



# Briefing Session

25 February 2026

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<b>SUBJECT:</b>	<b>Proposed Public Places and Local Government Property Local Law 2026</b>
<b>AUTHOR(S):</b>	Niel Mitchell, Consultant
<b>ATTACHMENTS:</b>	<ol style="list-style-type: none"><li>1. Summary of public submissions June 2025 – compiled</li><li>2. Comparison of Beach Access Local Law and proposed Public Places and Local Government Property Local Law</li><li>3. Draft Public Places &amp; Local Government Property Local Law 2026 (DLGIRS amendments only)</li></ol>

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## **Background Summary**

Local law being amended – *Public Places and Local Government Property Local Law 2026*

Approved for public comment – 26 March 2025

Advertised – as required by the *Local Government Act 1995* and Regulations

## **Comment – Department of Local Government, Industry Regulations and Safety (DLGIRS)**

Submitted – 5 May 2025

Response – 23 December 2025

Changes suggested by DLGIRS have all been incorporated. The changes –

- Clause 10.5 – Potential non-competitive clause  
*Clause 10.5(d) provides that a licence may be refused on the grounds that the needs of the district is adequately catered for by established shops or by another person with a licence to trade in the area.*  
*The Joint Standing Committee on Delegated Legislation may be concerned about this clause, as it can potentially be used in a way that unfairly protects local businesses from fair competition.*  
*In at least one case, the Committee has requested a paragraph of this kind to be deleted and it is suggested the Shire do the same.*
- insertion of new subclause 5.13(4).
- formatting correction.

It is suggested that clause 10.5(d) be deleted, since subclause (e) could arguably be used. However, if proximity was used as the basis to refuse an application, the decision to refuse could be appealed under clause 12.1 Objections and appeal, with a claim of non-competitive protection could be used.

Clause 5.13 inserted, despite being adequately covered by clause 1.8.

The changes do not affect intent or application of any clause, and are therefore not considered to be significant.

## **Comment – Public**

Nine (9) submissions received – refer **Attachment 1**. Most of the comment concerned the local law text, although not always specific provisions but more in the nature of general comment.

Preliminary assessment comments –

- (a) names and identifying information have been removed;
- (b) all submissions contain matters that relate to the use of beaches;
- (c) some submissions do include comments relating to other matters;
- (d) assessment comment is generally only be made –
  - on specific matters identified in the submission;
  - or where clarification of a matters assists in understanding;
- (e) no assessment comment is made in relation to statements of opinion, however, Council is requested to note these, as they are reflective of important community concerns.

### **Comment – Consultant**

The date of the local law is amended to 2026, as this will be the year of Gazettal, as required by the Joint Standing Committee on Delegated Legislation.

Current local laws were reviewed in early 2024. There were strong environmental concerns expressed, although not a large group made submissions.

Since it is nearly 30 years since the Beach Access Local Law was made, without amendment or review in the meantime, it would be very surprising if community feelings and concerns regarding both environmental and use/accessibility have not changed substantially.

A comparison between the *Beach Access Local Law 1997* and the proposed local law is in **Attachment 2**. It can be seen that much of the Beach Access Local Law is administrative, and does not impact on the effective provisions. Rather than duplicate these in 2 local laws, the operative provisions are included in the proposed local law.

The public submissions dealt almost exclusively with matters relating to beaches. Critical matters to consider include –

- Clause 1.6 definitions of –
  - o “beach” to include more than just the flat sandy bit next to the water
  - o “vehicle” includes trucks, motorcycles, electric scooters and bicycles etc
- Part 2 deals with future decisions of Council without amending the local law.
  - o It stipulates the matters that may be considered and the process to follow.
  - o The Parliamentary Joint Standing Committee on Delegated Legislation will not accept any changes of wording to this Part.
  - o The choice is to retain in the local law, or remove entirely, but not to amend.
- Clause 4.7(2) – one submission was concerned regarding the effect this subclause, accordingly it is suggested that beaches be excluded, unless otherwise signed.
  - o Note – as a public place, the State speed limit of 110km/hr will still apply.
- Clause 5.4 – concern was expressed regarding this clause which effectively mirrors Beach Access Local Law clauses 6 and 7.
  - o The current local law prohibits the activities and has no provision for permitting them in appropriate circumstance
  - o The proposed clause stipulates the prohibition “without a licence” giving flexibility to approve an activity that is not currently available
- Clause 5.5 – most comment either specified this clause or the comment refers to it
  - o Which beaches, is a decision for Council.
  - o The beaches in the current local law are included, and several added.
  - o There was strong but limited comment concerning environmental degradation in the May 2024 Local Laws Review. The review comments were drawn to the attention of staff, and resulted in the listing in the proposed local law.

- One area mentioned in the review submission but not included in the proposed local law is Wellstead Estuary.
- Clause 5.6 – concern was also expressed in relation to the powers of authorised persons.
  - It is a well established principle that the use of powers must be related to the performance of their duties, permitted by or are within the scope of the local law, reason and relevant to the location.
  - This could be added as a clarifying subclause if desired
- Clause 7.1 – taking or injuring fauna is not permitted, however, where a licence has been issued, either by the local government or a State department, the provisions do not apply, whether fishing, cull of kangaroos or cockatoos, or collection of samples for scientific study etc.

These and other matters are noted in **Attachment 1**.

There was concern expressed regarding licences and extent of authority of authorised persons –

- licence as defined can be as simple as an exchange of emails. A sign permitting an activity is considered a licence. Any fees or charges for a licence must be set in accordance with the Local Government Act section 6.16
  - refusal to issue a licence, or any conditions imposed are subject to objection and review under the Local Government Act s.9.4 to 9.7 and the proposed local law cl.12.1 specifically
  - right of objection and review apply to any discretionary decision under any local law
- authorised persons – have the ability to act within the parameters defined by the local law, Council or a person holding delegated power.
  - Delegated power is legally different to authorisation in that the person has the ability to decide what rules, conditions etc.
  - Authorisation and delegation are not identical.

Any change amending provisions relating to beaches will be considered a significant change and would have resulted in re-advertising, regardless of the length of time for DLGIRS to respond

### **Options**

Council has several options –

- a) discontinue the process and retain the existing local laws without change;
- b) proceed with the draft without amendment, other than those suggested by DLGIRS;
- c) remove provisions relating to beaches, in clause 5.4 to 5.8, and any consequential changes, and continuing with the Beach Access Local Law in a revised format;
  - This option would require much of the administrative detail and process requirements to be duplicated;
- d) eliminate control of vehicles on beaches in total;
  - the matters are not included in the proposed local law, and the Beach Access Local Law is repealed;
- e) review and amend the proposed local law as appropriate, considering the suggestions of DLGIRS and the submissions received.

It is considered that (e) would be the most appropriate.

Other matters Council may wish to consider the following. These do not require amendment to the draft text –

- whether or not a public meeting is considered necessary;
- parking areas to relieve pressure of vehicles accessing beaches;
- development of a detailed coastal management strategy. Recent examples include –
  - Shire of Gingin Coastal Management on the Gingin Coastline;
  - Coastal Recreation Tracks Master Plan for the Shire of Coorow, Dandaragan and Gingin.

It should be noted that management strategies are not legislative, and cannot be enforced.

**Recommendations**

1. Council proceed with Option (e) above .
2. Council review Attachment 2 and provide either confirmation or direction for redraft of each matter.
3. Council consider the other matters noted in Options (above) not affecting the draft text.