

Policy Name:	Rate Rebate Policy
Classification:	Public – Council Policy
Adopted:	28 November 2023
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Responsible Officer(s):	Executive Manager Finance and Corporate Governance
Policy and Code of Practice Manual File Ref:	CC11/382
Council File Reference:	CR24/29560
Legislation Authority:	Local Government Act 1999
Related Policies and Codes:	Strategic Rating Policy
Related Procedures:	N/A

1 INTRODUCTION

An explicit set of policies and procedures is a necessary tool for sound financial management providing the following benefits:

- 1.1 **Public accountability and transparency** – Policies and procedures publicly document the Council's position on which it will base its decisions. They demonstrate the Council's commitment to sound financial management and establish transparency for audit purposes;
- 1.2 **Ensuring a considered approach** – The formal adoption of carefully documented policies and procedures helps ensure that the Council's position on each issue has been properly considered, having regard to alternative approaches and the wider policy and statutory context;
- 1.3 **Consistency of decision making** – By adopting clear Council policies and procedures a consistent basis for decision-making over time is established. While the Council can make a decision contrary to its adopted policy, it needs a deliberate decision to do so which helps to ensure that proper consideration has been applied;
- 1.4 **Clear guidance for staff** – Explicit policies and procedures set out the required approach, responsibilities, and processes for staff to properly administer the financial business of the Council in accordance with its wishes and consistent with statutory requirements and sound financial management practices. This in turn protects staff from allegations of financial mismanagement as long as the policies and procedures are followed.

2 PURPOSE

- 2.1 The purpose of this Policy is to assist the Council in the assessment of applications received for a Mandatory and Discretionary Rate Rebate in accordance with the provisions of the *Local Government Act 1999* (the Act).
- 2.2 The *Local Government Act 1999* (the Act) sets out in Chapter 10, Division 5 (Sections 159 to 166) those provisions applicable to the Council granting a rebate of rates to persons or bodies.
- 2.3 This Policy is intended to provide guidance to the community as to the grounds upon which a person or body is or may be entitled to receive a rebate of rates and the matters that the Council will take into account in deciding an application for a rebate.
- 2.4 In accordance with the rebate provisions contained in the Act, this Policy sets out the type of use in respect of land which the Council must grant a rebate of rates and the amount that rebate must be, and those types of land use where the Council has a discretion to grant a rebate of rates.
- 2.5 This Policy should be read in conjunction with relevant provisions of the *Local Government Act 1999*.

3 DEFINITIONS

- 3.1 **Act** refers to the *Local Government Act 1999*.
- 3.2 **Mandatory Rebates** a rate rebate provided in accordance with Sections 160-165 of the *Local Government Act 1999*.
- 3.3 **Discretionary Rebates** a rate rebate provided in accordance with Section 166 of the *Local Government Act 1999*.

4 POLICY STATEMENT

A rebate of rates in respect of any rateable land in the Council area will be available only when the applicant satisfies the requirements under the Act and, where appropriate, the requirements of this policy.

5 LOCAL GOVERNMENT ACT 1999

- 5.1 Section 159(3) of the Act provides that the Council may grant a rebate of rates under the Act if it is satisfied that is appropriate to do so.
- 5.2 The Act provides for a mandatory rebate of rates in specified cases and the amount of that mandatory rebate (see clause 6 below).
- 5.3 The Act also provides that where the Council must grant a rebate of rates under the Act, and the amount of that rebate is fixed by the Act at less than 100%, the Council **may** increase the amount of the rebate. The Council will only consider any increase to the amount of the rebate upon completion of the discretionary component of a Rate Rebate application form in accordance with this policy.
- 5.4 The Act provides, pursuant to Section 166 for the Council to provide a discretionary rebate of rates, subject to the criteria set out in that Section.

