

POLICY- COUNCIL

Rate rebate policy 2021-22

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1. Document control

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2. Preamble

Where Council commits to achieving standards or requirements that are beyond those imposed by law it will endeavour to achieve those standards or requirements to the best of its ability. The contents of and the commitments that Council makes in this policy are not intended to be and should not be interpreted to be any more than a statement of the Council's general position in relation to those matters and to facilitate its aspirations wherever it is reasonable to do so

3. Policy purpose

The purpose of this policy is to assist Council in deciding applications for and to provide guidance to the community as to the grounds upon which they may be entitled to a rebate of rates in accordance with the requirements of the Local Government Act 1999 (SA) (the Act). In accordance with 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 this rebate must be and those types of land uses where the Council has discretion to grant a rebate of rates.

4. Principles

Council's policy directions are guided by the four themes that are central to achieving our vision as outlined in the Community Plan 2030: People, Place, Prosperity and Performance. Council's role is to ensure that our communities have continual access to an appropriate range of facilities and services. In all things we consider if our direction aligns with the principles that define who we are. We believe in

- putting people first
- enabling equity
- promoting strengths
- seeking to understand
- being resourceful
- encouraging investment
- working strategically towards our vision.

Council recognises that adverse economic conditions may from time to time impact on the economic base(s) within the City of Onkaparinga and will consider requests for rebates based on individual merit.

Chapter 10 of the Act empowers local government to levy rates and charges on land and provides some general principles for consideration when developing rating policies. Our Rating Policy is the lead document in respect to the application of rates within the City of Onkaparinga and provides detailed explanations of our principles and objectives.

In developing this policy Council has also given consideration to the five principles previously identified by the local government industry in the document 'Local Government Rating – A Consultation Paper, April 2001', that apply to the imposition of taxes on communities.

In summary those principles are:

- equity
- benefit
- ability-to-pay
- efficiency
- simplicity.

5. Definitions

Act	refers to the Local Government Act 1999 (SA).
Council	(with a capitalised C) refers to the elected Council body
council	(with a non- capitalised c) refers to council as the organisation.
Discretionary rebate	refers to rebates where Council may apply a rebate in accordance with criteria specified in the Act.

Mandatory rebate	refers to rebates that Council must grant in accordance with the Act.
Rating	refers to the overall process of raising revenue by way of levying rates and charges.
Rebates	refers to an amount that a rate or charge may be reduced in accordance with Chapter 10, Division 5 of the Act.

6. Detail

Consider the culture, values, principles and Community Plan with reference to relevant sections, for example: council of excellence, vibrant and resilient communities.

The Act is the principal legislative document that directs Council on the rebate of rates. The Act acknowledges that there are particular land uses that are economically disadvantaged and provide local community benefit and therefore must be offered rate relief in order to be sustainable. Further discretionary provisions allow for Council to determine whether other desirable land uses may be offered rate relief. In determining discretionary rebates primary consideration would be directed towards Council's strategic directions, budget considerations, the current economic climate and likely impacts on our communities.

The Act provides:

- for a mandatory rebate of rates in specified cases and the amount of that mandatory rebate (see section 5.2 below)
- that where 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 per cent, Council may increase the amount of the rebate
- in Section 166, for Council to provide a discretionary rebate of rates in the cases set out in that Section (see Clause 6.3 below).

6.1 RATING OBJECTIVES

In developing rating policy Council has identified and developed key principles and objectives in response to the outcomes of our community engagement activities and on-going annual reviews. For further details regarding the guiding key principles and objectives, please refer to Council's Rating Policy 2021–22.

6.2 MANDATORY REBATES

Council must grant a rebate in the amount specified in respect of those land uses which the Act provides will be granted a rebate. Rates on the following land will be rebated at 100 per cent:

- Health services (Section 160)
 - land being predominantly used for service delivery or administration by a hospital or health centre incorporated under the South Australia Health Commission Act 1976
- Religious purposes (Section 162)

- land containing a church or other building used for public worship (and any grounds) or land solely used for religious purposes
- Public cemeteries (Section 163)
 - land being used for the purposes of a public cemetery
- Royal Zoological Society of SA (Section 164)
 - 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. Rates on the following land will be rebated at 75 per cent:
- Community services (Section 161)
 - land being predominantly used for service delivery or administration (or both) by a community services organisation. A 'community services organisation' is defined in the Act as a body that:
 - is incorporated on a not for profit basis for the benefit of the public
 - provides community services without charge or for a charge that is below the cost to the body of providing the services
 - does not restrict its services to persons who are members of the body.

It is necessary for a community services organisation to satisfy all of the above criteria to be eligible for the mandatory 75 per cent rebate.

