# COUNCIL POLICY

## Rates Relief Policy (includes rebates, remissions, hardship & postponement of rates)

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| **Policy Number:** | PO060 | | |
| **Strategic Plan Objective** | Responsible Governance | | |
| **Policy Owner:** | Corporate & Community Services | **File Number:** | 7.63.1 |
| **Responsible Officer:** | Manager Financial Services | **Minute Reference:** | 158/2016 (10/08/16) |
| **Date Adopted:** | 10/08/2016 | **Next Review Date:** | August 2017 |

### 1. POLICY OBJECTIVES

The objective of this Policy is to ensure that all applications for rate relief are considered in an equal and fair manner in line with the provisions set out under the Local Government Act and this Policy.

### 2. DEFINITITIONS

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| Rebates | The refund of a portion of rates paid or payable. The full amount of annual rates are raised and billed to the ratepayer. A specified amount is then refunded back to the ratepayer. |
| Remission | The reduction of the amount of rates payable. The amount of annual rates raised is reduced by a calculated amount and the reduced amount of annual rates is billed to the ratepayer. |
| Postponement | The delay of payment of rates until a future date. Subject to any interest charges, the annual rates payable are delayed and do not become payable until a future date. |

### 3. POLICY STATEMENT

Rates are a form of taxation and provide the main revenue stream for Council to deliver services to the community.

The Local Government Act 1999 (“the Act”) sets out at Chapter 10, Division 5 (Sections 159 to 166) those provisions applicable to the Council granting a rebate of rates to persons or bodies.

Section 159(3) of the Act provides that the Council may grant a rebate of rates under the Act if it is satisfied that it is appropriate to do so.

The Act provides for a mandatory rebate of rates in specified cases and the amount of that mandatory rebate.

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.

Pursuant to Section 166 of The Act, Council may provide a discretionary rebate of rates in the cases set out in that Section.

Rate Relief will only be considered in accordance with this Policy.

## 4. PROCEDURES

### 4.1 REBATES

Mandatory Rebates

Council must under Sections 160-165 of the Local Government Act 1999 (as amended) provide mandatory rebates in the following cases.

A Mandatory rebate of 100% is applicable to:

- Land predominantly used for service delivery or administration by a hospital or health centre incorporated under the South Australian Public Health Act 2011
- Land containing a church or other building used for public worship, or land used solely for religious purposes.
- Land being used for the purposes of a public cemetery.
- 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 Inc.

A Mandatory rebate of 75% is applicable to:

- Land occupied by a government school under a lease or licence and being used for educational purposes.
- Land occupied by a non-government school registered under Part 5 of the Education Act 1972 and being used for educational purposes.
- 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
- Land predominantly used for service delivery or administration by a community service organisation as defined under Sections 161(3) & 161(4) of the Local Government Act 1999 (as amended).
- Land being predominantly used for supported accommodation that consists of accommodation for persons provided by housing associations registered under the South Australian Co-operative and Community Housing Act 1991.

Discretionary Rebates

Council has the power under Section 166 of the Local Government Act 1999 (as amended) to grant discretionary rebates in the following cases.

- The rebate is desirable for the purpose of securing the proper development of the Council area (or part thereof).
- The rebate is desirable for the purpose of assisting or supporting business within the Council area.
- The rebate will conduce to the preservation of buildings or places of historic significance.
- The land being used for educational purposes.
- The land being used for agricultural, horticultural or floricultural exhibitions.
- The land is being used for a hospital or health centre.
- The land is being used to provide facilities or services for children or young persons.
- The land is being used to provide accommodation for the aged or disabled.
- 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.

- The land is being used by an organisation which, in the opinion of Council, provides a benefit to the local community.
- The rebate relates to common property or land vested in a community corporation under the Community Titles Act 1996 over which the public has free and unrestricted access and enjoyment.
- The rebate is considered by Council to provide relief against what would otherwise amount to substantial changes in rates payable by a ratepayer due to changes in the basis or structure of the Council's rates, or a change in the basis of valuation, rapid changes in valuation or anomalies in valuations.

Section 166 (1a) outlines the issues that Council must consider in deciding whether to grant a rebate. All applications for rebates will be considered on their merits.

Applications for a rebate of rates are to be made in writing and are to be accompanied by the appropriate supporting documentation.

## 4.2 RATE CAPPING REBATE

In recognition of the Discretionary rebates of rates provisions in the Act, Council has decided to provide a "Rates Capping Rebate" pursuant to Section 166(1)(1)(ii) to provide relief against what would otherwise amount to a substantial change in rates payable by a ratepayer due to rapid changes in valuations.

Council recognizes that fluctuations in the property market on Yorke Peninsula have continued and that some properties may experience rapid increases in valuations, therefore potentially resulting in rapid increases in rates payable.

Council has also given consideration to the number of ratepayers eligible for differing forms of concessional relief in this region, in comparison with the State average, and the potential effect of rapid changes in valuations on these ratepayers and their capacity to pay.

