

10.4.5 Joint Standing Committee on Delegated Legislation Review of the Dog Local Law 2026

Date of Report:	24 September 2026
Applicant or Proponent:	N/A
File Reference:	F26/49-01
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	4 June 2026
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	- Committee Decision - Dog Local Law; and (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) - Proposed Shire of Toodyay Dog Local Law Amendment Local Law 2027; and ➡ - Adverts for Dog Local Law; and ➡ - Council Notice - Dog Areas ➡

Reasons for Attachment 1 being confidential

The correspondence, 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 receive confidential correspondence (**Confidential Attachment 1**) from the Joint Standing Committee on Delegated Legislation and to provide the requested undertakings and commence preparation of an amendment local law.

BACKGROUND

The Joint Standing Committee on Delegated Legislation has completed its preliminary review of the Dog Local Law 2026 and has requested undertakings from Council to amend identified provisions within 12 months. The Committee has also issued a Notice of Motion to Disallow the Dog Local Law 2026 pending receipt of Council's undertakings.

The matters raised are predominantly technical drafting, citation, penalty and statutory power issues. Officers recommend Council provide the requested undertakings and commence preparation of amendment local laws.

COMMENTS AND DETAILS

The *Dog Local Law 2026* was formally made at an Ordinary Council Meeting held on 4 June 2026 and gazetted on Monday 22 June 2026 (*Government Gazette* No. 70).

In respect to the **Dog Local Law** the Committee identified:

- incorrect definitions and statutory references
- amendment required to confinement provisions for gates
- incorrect references in clauses 4.3 and Schedule 2
- amendment of review rights provisions
- deletion of substantive Part 6 provisions relating to dog prohibited and exercise areas
- insertion of information-only clause regarding specified dog areas
- insertion of a general penalty clause
- amendment of modified penalties and offence references.

The most significant issue concerns Part 6, where the Committee considers local governments no longer have power to create offences regarding dog prohibited places and exercise areas through local laws and instead these matters must be dealt with through Council notices under the Dog Act.

It is recommended that providing the requested undertakings is the most appropriate course of action to avoid ongoing disallowance proceedings.

Section 3.12(2) Requirement

The person presiding is to give notice that:

The **purpose** of the proposed *Dog Local Law Amendment Local Law 2027* is to amend the Shire of Toodyay *Dog Local Law 2026* to address drafting issues, amend penalties and improve statutory compliance.

The **effect** is to improve the operation and legal compliance of the Dog Local Law while maintaining its existing policy intent.

IMPLICATIONS TO CONSIDER**Consultative:**

No external consultation required at this stage.

The amendment local law will require public advertising 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:

Minor officer time and gazettal costs associated with amendment local laws.

Legal and Statutory:

- *Local Government Act 1995 s3.12*
- *Dog Act 1976*
- *Interpretation Act 1984*

Risk related:

The failure of the Council to deliver necessary undertakings poses a significant regulatory and legal risk. Specifically, a resulting disallowance would halt ongoing amendments and complicate the enforcement of current provisions, resulting in sustained non-compliance and heightened exposure to litigation.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1/COUNCIL RESOLUTION NO. OCM231/10/26

MOVED Cr M Dival

SECONDED Cr S Van der Heyden

The Council will:

1. Within 12 months amend the Local Law as follows:
 - (a) In clause 1.3, amend the definition of 'District' so that it states:

District has the meaning given to it in section 3(1) of the Act
 - (b) In clause 1.3 amend the definition of 'kennel establishment' so that it states:

kennel establishment means an approved kennel establishment in section 27 of the Act;

- (c) Amend subclause 4.1(1)(c) so that it states:
 - (1) An occupier of premises on which a dog is kept must—
 - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined), and is fitted with a proper latch or other means of fastening it;
- (d) In subclause 4.3(1)(a) amend 'Part 4' to 'Part 5'.
- (e) In clause 4.3(3), delete the word 'Item' and insert 'clause' instead.
- (f) Amend clause 5.9 so that it states:

5.9 Reviews and objections

- (1) Applications for a review of the approval of a kennel establishment are contained in Part 14 of the *Planning and Development Act 2005*.
- (2) Objections and review of the issue of a licence to operate are within the provisions of Division 1 of Part 9 of the Local Government Act 1995 and regulation 33 of the *Local Government (Functions and General) Regulations 1996*.
- (g) Amend Part 6 by deleting the entire substantive content of Part 6 but retain the Heading. Insert the following provision as a new clause 6.1:

