

**10.4 EXECUTIVE SERVICES****10.4.1 Stage One Revisit: Shire of Toodyay Health Local Law 2026 - Initiation of Local Law process**

|                                  |                                                                                                                                                                                                             |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Date of Report:                  | 9 September 2026                                                                                                                                                                                            |
| Applicant or Proponent:          | Shire of Toodyay                                                                                                                                                                                            |
| File Reference:                  | F26/49-09                                                                                                                                                                                                   |
| Author:                          | M Rebane – Governance Coordinator                                                                                                                                                                           |
| Responsible Officer:             | A Hart – Temporary Chief Executive Officer                                                                                                                                                                  |
| Previously Before Council:       | 2 July 2026                                                                                                                                                                                                 |
| Author's Disclosure of Interest: | Nil                                                                                                                                                                                                         |
| Council's Role in the matter:    | Executive                                                                                                                                                                                                   |
| Attachments:                     | <ol style="list-style-type: none"> <li>Proposed to be advertised - DRAFT Health Local Law 2027. <a href="#">⇒</a></li> <li>Draft Local Law approved by Council on 2 July 2026; <a href="#">⇒</a></li> </ol> |

**PURPOSE OF THE REPORT**

To seek Council approval to commence the statutory local law making process under section 3.12 of the *Local Government Act 1995* for the proposed *Shire of Toodyay Health Local Law 2027* (**Attachment 1**).

**BACKGROUND**

At its Ordinary Council Meeting held on 2 July 2026, Council resolved to commence the statutory process to make the *Shire of Toodyay Health Local Law 2026*.

Following the close of the public submission period, and during the review of submissions received, it was identified that the version of the proposed local law made available for public inspection and comment was not the same version adopted by Council for advertising purposes.

A subsequent review of the adopted draft local law also identified several drafting and administrative matters requiring correction before the local law proceeds further through the statutory process. These matters include corrections to legislative references, inclusion of omitted provisions, improvements to drafting consistency, amendment of prescribed forms and renumbering.

While these amendments do not substantially alter the intent or operation of the proposed local law, they are considered necessary to ensure the local law is complete, legally robust and suitable for adoption.

As a result, it is proposed that Council recommence the local law making process under section 3.12 of the *Local Government Act 1995* using the amended draft local law.

The title of the proposed local law has been amended from the *Health Local Law 2026* to the *Health Local Law 2027* to reflect the anticipated completion of the statutory process and subsequent gazettal.

## COMMENTS AND DETAILS

The current *Health Local Law 2017* was developed largely from provisions historically contained within the *Health (Miscellaneous Provisions) Act 1911* and associated model local laws.

Since that time, Western Australia's public health framework has undergone significant reform through the implementation of the *Public Health Act 2016*, which establishes a contemporary risk-based approach to the management of public health risks and nuisances.

As part of the Shire's broader local law review program, a new *Health Local Law 2027* has been prepared to repeal and replace the existing *Health Local Law 2017*.

The proposed local law:

- aligns with the contemporary public health regulatory framework;
- adopts a clearer and more streamlined drafting structure;
- focuses on practical public and environmental health outcomes;
- avoids unnecessary duplication of State legislation;
- provides enforcement mechanisms appropriate to local government; and
- supports the protection of public health, safety and amenity within the district.

Following the advertising process undertaken in 2026, it was identified during the review of submissions that the version made available for public inspection differed from the version adopted by Council.

Further review of the adopted version identified a number of matters requiring correction and amendment, including:

- correction of the citation;
- inclusion of the purpose provision;
- inclusion of the effect provision;
- inclusion of a repeal provision;
- correction of legislative references;
- review and amendment of prescribed forms;
- renumbering and formatting amendments; and
- other minor drafting and administrative corrections.

The amendments are primarily administrative and drafting in nature and do not represent a significant change in policy direction.

The standard modified penalty of \$500 applied across the schedule aligns strictly with Western Australian local government legislation.

Under the *Local Government Act 1995*, the maximum penalty a court can issue to an offender upon conviction under these local laws is \$5,000. The Act dictates that on-the-spot infringement notices cannot exceed 10% of that total court capacity. Therefore, the \$500 figures represent the maximum enforceable limit available to the Council for standard infringements.

