



Briefing Session – Additional Information

25 February 2026

SUBJECT: Proposed Public Places and Local Government Property Local Law 2026

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ATTACHMENTS: None

Interpretation of legislation

Essential to understanding legislation is the Interpretation Act, although in the case of these local laws, there is little impact.

Also important is how Courts are likely to interpret various terms, and guidance for some critical concepts can be found in <https://www.dlgsc.wa.gov.au/department/publications/publication/delegations> Delegations, Authorisations and Acting Through.

1. A delegation is not the same as an authorisation. A delegation provides the power for a person to make a decision as though the individual was the Council. Delegations may only be made to either committees that are established by Council in accordance with the Local Government Act, or to the CEO. There is one exception under the LG Act, and other legislation may be different, but generally, the CEO is the only individual that Council can delegate to. The CEO may then sub-delegate, but only to employees. All delegations must be reviewed annually.
2. An authorisation is the ability for a person to act within guidelines set by Council (policy or acting through) or as instructed by a senior staff member. Authorisations are not limited to employees but may be given to appropriate non-employees. An authorisation can be established once and terminate when the employee/contractor leaves. Appointment as an authorised person can be done by Council directly, or by CEO if delegated the power to do so. Particularly important for contract ranger, specialist consultants (EHO, Planner etc).
3. Acting through refers to policy or procedures set by the organisation.

Legally, some terms are applied very specifically –

- Shire – is part of the name, of the district, not the Council or the organisation.
- Council – is the elected members specifically, in session. A matter that legislation or local law says a Council must do or may do, cannot be delegated.
- Local government – can be confusing, as sometimes it means an administrative task such as sending out a form, keep a register etc. But on other occasions, if the term is used for a decision, the Department hold that the highest level decision makers in the organisation (ie: Council) should make the decision, unless that decision is delegated. Use of “local government” in this context permits delegation, being non-specific.
- District – means the geographical area.

Submissions for the proposed Public Places and Local Government Property Local Law

The submissions fall into three categories, and details have been circulated –

1. Objections to use or closure of beaches – by far the majority of comment
2. Objections to controls on beaches by authorised persons
3. Other matters

Current local laws

There are three currently enforceable local laws that have either direct or indirect application to beaches which have not been repealed, leading to sometimes contradicting provisions –

- 1) Bylaws Relating to Reserves and Foreshores (1989) –
 - clause 6 – a person cannot sell goods or hire boats etc unless in an area specified by Council (see above) and then also obtaining separate prior consent of Council – there is no capacity to delegate either decision on area or consent, and both require resolution of Council in session.
 - cl.7 – same restrictions apply to a range of other activities.
 - cl.10(c) – can't launch or recover a boat except in an area specified by Council by resolution
 - other matters must also be referred to Council for a resolution.
 - there is no capacity in the local law for matters to be delegated or acted on by an authorised person.
 - Sch.2 – defines the three prohibited areas
 - o see proposed local law cl.5.5 which has these and additional areas.
- 2) Beach Access Local Law 1997 – I
 - in contradiction to the Reserves Local Law, it specifies can't drive a vehicle, launch or recover a boat in a prohibited area, implying that everywhere else is fine.
 - exception is made for commercial fishing licences, or emergency etc vehicles.
 - o see proposed local law cl.5.4
 - no provisions for deletion of powers or for appointment of authorised person, severing restricting any enforcement. This would mean that any action would have to be through the Courts.
- 3) Local Government Property Local Law (2005), adopting the 2000 Exmouth local law by reference –
 - in the local law of adoption (2005) there is no specific reference to beaches
 - in the Exmouth local law (2000) adopted by reference, there are a number of provisions
 - cl.5.2 – power to appoint surf life savings club members as authorised persons
 - o omitted from proposed local law
 - cl.5.3 – Authorising other persons
 - o clarification of application of Local Govt Act s.9.10
 - o applies to employees and to non-employees – contract rangers, volunteers etc
 - o see proposed local law cl.5.6 and 5.7
 - cl.5.4 – persons to comply with signs and directions
 - o see proposed local law cl.5.8

General principles for permitted actions of authorised persons on beaches could be set by Council through policy, enabling easy and quick variation if needed.

There is no current Activities in Thoroughfare and Public Places Local Law, although there are limited provisions in the Reserves Local Law 1989.

Other than prohibitions of access, none of the current local laws addresses environmental issue. The proposed local law addresses environmental issues only by specifying prohibited areas in clause 5.5, and by including a definition of “*beach*”, which includes adjacent dunes, scrubland etc. This definition is only known to appear in one other local law, although the definition of “*foreshore*” in the Reserves Local Law makes some attempt.

Where possible, the proposed local law removes the need for action by Council in session, using either–

- delegations of power to make decisions, or
- authorised persons with the ability to act.

This does not remove the capacity of Council to control decisions and actions – but instead of directly, it can be done by adopting policy or guidelines that employees or contractors are required to act within. A single decision, rather than constant individual decisions. A delegation or authorisation does not require a person to act on a matter, only to act in accordance with the policy. Where appropriate, the person may choose to refer the matter to Council for decision or direction.

Accordingly, the proposed local law –

- combines relevant matters of the three out of date current local laws (all to be revoked),
- does extend some powers and prohibitions,

- as much as possible, permits decisions to be made by delegated persons or actions by authorised persons, resulting in far greater flexibility than the rigidity imposed by the Reserves and Beach Access local laws in particular.

----- *End*