6 MANDATORY REBATES

- 6.1 Pursuant to Chapter 10, Division 5 – Rebates of rates, the Council will grant a 100% rebate on the rates payable for the following specified land use:
- 6.1.1 **Health Services** – Section 160 of the Act
Land being predominantly used for service delivery or administration by a hospital or health centre incorporated under the *South Australia Health Commission Act 1976*.
 - 6.1.2 **Religious Purposes** – Section 162 of the Act
Land containing a church or other building used for public worship (and any grounds), or land solely used for religious purposes.
 - 6.1.3 **Public Cemeteries** – Section 163 of the Act
Land used for the purpose of a public cemetery.
 - 6.1.4 **Royal Zoological Society of SA** – Section 164 of the Act
Land (other than land used as domestic premises) owned by, or under the care, control and management of, the Royal Zoological Society of South Australia Incorporated.
- 6.2 Pursuant to Chapter 10, Division 5 – Rebates of rates, the Council will grant a 75% rebate on the rates payable for the following specified land use;
- 6.2.1 land being predominantly used for service delivery or administration (or both) by a community services organisation as defined by Sections 161(3) and 161(4) of the Act. It is necessary for a community services organisation to meet **all** criteria set out in Section 161(3) of the Act to be entitled to the mandatory rebate;
 - 6.2.2 land being predominantly used for supported accommodation that consists of accommodation for persons provided by a housing provider registered under the Community Housing Providers national law that is incorporated on a not-for-profit basis for the benefit of the public, other than accommodation provided by such body:
 - a) that has a principal object of the body for the provision of housing for members of the body; or
 - b) that is excluded from the ambit of this paragraph by the Minister by notice published in the Gazette.
 - 6.2.3 Land occupied by a government school under a lease or license and being used for educational purposes.
 - 6.2.4 Land occupied by a non-government school registered under the *Education and Early Childhood Services (Registration and Standards) Act 2011* and being used for educational purposes; and
 - 6.2.5 Land being used by a University or University College to provide accommodation and other forms of support for students on a not for profit basis.

- 6.3 Where Council is satisfied from its own records or from other sources that a person or body meets the necessary criteria for a mandatory 75% or 100% rebate, Council will grant the rebate. Where Council is not so satisfied it will require the person or body to apply for the rebate in accordance with this Policy.

7 DISCRETIONARY REBATES

A discretionary rate rebate may be granted by the Council at its absolute discretion up to and including 100% relief pursuant to Section 166 of the Act.

Any persons or bodies seeking a discretionary rebate, will be required to submit an application form to the Council and provide to the Council such information as stipulated on the application form and any other information that the Council may reasonably require.

- 7.1 Council may grant a rebate of rates in any of the following cases:
- 7.1.1 Where the rebate is desirable for the purpose of securing the proper development of the area (or a part of the area);
 - 7.1.2 Where the rebate is desirable for the purpose of assisting or supporting a business in its area;
 - 7.1.3 Where the rebate will conduce to the preservation of buildings or places of historic significance;
 - 7.1.4 Where the land is being used for educational purposes;
 - 7.1.5 Where the land is being used for agricultural, horticultural or floricultural exhibitions;
 - 7.1.6 Where the land is being used for a hospital or health centre;
 - 7.1.7 Where the land is being used to provide facilities or services for children or young persons;
 - 7.1.8 Where the land is being used to provide accommodation for the aged or disabled;
 - 7.1.9 Where the land is being used for a residential aged care facility that is approved for Commonwealth funding under the *Aged Care Act 1997* (Cwlth) or a day therapy centre;
 - 7.1.10 Where the land is being used by an organisation which, in the opinion of the Council, provides a benefit or service to the local community;
 - 7.1.11 Where the rebate relates to common property or land vested in a community corporation under the *Community Titles Act 1996* over which the public has a free and unrestricted right of access and enjoyment;
 - 7.1.12 Where the rebate is considered by the Council to be appropriate to provide relief against what would otherwise amount to a substantial change in rates payable by a ratepayer due to:

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- a) a redistribution of the rates burden within the community arising from a change to the basis or structure of the council's rates; or
 - b) a change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations (except where structural improvements have been made which reflects a significant rise in the Valuer-General's valuation);
- 7.1.13 Where the rebate is considered by the council to be appropriate to provide relief in order to avoid what would otherwise constitute:
- a) a liability to pay a rate or charge that is inconsistent with the liabilities that were anticipated by the council in its annual business plan; or
 - b) a liability that is unfair or unreasonable.
- 7.1.14 Where the rebate is to give effect to a review of a decision of the Council under Chapter 13 Part 2 (Internal Review of Council actions);
- 7.1.15 Where the rebate is contemplated under another provision of the Act.
- 7.2 In considering applications for a discretionary rate rebate under 7.1.4 to 7.1.10 above, Council will take into account:
- 7.2.1 The nature and extent of Council services provided in respect of the land for which the rebate is sought in comparison to similar services provided elsewhere in its area; and
 - 7.2.2 The community need that is being met by activities carried out on the land for which the rebate is sought; and
 - 7.2.3 The extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons.
- 7.3 In addition, the Council will also take into account:
- 7.3.1 The level of rebate (percentage and dollar amount) being sought and why there is a perceived need for financial assistance through a rate rebate;
 - 7.3.2 The extent of financial assistance, if any, being provided by Commonwealth or State agencies;
 - 7.3.3 Whether the applicant is:
 - a) A public sector body;
 - b) A private not-for-profit body; or
 - c) A private 'for profit' body
 - 7.3.4 Whether the applicant is in receipt of a community grant or separate financial assistance from the Council;