In recognition of these factors, Council has implemented a rebate to seek to provide relief to ratepayers that experience a substantial change in rates due to a substantial change in valuation.

Pursuant to section 166 (1)(l)(ii) of the Local Government Act, Council has adopted the following rebate, conditional upon meeting the requirements listed below:

4.2.1 To provide relief against what would otherwise amount to a substantial change in rates payable by a ratepayer due to rapid changes in valuation, a rebate of general rates for the 2016/2017 financial year to be granted to the Principal Ratepayer of an Assessment under Section 166 (1) (l) of the Act, on application to Council, where the amount of any increase in rates in respect of that Assessment in monetary terms between the amount of general rates payable for the 2015/2016 financial year (after any rebate was applied) and the amount of general rates imposed for the 2016/2017 financial year is greater than 17.5%.

4.2.2 The amount of the rebate to be the amount of the increase in general rates in monetary terms imposed for the 2016/2017 financial year over and above 17.5% of the general rates charged in monetary terms for the 2015/2016 financial year (after any rebate was applied but prior to deducting any pensioner or other concessions)

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4.2.3 The rebate shall not apply where:

- any such increase is due in whole or part to an increase in valuation of the land in the Assessment because of improvements made to it worth more than $15,000 as determined by the State Valuation Office, or
- any such increase is due in whole or part to an increase in valuation of the land in the Assessment because of a rectification within the current and/or previous year of an "error of fact" by the State Valuation Office, or
- any such increase is due in full or part to the use of the land being different for rating purposes on the date the Council declared its general rates for the 2016/2017 financial year than on the date the Council declared its general rates for the 2015/2016 financial year, or
- the land use attributed to the Assessment for the 2016/2017 financial year is Commercial Use, Industry Use, Vacant Land Use or Other Use, or
- the ownership of the rateable property has changed since 1 July 2014, as this is based upon advice from the Valuer General that sales evidence up to 24 months prior to the current valuation is considered.

Applications for the rate capping rebate are to be made on Council's Rate Capping Rebate Application Form (IS089).

## 4.3 POSTPONEMENT OF RATES – Hardship

Council recognises that at various times of the year, and due to personal circumstances, some ratepayers may find themselves in situations that make it difficult to make payment of rates by the relevant due dates.

Council has adopted a Rates Postponement Scheme to provide relief to ratepayers for whom the payment of ordinary rates on the principal residence would cause hardship.

Where a ratepayer is suffering hardship in paying rates he/she is invited to contact the Senior Rates and Assessment Officer to discuss the matter.

Applications for the relief of rates due to hardship or extenuating circumstances are to be made in writing and accompanied by the appropriate supporting documentation.

**Such inquiries are treated confidentially by the Council.**

## 4.4 POSTPONEMENT OF RATES – Seniors (Section 182A of Local Government Act)

A ratepayer who holds or is in the process of applying for a State Seniors Card may apply for postponement of the Council rates payable on property they own or are buying if it is their principal place of residence (that is, the place lived in most of the time) and if no other person other than their spouse has an interest as owner of the property.

If there is a current mortgage over the property which was registered prior to 25 January 2007 the applicant is required to have at least 50% equity in your property.

If you have a mortgage that was registered after 25 January 2007 there is no restriction on the level of equity held.

The postponement of rates option does not affect any existing entitlement to a State Seniors Card or Pensioner concession, and/or Council remission on your Council rates. At least $500 of the total of the rates bill must be paid, but an application can be made for any amount in excess of $500 to be postponed. The minimum amount of $500 will be reduced by State Seniors Card concession and/or Council remissions if applicable, unless agreed otherwise.

Interest payable

If a postponement of rates occurs under this section, interest will accrue on the amount postponed at the prescribed interest rate compounded on a monthly basis. The prescribed interest rate is $P = \frac{CADR + 1\%}{12}$ where:

P = Prescribed Interest Rate

CADR = Cash Advance Debenture Rate for the relevant financial year

Penalties

Reference is also made to Sections 182A (8) and 182A (9) of the Local Government Act 1999 (as amended) which outlines that if a person has applied for the benefit of a seniors postponement of rates and entitlement to that postponement ceases to exist, the owner of the land must inform the Council in writing of that fact (unless the liability to the relevant rates has been extinguished).

If a person fails to comply with the above requirement to inform Council of a change in circumstances, that person is guilty of an offence under the Local Government Act 1999 (as amended) with a maximum penalty of $5,000. Any rates applicable on the grounds that the rebate was no longer applicable become due and payable immediately.

A person must not make a false or misleading statement or representation in an application made for seniors postponement of rates. Maximum penalty $10,000.

Applications for the postponement of rates under section 182A are to be made on Council's Application for Postponement of Rates for Seniors (SF204) and accompanied by the appropriate supporting documentation.

