



Special Council Meeting

21 May 2026

Minutes

To: The President and Councillors.

Here within are the Minutes of the Special Council Meeting of the Shire of Toodyay held on the above-mentioned date in the Shire of Toodyay Council Chambers, 15 Fiennes Street, Toodyay WA 6566.

A handwritten signature in blue ink, appearing to read 'Alan Hart', is positioned above the name and title.

Alan Hart

TEMPORARY CHIEF EXECUTIVE OFFICER

Information

Disclaimer

The business conducted at a Council Meeting may include a range of matters for consideration and decision by Council. Any discussion, statement or comment made by a Councillor or Officer during the course of the meeting is not to be taken as an indication or notice of a decision of Council unless and until a formal resolution is made.

No person should place reliance on any discussion or information contained in this agenda or arising during the meeting unless and until Council has resolved the matter and formal written notification of the decision has been issued.

Personal information contained in this agenda has been included in accordance with the Council's statutory functions and applicable legislation.

Availability of Agendas and Minutes

Information about Council Meetings, Agendas and Minutes is available on the Shire's website under Council Meetings:

<http://www.toodyay.wa.gov.au/Council/Council-Meetings>

<http://www.toodyay.wa.gov.au/Council/Council-Meetings/Agendas-Minutes-and-Notes>

Conduct of Members of the Public at Council Meetings

Members of the public attending Council meetings must comply with the Shire's meeting procedures, including the *Shire of Toodyay Standing Orders Local Law 2008*, and follow any directions given by the Presiding Member to ensure the orderly conduct of the meeting.



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Preface

When the Chief Executive Officer approves these Minutes for distribution they are in essence "Unconfirmed" until the following a Special Meeting of Council, where the Minutes will be confirmed subject to any amendments made by the Council.

The "Confirmed" Minutes are then signed off by the Presiding Person.

Attachments that formed part of the Agenda, in addition to those tabled at the Council Meeting are put together as a separate attachment to these Minutes with the exception of Confidential Items.

Confidential Items or attachments that are confidential are compiled as separate Confidential Minuted Agenda Items.

Unconfirmed Minutes

These minutes were approved for distribution on 2 June 2026.

Alan Hart

TEMPORARY CHIEF EXECUTIVE OFFICER

Confirmed Minutes

These minutes were confirmed at a meeting held on 4 June 2026.

Signed: 

Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.



1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Cr M McKeown, Shire President, declared the meeting open at 10.00am and read aloud an Acknowledgement of Country:

"I acknowledge the Ballardong Noongar people, the traditional custodians of the land where we meet today and the Yued and Whadjuk people, who are traditional custodians of respective lands within the wider Shire of Toodyay. I pay my respect to their Elders, past, present and emerging."

The Shire President read through other preliminaries.

2 RECORDS OF ATTENDANCE

Members

Cr M McKeown	Shire President
Cr M Dival	Deputy Shire President (<i>via Zoom</i>)
Cr S McCormick	Councillor
Cr R Mills	Councillor (<i>via Zoom</i>)
Cr J Prater	Councillor
Cr S Van der Heyden	Councillor

Staff

Mr A Hart	Acting Chief Executive Officer
Ms C Delmage	Acting Executive Manager Finance and Corporate Services
Mrs M Rebane	Governance Coordinator

Members of the Public

Nil.

2.1 APOLOGIES

Cr R Madacsi	Councillor
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Declarations

Cr Mills made the following declaration at 10.03am:

"I disclose under the provisions of regulation 14CA of the Local Government (Administration) Regulations 1996 that I can maintain confidentiality during the meeting or any closed part of the meeting, if required, in accordance with regulation 14CA(5)."

Cr Dival made the following declaration at 10.03am:

"I disclose under the provisions of regulation 14CA of the Local Government (Administration) Regulations 1996 that I can maintain confidentiality during the meeting or any closed part of the meeting, if required, in accordance with regulation 14CA(5)."

2.2 APPROVED LEAVE OF ABSENCE

Nil

3 DISCLOSURE OF INTEREST

Nil.

4 PUBLIC QUESTIONS

4.1 PUBLIC QUESTION TIME

Nil.

5 PUBLIC SUBMISSIONS

Nil.