6.1 Specified Dog Areas

- (1) For the purposes of section 31 and 32 of the *Dog Act 1976*, Council shall specify a public place, or a class of public place, that is under the care, control or management of the Shire of Toodyay to be —
 - (a) places where dogs are prohibited, whether at all times or at specified times; and
 - (b) places that are designated as dog exercise areas.
- (2) The areas specified under subclause (1) are not set out in these local laws but are specified in a Council notice and adopted by Council absolute majority.
- (h) Delete the entire line for Offence 6.1 in Schedule 3.
- (i) In the Citation clause at 1.1(3) delete the following words: 'determine dog exercise and prohibited areas' and 'identifies dog exercise and prohibited areas'.
- (j) Amend the bracketed Heading in Schedule 2 from clause 5.1(2) to 5.2(1).
- (k) Amend Schedule 3, Column 1 so that the reference to Offence 5.7 is amended to 5.2.
- (l) Amend the footer to clause 7.2 by deleting '\$200' and insert instead '\$2,000.
- (m) Amend clause 8.1 titled 'Offences' so that it states:

8.1 Offences

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) A person who commits a breach of any provisions of this local law shall on conviction, be liable to a penalty not exceeding \$5,000 and if the offence is a continuing one to a further penalty not exceeding \$500 for every day or part of a day during which the offence has continued.
- (n) For dog modified penalties in Schedule 3:
 - (i) Amend Offence 3.4(1)(b) by reducing the modified penalty from \$2,000 to \$500 once clause 8.1 is amended. The modified penalties for Offences 3.4(1)(a) and 3.4(1)(a) & (b) to be retained at \$500.
 - (ii) Amend Offence 4.1 so that the modified penalty is reduced from \$1,000 to \$100.
 - (iii) Amend Schedule 3, Offence newly numbered as 5.2 by reducing the modified penalty from \$1,000 to \$500 once clause 8.1 is amended.
 - (iv) Delete the entire line for Offence 6.1.
- (o) For dangerous dogs modified penalties in Schedule 3:
 - (i) Reduce the modified penalty for Dangerous dog Offence 4.1 from \$2,000 to \$200.
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, and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0 BY ABSOLUTE MAJORITY

OFFICER'S RECOMMENDATION 2/COUNCIL RESOLUTION NO. OCM232/10/26

MOVED Cr S Van der Heyden

SECONDED Cr R Madacsi

That Council:

1. Notes the **confidential** correspondence (**Attachment 1**) received from the Joint Standing Committee on Delegated Legislation dated 8 September 2026.
2. Authorises the Shire President to sign the undertaking correspondence to the Committee.
3. Gives notice of the purpose and effect of the Dog Local Law Amendment Local Law 2027 (**Attachment 2**) under section 3.12(2) as follows:

(a)	The purpose of this local law is to amend the Shire of Toodyay Dog Local Law 2026; and
(b)	The effect of this local law is to correct drafting errors, amend provisions identified by the Joint Standing Committee on Delegated Legislation and ensure compliance with the <i>Dog Act 1976</i> .
4.	Adopts <i>Dog Local Law Amendment Local Law 2027 (Attachment 2)</i> for advertising under section 3.12(3).
5.	Authorises the CEO to undertake the statutory advertising process in accordance with section 3.12(3) of the <i>Local Government Act 1995</i> for the <i>Dog Local Law Amendment Local Law 2027 (Attachment 3)</i> .
<u>Voted For:</u>	Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills, J Prater and S Van der Heyden
<u>Voted Against:</u>	Nil
MOTION CARRIED 7/0	

The Executive Manager of Infrastructure, Asset and Services exited Council Chambers at 6:31 pm.

The Executive Manager of Infrastructure, Asset and Services returned to Council Chambers at 6:32 pm.

OFFICER'S RECOMMENDATION 3 – COUNCIL NOTICE – SPECIFIED DOG AREAS

That Council, by absolute majority, pursuant to sections 31 and 32 of the *Dog Act 1976*, adopts the Council Notice titled "Specified Dog Areas" (**Attachment 4**), with the notice to take effect upon commencement of the *Shire of Toodyay Dog Local Law Amendment Local Law 2027*, and authorises the Chief Executive Officer to publish the Notice and arrange any necessary signage changes.

MOTION/COUNCIL RESOLUTION NO. OCM233/10/26

MOVED Cr M McKeown

SECONDED Cr M Dival

That Council proceed to the next item of business.

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

Voted Against: Nil

MOTION CARRIED 6/0