## 4.5 REMISSION OF FINES AND INTEREST

Council has adopted various policies relating to the remission of fines and interest raised for late payment of rates and service charges, according to the different circumstances involved, these being:

4.5.1 Fines and interest raised that are the subject of a letter receiving Council consideration:-

- Where fines and/or interest are raised on rates that are the subject of a letter before Council, fines and/or interest raised on outstanding amounts between the time of receipt of the letter and the time that the letter is replied to by Council, shall be remitted in full.

This policy shall not apply to those letters raising an objection, review or appeal in respect to a valuation, or an objection or appeal in respect of the attribution of a particular land use code.

4.5.2 Fines and interest raised due to delay of postal service in forwarding the rate payment:-

- Where a request is received by Council to waive fines and/or interest for the reason of delay between postage of payment of rates and receipt by Council of same, Council's policy is that fines and/or interest will only be waived where it can be demonstrated that the payment was posted, by way of Australia Post-date stamp or other conclusive evidence, to Council no less than three (3) working days prior to the last day to pay the instalment.

4.5.3 Fines and interest raised for the reason of non-receipt of the rate notice by the ratepayer:-

- Where a request is received by Council to waive fines and interest for the reason of non-receipt of rates notices only where it can be demonstrated that the rates notice has been returned to Council as undeliverable, due to a clerical error on Council's behalf.

4.5.4 Fines and interest raised due to clerical error on Council's part:-

- Council will remit fines and interest raised as a result of a clerical error on the part of Council.

4.5.5 Fines and interest raised due to illness, death or other extenuating circumstances that all requests made for waiving of fines and/or interest due to illness, death or extenuating circumstances be assessed by the CEO and appropriate action be taken.

## 5. APPLICATIONS

5.1 Council will inform the community of the provisions for rate rebates under the Local Government Act by the inclusion of suitable details in the brochures distributed with the annual rates notices.

5.2 Persons or bodies who seek a rebate of rates in accordance with Division 5 of the Act 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.

5.3 The Council may take into account other matters considered relevant by the Council including, but not limited to, the following –

a) why there is a need for financial assistance through a rebate;
b) the level of rebate (percentage and dollar amount) being sought and why it is appropriate;
c) the extent of financial assistance, if any, being provided to the applicant and/or in respect of the land by Commonwealth or State agencies;
d) whether the applicant has made/intends to make applications to another Council;
e) whether, and if so to what extent, the applicant is or will be providing a service within the Council area;
f) whether the applicant is a public sector body, a private not for profit body or a private for profit body;
g) whether there are any relevant historical considerations that may be relevant for all or any part of the current Council term;
h) the desirability of granting a rebate for more than one year where permitted by the Act;
i) consideration of the full financial consequences of the rebate for the Council;
j) the time the application is received;
k) the availability of any community grant to the person or body making the application;
l) whether the applicant is in receipt of a community grant; and
m) any other matters, and policies of the Council, which the Council considers relevant.
n) All persons who or bodies which wish to apply to the Council for a rebate of rates or service charges may do so at any time. Applicants which satisfy the criteria for a mandatory 100% rebate will be granted the rebate at any time.
o) The Act provides that the Council may grant a rebate of rates or service charges on such conditions as the Council thinks fit.
p) The Council may, for proper cause, determine that an entitlement to a rebate of rates or service charges under the Act no longer applies.

q) Where an entitlement to a rebate of rates or service charges 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 may be), proportionate to the remaining part of the financial year.

r) 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.

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

t) If a person or body has the benefit of a rebate of rates or service charges and the grounds 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 ceases. If a person or body fails to do so that person or body is guilty of an offence.

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

v) The Council will, in writing, advise an applicant for a rebate of its determination of that application. The advice will state –

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

x) if the application has not been granted, the reasons why.

## 6. COMPLAINTS

Complaints in relation to this policy can be directed to the Director Corporate and Community Services and will be managed in accordance with Council's PO147 Complaints Policy.

## 7. REVIEW

This policy will be reviewed every 12 months and in accordance with changes to legislation.

## 8. TRAINING

Council is committed to supporting employees in complying with this policy.

Training needs will be reviewed annually, during individual performance reviews and as necessary in consideration of any changes to legislation and relevant standards, codes and guidelines.

## 9. RELATED COUNCIL POLICIES AND DOCUMENTS

Delegation Register

## 10. REFERENCES AND LEGISLATION

Local Government Act 1999. Chapter 10, Division 5

## 11. COUNCIL DELEGATION

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| **Delegate:** | Chief Executive Officer |
| **Sub Delegate:** | Director Corporate & Community Services |

## 12. VERSION HISTORY

| **Archived Policy Name** | Policy Number | Date Adopted | Last Reviewed |
|---|---|---|---|
| Remission and Postponement of Rates | PO121 | 10/07/2007 | 08/06/2010 |
| Rates Relief Policy | PO060 | 14/08/2013 | August 2014 |
| Rates Relief Policy | PO060 | 14/10/2015 | October 2015 |