6 OFFICER REPORTS

6.1 EXECUTIVE SERVICES

6.1.1 Differential Rates - Revoking a Motion

Date of Report:	20 May 2026
Applicant or Proponent:	Differential Rates
File Reference:	MTG7
Author:	A Hart – Temporary Chief Executive Officer
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Legal Advice; and (confidential) <i>Section 5.23(2)</i> <i>(4) (f) information the making public of which would be likely to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; (under separate cover)</i> 2. Special Notice of Meeting including Revocation of Motion.

PURPOSE OF THE REPORT

To consider revoking Council Resolution Number OCM021/03/26.

BACKGROUND

The Shire has had differential rating in place since 2014 and has had a checkered past in relation to the statutory compliance with imposing differential rates, with the State Administrative Tribunal quashing the Shire’s rates in the 2016/17 and 2022/23 financial year.

Differential rating is complex, involving numerous factors that must be considered when levying such rates. The process itself can be equally intricate, requiring multiple steps to ensure compliance with the *Local Government Act 1995* (the Act).

At the Ordinary Council Meeting held on 5 March 2026 Council resolved the following:

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM21/03/26

MOVED Cr S McCormick

SECONDED Cr J Prater

That Council change the method of rating from 1 July 2026 for all rateable properties from differential rates to a uniform rate in the dollar for properties valued using Gross Rental Value (GRV) and a uniform rate in the dollar for properties valued using the Unimproved Value (UV).

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

Voted Against: Nil

MOTION CARRIED 6/0

Legal advice that was sought following the March 2026 Council Meeting was received on 18 May 2026 (**Attachment 1**).

COMMENTS AND DETAILS

At the Ordinary Council Meeting held in **March 2026**, Council resolved to move toward the abolition of differential rating and adopt a uniform rating method from the 2026–2027 financial year.

Subsequent to that meeting, the Shire sought independent legal advice regarding the matters and assumptions contained within the March 2026 Council report, including the interpretation of the Shire’s historical differential rating practices and the conclusions drawn from previous State Administrative Tribunal (SAT) decisions.

That legal advice, received in May 2026, disputes key elements of the arguments relied upon in the March 2026 report, including assertions that certain differential rates were invalid or required remediation. The advice indicates that, based on the material reviewed, the Shire is not required to take corrective action in the manner contemplated by the March 2026 resolution, and that the relevant differential rate categories may be lawfully characterised under section 6.33 of the *Local Government Act 1995*.

Importantly, no action has been taken to implement the March 2026 Council decision. No changes have been made to the rate book, no public notices have been issued under section 6.36 of the Act, and no steps have been taken as part of the 2026–2027 budget process to give effect to the resolution. Accordingly, the decision remains unimplemented for the purposes of the Shire’s Standing Orders.

Under Part 15 of the Shire of Toodyay Standing Orders Local Law 2008, Council may revoke or change a previous decision where implementation has not commenced. Specifically:

- clause **15.2** restricts revocation only where a decision has already been implemented, unless accompanied by a written statement of legal and financial consequences; and
- clause **15.3(4)** expressly provides that a decision is not to be implemented where a valid notice of revocation has been given and remains undetermined.

Three Councillors have given notice of a motion to revoke the March 2026 decision (**Attachment 2**). Given the subsequent receipt of legal advice that materially alters the foundation upon which the original decision was made, it is appropriate and prudent for Council to reconsider the matter.

Revoking the March 2026 resolution at this stage:

- avoids the risk of acting on a decision that is no longer supported by legal advice;
- prevents unnecessary exposure to legal challenge or SAT proceedings;
- preserves Council’s ability to consider rating methodology afresh during the formal 2026–2027 budget process; and

- ensures that any future decision regarding rating structure is made on the basis of accurate, current and legally sound information.

Should Council revoke the decision, a further officer report can be prepared, if required, to address rating methodology options in the context of the draft 2026–2027 budget and the statutory rating process under the *Local Government Act 1995*.

IMPLICATIONS TO CONSIDER

Consultative:

Nil.

Strategic:

Plan for the future: Shire of Toodyay Council Plan 2023-2033

Outcome 9 Responsible and effective leadership and governance

9.1 Provide, strong, clear and accountable leadership

9.2 Govern Shire finances, assets and operations responsibility.

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995 s.6.33

Local Government (Financial Management) Regulations 1996 Regulation 52A

Risk related:

There are significant financial, compliance and reputational risks to be considered when raising rates as part of developing the Annual Budget. In particular, ensuring that rates and minimum payments raised and the method of doing so complies with the requirements of the *Local Government Act 1995* to ensure that rates are not quashed again. By changing the method of rating, risk is mitigated.