The Act further provides that eligibility for a rebate by a community services organisation is subject to the provision of one or more of the following community services as the predominate use of the land:

- emergency accommodation
- food or clothing for disadvantaged persons (i.e. persons who are disadvantaged by reason of poverty, illness, frailty, or mental, intellectual or physical disability)
- supported accommodation (i.e. residential care facilities in receipt of Commonwealth funding or accommodation for persons with mental health, intellectual, physical or other difficulties who require support in order to live an independent life), essential services, or employment support, for persons with mental health disabilities, or with intellectual or physical disabilities and also including accommodation for persons provided by housing associations registered under the Community Housing Providers National Law
- legal services for disadvantaged persons
- drug or alcohol rehabilitation services
- the conduct of research into, or the provision of community education about, diseases or illnesses, or the provision of palliative care to persons who suffer from diseases or illnesses.
- educational purposes (Section 165)
 - 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, or
- 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.

Where Council is satisfied from its own records or from other sources that a person or body meets the necessary criteria for a mandatory 100 per cent or 75 per cent rebate, Council will grant the rebate of its own initiative. Where Council is not satisfied it will require the person or body to apply for the rebate in accordance with Clause 6.4 of this policy.

Where a person or body is entitled to a rebate of 75 per cent Council may, pursuant to Section 159(4) of the Act, increase the rebate up to a further 25 per cent. Council may grant the further 25 per cent rebate upon application or on its own initiative. In either case Council will consider those matters set out at Clause 6.4 of this policy.

Where an application is made to Council for a rebate of up to a further 25 per cent the application will be made in accordance with Clause 6.4 of this policy and Council will provide written notice to the applicant of its determination of that application.

6.3 DISCRETIONARY REBATES

Council may in its absolute discretion grant a rebate of rates or service charges in any of the following cases pursuant to Section 166(1) of the Act:

1. where it is desirable for the purpose of securing the proper development of the area (or a part of the area)
2. where it is desirable for the purpose of assisting or supporting a business in its area
3. where it will be conducive to the preservation of buildings or places of historic significance
4. where the land is being used for educational purposes
5. where the land is being used for agricultural, horticultural or floricultural exhibitions
6. where the land is being used for a hospital or health centre
7. where the land is being used to provide facilities or services for children or young persons
8. where the land is being used to provide accommodation for the aged or disabled
9. where the land is being used for a residential aged care facility that is approved for Commonwealth funding under the Aged Care Act 1987 (Commonwealth) or a day therapy centre
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
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

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 due to:

- a redistribution of the rates burden within the community arising from a change to the basis or structure of the council's rates
- a change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations.

13. where the rebate is considered by the Council to be appropriate to provide relief in order to avoid what would otherwise constitute:

- 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
- a liability that is unfair or unreasonable.

14. where the rebate is to give effect to a review of a decision of the Council under Chapter 13 Part 2 of the Act (Internal Review of council actions)

15. where the rebate is contemplated under another provision of this Act Council may grant a rebate of rates up to and including 100% of the relevant rates or service charges. Council may grant a rebate for a period exceeding one year, but not exceeding 10 years in respect of those cases identified at 6.3(1), 6.3(2) or 6.3(11) above. Council has an absolute discretion:

- to grant a rebate of rates or service charges in the above cases
- to determine the amount of any such rebate.

Persons or bodies who seek a discretionary rebate will be required to submit an application form to council and provide such information as stipulated on the application form and any other information that the Council may reasonably require.

6.3.1 RATE CAPPING

In developing the rating policy for 2004–05 Council undertook a major review in full consultation with the community that resulted in structural change. The review was required to address the impact of significant valuation movements on rates paid, particularly the effect on the residential sector, which created hardship in many instances. Council identified the most appropriate mechanism to deal with this issue is to apply a rate 'cap' under the discretionary rebate provisions of Section 166(1)(l) of the Act. Rate capping has been applied since the 2004–05 rating year.

For the 2021–22 year, Council has determined that the maximum total rates payable on properties with a Residential land use will be the amount payable for 2020–21 plus 10% of that amount (noting that the amount payable includes this capping but excludes any other concession or relief), subject to specific criteria.

A rebate cap will not be applied where the rate increase is as a result of an increase in valuation recognising significant capital improvements on the property (regardless of when the development was undertaken) or where there has been a change in the land use since the commencement of the previous financial year or a change in ownership or licence to occupy during the two prior financial years. Council rebates or remissions are not included in the capping calculation process.

The rate cap will be applied automatically to properties that can be readily identified as being eligible. Where this rebate is not applied automatically, ratepayers who consider they could be eligible for the Rate Cap Rebate may lodge an application form which will be assessed against the eligibility criteria.

The application must be lodged by 31 August 2021. A copy of the Residential Rate Capping Application appears at document set ID: 4541067.

6.3.2 CWMS REBATES

In developing rating policy for the 2021–22 year, Council has determined that a rebate be applied to properties subject to Community Wastewater Management Systems (CWMS) Service charges. This rebate is to assist with the transition to the Essential Services Commission of SA (ESCOSA) full cost recovery pricing requirements.

