law during the consultation period;
- **Disallowance risk** – the Joint Standing Committee on Delegated Legislation may determine that the local law was not properly advertised and consider disallowance;
- **Reputational risk** – perception that the consultation process was incomplete or unclear; and
- **Operational delay risk** – if the local law is challenged or disallowed, this would result in greater delay than undertaking re-advertising now.

Re-advertising the corrected draft local law removes uncertainty regarding compliance with section 3.12 and ensures alignment between the advertised and final versions.

This report demonstrates a transparent and accountable governance approach and mitigates the risk of disallowance or post-gazettal challenge.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM152/07/26**MOVED** Cr R Madacsi**SECONDED** Cr S Van der Heyden

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 Local Government Property Local Law 2026*, the purpose and effect of which are:

Purpose: is to regulate the care, control and management of local government property within the district, in order to promote its safe, orderly and respectful use and enjoyment by the community, protect local government property from damage, misuse and inappropriate activities, and provide for the efficient management and operation of local government property, including saleyards.

Effect: is that persons using local government property within the Shire of Toodyay must do so in accordance with the provisions of the local law, any determinations made under it, and any conditions imposed by the local government, so that the property is used consistently with the good governance of the district, the safety and amenity of the community, and other applicable written laws.

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