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- 7.3.5 The financial position of the applicant, as evidenced by their independently audited consolidated Financial Statements for the past 3 completed years;
 - 7.3.6 The financial position of the Council and the overall impact on the Council's budget;
 - 7.3.7 Any other matters and policies of the Council which the Council considers relevant.
- 7.4 In considering an application under clauses 7.1.1, 7.1.2 and 7.1.11 above, a rebate of rates may be granted for a period exceeding one (1) year but not exceeding ten (10) years.
- 7.5 In considering an application under clause 7.1.12 above, a rebate or rates may be granted for a period exceeding one (1) year but not exceeding three (3) years.

8 PENALTIES

- 8.1 Reference is made to Section 159(7) and 159(8) of the *Local Government Act 1999* which outlines that if a person or body has the benefit of a rebate of rates in accordance with this policy and the grounds on which the rebate has been granted cease to exist, the person or body must immediately inform Council of the fact and (whether or not the Council is so informed) the entitlement to a rebate ceases to exist.
- 8.2 If a person or body fails to comply with the above requirement to inform Council of a change in circumstances that lead to the entitlement to the rebate ceasing to exist, that person or body is guilty of an offence under the *Local Government Act 1999* with a maximum penalty of \$5,000.

9 APPLICATION FOR REBATE

- 9.1 The Council will inform the community of the provisions for rate rebate under the *Local Government Act 1999* by the inclusion of suitable details in the Annual Business Plan Summary distributed with the annual rate notice and by way of information on the Council Website.
- 9.2 Persons or bodies who seek a rebate of rates either pursuant to:
- 9.2.1 Section 159(4) of the Act and clause 6 of this policy; or
 - 9.2.2 Section 166 of the Act and clause 7 of this policy,
- Must make written application to the Council pursuant to Section 159(1) of the Act in the manner and form determined by the Council and supplying such information as the Council may reasonably require.
- 9.3 Application forms may be obtained from the Council's Gawler Administration Centre at 43 High Street, Gawler East, South Australia or on Council's website at www.gawler.sa.gov.au. Incomplete applications (including applicants who fail to supply all relevant information requested by the Council on the application form) will not be considered for a rebate.

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- 9.4 The Council will consider in accordance with Section 166(1a) of the Act, the following matters:
- 9.4.1 the nature and extent of Council services provided in respect of the land for which the rebate is sought in comparison to similar services provided elsewhere in the Council area; and
 - 9.4.2 the community need that is being met by activities carried out on the land for which the rebate is sought; and
 - 9.4.3 the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons.
- 9.5 In addition to requirements set out in S166(1a) of the Act, the Council may consider other matters deemed relevant by the Council including, but not limited to the following:
- 9.5.1 why there is a need for financial assistance through a rebate;
 - 9.5.2 the level of rebate (percentage and dollar amount) being sought and why there is a perceived need for financial assistance through a rebate;
 - 9.5.3 the extent of financial assistance, if any, being provided to the applicant and/or in respect of the land, by Commonwealth or State agencies;
 - 9.5.4 whether the applicant has made/intends to make application to another Council;
 - 9.5.5 whether, and if so to what extent, the applicant will be providing a service within the Council area;
 - 9.5.6 whether the applicant is a public sector body, a private not for profit body or a private or profit body;
 - 9.5.7 whether there are any relevant historical considerations that may be relevant for all or any part of the current Council term;
 - 9.5.8 the desirability of granting a rebate for more than one year in those circumstances identified at Clause 7 of this policy;
 - 9.5.9 consideration of the full financial consequences of the rebate for the Council;
 - 9.5.10 the time the application is received;
 - 9.5.11 any other matters and policies of the Council, which the Council considers relevant.
- 9.6 All persons who or bodies which wish to apply to the Council for a rebate of rates must do so on or before 30 April prior to the year of the application. The Council reserves the right to refuse to consider applications received after that date. However applications which satisfy the criteria of mandatory rebate will be granted at any time during the year of the application.