Given the discrepancy between the version advertised and the version adopted by Council, together with the subsequent amendments made to the draft local law, it is considered appropriate that the local law making process recommence to ensure compliance with section 3.12 of the *Local Government Act 1995* and to provide the community with the opportunity to comment on the amended draft.

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

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

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

Environmental Health Officer.

### **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:**

Costs associated with advertising, parliamentary scrutiny and gazettal can be accommodated within existing operational budgets.

### **Legal and Statutory:**

Section 3.5 provides the power for local governments to make local laws considered necessary for the good government of persons in the district.

Section 3.12 establishes the procedure for making local laws.

#### **Public Health Act 2016**

Provides the principal legislative framework for public health administration in Western Australia.

#### **Health (Miscellaneous Provisions) Act 1911**

Remains relevant in limited circumstances pending full implementation of the *Public Health Act 2016*.

#### **Local Government (Functions and General) Regulations 1996**

Provides requirements relating to notices, forms and modified penalties applicable to local laws.

### **Risk related:**

The Risk is low however failure to recommence the statutory process may create uncertainty regarding compliance with the local law making requirements because the version advertised for public comment was not the same version adopted by Council.

The review identified drafting omissions and administrative deficiencies that should be corrected before the local law proceeds towards adoption. Recommencing the process ensures these matters are addressed appropriately.

Re-advertising the amended draft demonstrates transparency, accountability and a commitment to best practice governance. The amendments do not substantially alter the policy intent of the local law. Community members will be provided with a further opportunity to review and comment on the amended draft. This report mitigates these risks.

### **Workforce related:**

Nil.

## **VOTING REQUIREMENTS**

Simple Majority

| <b>OFFICERS RECOMMENDATION/COUNCIL RESOLUTION NO. OCM226/10/26</b>                                                                                                                                                                                                                                                 |                                    |                                                                                        |                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|----------------------------------------------------------------------------------------|----------------------------|
| <b>MOVED</b> Cr M Dival                                                                                                                                                                                                                                                                                            |                                    |                                                                                        |                            |
| <b>SECONDED</b> Cr S Van der Heyden                                                                                                                                                                                                                                                                                |                                    |                                                                                        |                            |
| That Council, pursuant to section 3.12(3)(a) of the <i>Local Government Act 1995</i> , gives local public notice of its intention to make the <i>Shire of Toodyay Health Local Law 2027</i> subject to amendments being made to the modified penalties table so that the lines of these penalties read as follows: |                                    |                                                                                        |                            |
| <b>PAGE NO.</b>                                                                                                                                                                                                                                                                                                    | <b>CLAUSE</b>                      | <b>NATURE OF OFFENCE</b>                                                               | <b>MODIFIED PENALTY \$</b> |
| 9                                                                                                                                                                                                                                                                                                                  | 3.14(1)                            | Failing to licence morgue                                                              | 500                        |
| 18                                                                                                                                                                                                                                                                                                                 | 4.17(2), (3) and (4)               | Failing to comply with conditions of approval                                          | 500                        |
| 31                                                                                                                                                                                                                                                                                                                 | 5.20(a), (b), (c), (d) (e) and (f) | Failing to comply with conditions of keeping and permitting poultry to be kept         | 500                        |
| 34                                                                                                                                                                                                                                                                                                                 | 5.23(a) and (b)                    | Failing to comply with conditions of keeping or permitting to be kept pigeons or doves | 500                        |
| and invites submissions in relation to the proposed local law for a period of not less than six weeks from the date of publication of the notice, the purpose and effect of which are:                                                                                                                             |                                    |                                                                                        |                            |
| <b>Purpose</b>                                                                                                                                                                                                                                                                                                     |                                    |                                                                                        |                            |
| To protect, promote and improve public and environmental health within the district by regulating public health risks and nuisances, sanitation and housing standards, accommodation premises, public buildings and events, vectors and pests, offensive trades and associated activities.                         |                                    |                                                                                        |                            |

**Effect**

People living in, working in or visiting the district are required to comply with requirements intended to minimise public health risks and nuisances, and the local government is empowered to administer and enforce those requirements through notices, directions and penalties where necessary. be inserted after the words “make the *Shire of Toodyay Health Local Law 2027*.”

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**