CWMS service charge rebates will be applied where funds available within Council's CWMS Reserve are in excess of funds forecast to be required in order to manage CWMS in a financially sustainable manner. The level of service charge rebate applicable (if any) for a financial year will be approved by Council as part of the budget process for that year.

6.4 APPLICATIONS

Council will inform the community of the provisions for rate rebates under the Act by the inclusion of suitable details in the Rating policy summary distributed with the annual rate notice. Persons or bodies who seek a rebate of rates (and/or service charges) either:

- pursuant to Section 159(4) of the Act and Clause 6.1 of this policy
- pursuant to Section 166 of the Act and Clause 6.2 of this policy must make written application to council pursuant to Section 159(1) of the Act in the manner and form determined by the Council and supply information as the Council may reasonably require.

Two application forms have been developed for the convenience of ratepayers:

- Rate rebate application - designed for general rebate applications, DSID: 4541067
- Residential rate capping application - DSID: 4534626.

Both application forms are available from council's website www.onkaparingacity.com or may be obtained from council offices located at:

- Noarlunga Office, Ramsay Place, Noarlunga Centre
- Aberfoyle Park Office, The Hub, Aberfoyle Park
- Willunga Office, St Peter's Terrace, Willunga
- Woodcroft Community Centre, 175 Bains Rd, Morphett Vale
- Aldinga Office, 11 Central Way, Aldinga Beach.

In considering applications for rebates Council may take into account matters considered relevant by Council including but not limited to the following:

- the community need that is being met by activities carried out on the land for which the rebate is sought

- the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons
- why there is a need for financial assistance through a rebate
- the level of rebate (percentage and dollar amount) being sought and why it is appropriate
- the extent of financial assistance, if any, being provided to the applicant and/or in respect of the land by Commonwealth or State agencies
- whether the applicant has made/intends to make applications to another Council
- whether, and if so to what extent, the applicant is or will be providing a service within the Council area
- whether the applicant is a public sector body, a private not for profit body or a private for profit body
- whether there are any relevant historical considerations that may be relevant for all or any part of the current Council term
- the desirability of granting a rebate for more than one year in those circumstances identified at Clause 6.2 of this policy
- consideration of the full financial consequences of the rebate for Council
- the time the application is received
- the availability of any community grant to the person or body making the application
- whether the applicant is in receipt of a community grant
- any other matters and policies of Council, which are considered to be relevant.

All persons or bodies that wanted to apply to Council for a discretionary rebate for the 2021-22 year (excluding a Residential rate cap) were required to make application prior to 31 March 2021. On this basis the closing date for applications for 2022-23 is 31 March 2022. Applications received after this date will be considered for the following financial year. However, applicants who satisfy the criteria for a mandatory rebate will be granted the rebate at any time prior to 30 June 2022.

All persons or bodies that wish to apply to Council for a Residential Rate Cap Rebate are encouraged to do so as soon as possible after receipt of the annual rate notice. Early receipt of applications will assist to streamline the rebate process and reduce the quarterly payment amounts due. Applicants who satisfy the criteria for a Residential rate cap rebate will be granted the rebate provided the application is lodged prior to 31 August 2021.

The Act provides that Council may grant a rebate of rates or charges on such conditions as Council thinks fit in relation to discretionary rebates listed at Clause 6.3 of this policy.

Council delegates the authority to grant a Residential rate cap rebate under Section 166(1)(l) of the Act to the Chief Executive Officer.

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 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.

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.

If a person or body has the benefit of a rebate of rates and the grounds on which the rebate has been granted cease to exist the person or body must immediately inform Council of that fact and (whether or not 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. The maximum penalty for this offence is \$5,000.

Council will advise rebate applicants of its determination in relation to each application in writing.

6.5 REVIEW

A person or body that is aggrieved by a determination of Council in respect of an application for a rebate may seek a review of that by written application to Council within 21 days of the date of which the notice of determination is given pursuant to Clause 6.3 of this policy.

6.6 AVAILABILITY OF POLICY

It is also available for inspection, downloading or printing from our website www.onkaparingacity.com.au.

7. Attachments

DSID: 4541067 – Rate rebate application

DSID: 4534626 – Residential rate capping application

8. Relevant legislation and references

Printed documents	Council policy, Rating Policy 2021–22 Council Policy, Financial Hardship Policy Norman Waterhouse and SA Local Government Financial Management Group, 2001, <i>Rate Rebate Policies</i> . Wallmans Lawyers and SA Local Government Financial Management Group, February 2008, <i>Rate Rebate Policies</i>
Legislation	<i>Local Government Act, 1999</i> <i>Health Care Act 2008</i> <i>Community Housing Providers National Law Act 2013</i> <i>Aged Care Act 1987 (Commonwealth) Community Titles Act 1996</i>
Websites	www.onkaparingacity.com