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- 9.7 The Act provides that the Council may grant a rebate of rates or charges on such conditions as the Council thinks fit. After considering these matters, the Council may refuse to grant any rebate, or may grant a rebate of rates subject to specific conditions. Retrospective rebates of rates will not be considered for prior financial years.
- 9.8 The Council may, for proper cause, determine that an entitlement to a rebate of rates under the Act no longer applies.

Where an entitlement to a rebate of rates ceases or no longer applies during the course of a financial year, the Council is entitled to recover rates or rates at the increased level (as the case maybe), proportionate to the remaining part of the financial year.

Continuing eligibility for a rebate of rates will be re-assessed annually.

- 9.9 It is an offence for a person or body to make a false or misleading statement or representation in an application or to provide false or misleading information or evidence in support of an application made or purporting to be made) under the Act.

The maximum penalty for this offence is \$5,000.

- 9.10 If a person or body has the benefit of a rebate of rates and the ground on which the rebate has been granted cease to exist, the person or body must immediately inform the Council of that fact and (whether or not the Council is so informed) the entitlement to a rebate cease. If a person or body fails to do so, that person or body is guilty of an offence.

The maximum penalty for this offence is \$5,000.

- 9.11 The council will, in writing advise an applicant for a rebate of its determination of that application within sixty (60) business days of receiving the application or of receiving all information requested of the Council. The advice will state:

9.11.1 if the application has been granted, the amount of the rebate; or

9.11.2 if the application has not been granted, the reasons why.

- 9.12 All applications for a rebate of rates will be considered on their merits.

- 9.13 Service rates and charges will not be subject to a rebate and any application for retrospective rate rebates will not be considered.

10 DELEGATION

- 10.1 The Council has delegated its power, pursuant to Section 44 of the Act, to grant applications for mandatory rebates which meet the requirements of the Act to the Chief Executive Officer, Executive Manager Finance & Corporate Governance and Manager Finance & Procurement.

- 10.2 The Council has delegated its power, pursuant to Section 44 of the Act, to determine applications and to grant a discretionary rebate of rates under the Act to the Chief Executive Officer, Executive Manager Finance & Corporate Governance and Manager Finance & Procurement.

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10.3 The Council has delegated its power, pursuant to Section 44 of the Act and clauses 10.1 and 10.2 above **except** in instances where:

10.3.1 the rates rebate is desirable for the purposes of securing the property development of the area (or a part of the area);

10.3.2 the rates rebate is desirable for the purposes of assisting or supporting a business in its area;

10.3.3 the rates rebate will conduce to the preservation of buildings or places of historic significance; or

10.3.4 the land is being used for agricultural, horticultural or floricultural exhibitions.

11 REVIEW OF APPLICATION DECISION

A person or body that is dissatisfied by a determination of Council in respect of an application for a rate rebate may seek a review of that determination by written application in accordance with Council's *Review of Council Decisions Policy* and Section 270 of the Act.

12 REFERENCES AND RELEVANT LEGISLATION

Division 5 of Chapter 10 of the *Local Government Act 1999*.

13 POLICY REVIEW

This Policy will be reviewed a biennial basis or the frequency dictated by legislation, or earlier in the event of a changes to legislation, related policies or procedures, after a general election of Council or as deemed necessary by the Executive Manager Finance & Corporate Governance.

The Policy will not be altered or substituted to affect a process already commenced.

14 FURTHER INFORMATION

Further information on this Policy, may be obtained by:

Telephone: (08) 8522 9211

Email: council@gawler.sa.gov.au

In Person: Town of Gawler Administration Centre - 43 High Street, Gawler East

Mail: PO Box 130, Gawler SA 5118

15 AVAILABILITY OF POLICY

The Policy is available to be downloaded, free of charge, from Council's website at www.gawler.sa.gov.au.

A printed copy may be purchased on request from the Council's Administration Centre.