



Special Council Meeting

21 May 2026

Commencing at 10:00 AM

Agenda

Notice of Meeting.

To: The President and Councillors.

A Special Council Meeting of the Shire of Toodyay will be held at the Shire of Toodyay Council Chambers, 15 Fiennes Street, Toodyay WA 6566 on the above-mentioned date and time.

The Special Meeting of Council has been called by the Shire President.

The Special Meeting of Council is for the purpose of:

1. Revoking Council Resolution No OCM21/03/26 and all matters related thereto as per a notice received from a third of the Councillors in accordance with section 5.4 of the Local Government Act 1995.

Alan Hart

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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ATTACHMENTS can be found in the Attachments Paper on the Council website alongside this agenda.

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member is to run through the Preliminaries, and to declare the Ordinary Meeting of Council open.

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.”*

2 RECORDS OF ATTENDANCE**2.1 APOLOGIES****2.2 APPROVED LEAVE OF ABSENCE**

Nil

3 DISCLOSURE OF INTERESTS**4 PUBLIC QUESTIONS****4.1 PUBLIC QUESTION TIME****5 PUBLIC SUBMISSIONS**

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 – Chief Executive Officer
Responsible Officer:	A Hart – 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) (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;</i> 2. Special Notice of Meeting including Revocation of Motion. ↓

PURPOSE OF THE REPORT

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

BACKGROUND

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

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM001/03/26

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.

Based on that legal advice, there is no need to implement the uniform method of rating and the current practice of differential rates can be continued into the future.

As 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

OFFICER'S RECOMMENDATION

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 Council report; and
3. Notes revocation is undertaken in accordance with Part 15 of the Shire of Toodyay *Standing Orders Local Law 2008*.



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

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E records@toodyay.wa.gov.au

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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)

(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: 20/5/2026

7 CLOSURE OF MEETING