Workforce related:

There are no workforce related issues in changing the method of rating.

VOTING REQUIREMENTS

Simple Majority

MOTION/COUNCIL RESOLUTION NO. SCM095/05/26

MOVED Cr M McKeown

SECONDED Cr J Prater

that Council move behind closed doors at 10.06am in accordance with Section 5.23(4)(f) of the *Local Government Act 1995*.

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

Voted Against: Nil

MOTION CARRIED 6/0

MOTION/COUNCIL RESOLUTION NO. SCM096/05/26

MOVED Cr M McKeown

SECONDED Cr S McCormick

That Council move from behind closed doors at 10.33am.

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

Voted Against: Nil

MOTION CARRIED 6/0

AMENDMENT TO MOTION/COUNCIL RESOLUTION NO. SCM097/05/26

MOVED Cr M McKeown

SECONDED Cr J Prater

That a Point 4 be included to the Officer's Recommendation as follows:

4. Notes that the Shire sought legal advice regarding the differential rates charged on 25 March 2026 and received on 20 May 2026.

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

Voted Against: Nil

MOTION CARRIED 6/0

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. SCM098/05/26

MOVED Cr S McCormick

SECONDED Cr J Prater

That Council:

1. Revokes the Council resolution made at the Ordinary Council Meeting held in March 2026 (refer to attachment 2) relating to the proposed abolition of differential rating and the adoption of a uniform method of rating from the 2026–2027 financial year; and

2. Notes that resolution OCM021/03/26 had not been implemented and subsequent legal advice received in May 2026 disputes key assumptions and conclusions contained in the March 2026 Officer's report; and
3. Notes revocation is undertaken in accordance with Part 15 of the Shire of Toodyay Standing Orders Local Law 2008.
4. Notes that the Shire sought legal advice regarding the differential rates charged on 25 March 2026 and received it on 20 May 2026.

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

Voted Against: Nil

MOTION CARRIED 6/0

7 CLOSURE OF MEETING

The Shire President declared the meeting closed at 10.38am.



ATTACHMENTS MINUTES

Special Council Meeting

Thursday, 21 May 2026

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MEMORANDUM



MEMO TO: Chief Executive Officer
FROM: Shire President
DATE: 20/5/2026
FILE NO: MTG8
SUBJECT: Calling a Special Council Meeting

Administration Centre
15 Fiennes Street
PO Box 96
TOODYAY WA 6566
T (08) 9574 9300
F (08) 9574 2158
E records@toodyay.wa.gov.au
W www.toodyay.wa.gov.au

Dear CEO

This memorandum is notice, in accordance with the *Local Government Act 1995 5.4(a)(i)*, that I am calling a Special Council Meeting in the Council Chambers, 15 Fiennes Street, Toodyay as follows:

Date: 21/5/2026
Time: 10:00am

Venue: Council Chambers, Shire of Toodyay Administration Centre,
15 Fiennes Street, Toodyay WA 6566

For the purpose of :-

REVOKING COUNCIL RESOLUTION NO. OCM 21/03/26
AND ALL MATTERS RELATED THERETO.

Yours sincerely

(Sign) MV McKedown

(Print Name) MICHAEL V. MCKEDOWN
Shire President – Shire of Toodyay



MOTION TO REVOKE OR CHANGE A DECISION

Shire of Toodyay Standing Orders Local Law 2008 – Part 15
Local Government (Administration) Regulations 1996
Regulation 10(1)

Resolution Number:	OCM 021 / 03 / 26
Voting Requirement:	Simple majority
Meeting:	Ordinary Council Meeting
Meeting Date:	5 March 2026
Agenda Item Name:	10.2.4 Differential Rates
Moved by:	Cr S McCormick
Seconded By (if applicable):	Cr J Prater
Carried:	6 / 0

We, the undersigned, hereby support the motion to revoke or change a decision made at the Council Meeting described above in accordance with regulation 10 of the *Local Government (Administration) Regulations 1996* (refer to Standing Orders 15.1).

Name: MICHAEL V. MCKEOWN.....(Mover)
 Signature: MV Mcke.....
 Date: 20/5/2026.....

Name: JOHN PRATER.....(Councillor)
 Signature: [Signature].....
 Date: 20/5/2026.....

Name: SIMON VANDERHEYDEN.....(Councillor)
 Signature: [Signature].....
 Date: 26/5/2026.....