

1. Introduction

This policy outlines the District Council of Mount Remarkable's ("the Council's") position in relation to the granting of rate rebates either by way of legislation, or at Council's discretion.

The granting of rebates redistributes the rate burden to other ratepayers.

The contents of and the commitments that the 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.

2. Policy Objectives

The objective of this policy is to assist the Council's decision making process in regard to an application 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 ("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.

3. Policy

3.1 Overview

The Council recognises that adverse economic conditions may from time to time impact on the economic base(s) within the District Council of Mount Remarkable 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 Rates Policy is the lead document in respect of the application of rates within the Council and provides detailed explanations of our principles and objectives.

In developing this policy the Council has given consideration to the five (5) main principles of taxation being:

- Equity;
- Benefit;
- Capacity to pay;
- Efficiency; and
- Simplicity.

Regional Landscape Levy

The Council is required under the Landscape South Australia Act 2019 to make a specified contribution to the Northern & Yorke Landscape Board. It does so by imposing a separate rate against all rateable properties. The levy is based on land use type and is shown as a separate charge on the rates notice. This separate rate is effectively a State tax that Councils are required to collect and return to a State Government agency, the Landscape Administration Fund. Even though it appears on the Councils' rates notice, enquiries about this component should be directed to the Landscape Board. Contact details are available on the back of rates notices.

The Act is the principal legislative document that directs the Council on the rebate of rates. The Act recognises that some particular land uses are likely to provide local community benefit and face financial challenges and provides rate relief concessions to support their financial sustainability. Further discretionary provision allows for the 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 the mandatory rebates section 4 below)
- 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 per cent, the Council may increase the amount of the rebate
- In Section 166, for the Council to provide a discretionary rebate of rates in the cases set out in that Section (see the discretionary rebates section 5 below).

4. Mandatory Rebates

The Council must grant a rebate in the amount specified in respect of those land uses which the Act provides will be granted a rebate. Persons or bodies which seek a mandatory rebate will be required to submit an application form.

Providing an application is received, rates on the following land will be rebated at 100 percent:

- **Section 160 – Rebate of Rates – health services**

The rates on land being predominately used for service delivery or administration by a hospital or health centre incorporated under the South Australian Health Commission Act 1976.

- **Section 162 – Rebate of Rates – religious purposes**

The rates on land containing a church or other building used for public worship (and any grounds), or land solely used for religious purposes.

- **Section 163 – Rebate of rate – public cemeteries**

The rates on land being used for the purposes of a public cemetery.

- **Section 164 – Rebate of rates – Royal Zoological Society of SA**

The rates on 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.

Providing an application is received, rates on the following land will be rebated at 75%

- **Section 161 – Rebate of rates – community services**

- (1) The rates on land being predominantly used for service delivery or administration (or both) by a community service organisation will be rebated at 75 per cent (or, at the discretion of the council, at a higher rate):*
- (2) If—
 - (a) a community service organisation is entitled to a rebate of rates under subsection (1); and
 - (b) the council has declared differential rates according to the use of land and thus provided for a distinct residential rate,then that residential rate must be applied to the land to which the rebate relates.
- (3) For the purposes of this section, a community services organisation is a body that—
 - (a) is incorporated on a not-for-profit basis for the benefit of the public; and
 - (b) provides community services without charge or for a charge that is below the cost to the body of providing the services; and
 - (c) does not restrict its services to persons who are members of the body.
- (4) For the purposes of subsection (3)—
 - (a) a body will not be regarded as incorporated on a not-for-profit basis—
 - (i) if a principal or subsidiary object of the body is—
 - (A) to secure a pecuniary profit for the members of the body or any of them; or
 - (B) to engage in trade or commerce; or
 - (ii) if the constitution or rules of the body provide that the surplus assets of the body on a winding-up are to be distributed to its members or to another body that does not have identical or similar aims or objects;

- (b) subject to the operation of paragraph (a), a body that receives funds from the State or Commonwealth Governments in order to subsidise its costs or charges will be taken to satisfy the requirements of subsection (3)(b) of the Act;
- (c) any of the following are community services:
 - (i) the provision of emergency accommodation;
 - (ii) the provision of food or clothing for disadvantaged persons;
 - (iii) the provision of supported accommodation;
 - (iv) the provision of essential services, or employment support, for persons with mental health disabilities, or with intellectual or physical disabilities;
 - (v) the provision of legal services for disadvantaged persons;
 - (vi) the provision of drug or alcohol rehabilitation services;
 - (vii) 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;
- (d) disadvantaged persons are persons who are disadvantaged by reason of poverty, illness, frailty, or mental, intellectual or physical disability.

It is necessary for a community service organisation to satisfy all of the criteria contained in the Act to be entitled to the mandatory 75% rebate.

- **Section 165 – Rebate of rates – educational purposes**

- (1) The rates on land—
 - (a) occupied by a government school under a lease or licence and being used for educational purposes; or
 - (b) occupied by a non-government school registered under the Education and Early Childhood Services (Registration and Standards) Act 2011 and being used for educational purposeswill be rebated at 75 per cent (or, at the discretion of the council, at a higher rate).
- (2) The rates on 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 will be rebated at 75 per cent (or, at the discretion of the council, at a higher rate).

Where a person or body is entitled to a rebate of 75% the Council may, pursuant to Section 159(4) of the Act, increase the rebate by up to a further 25%. The Council may grant the further 25% rebate upon application or on its own initiative. Where an application is made to the Council for a rebate of up to a further 25% the application will be made in accordance with the discretionary rebate section of this policy and the Council will provide written notice to the applicant of its determination of that application. Please refer to the Discretionary Rebates section.

Where the Council is satisfied from its own records or from other sources that a person or body meets the necessary criteria for a mandatory 100% or 75% rebate, the Council will grant the rebate at the meeting of the Council in which rates are adopted.

5. Discretionary Rebates

The 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:

- a) where the rebate is desirable for the purpose of securing the proper development of the area (or a part of the area);
- b) where the rebate is desirable for the purpose of assisting or supporting a business in its area;
- c) where the rebate will conduce to the preservation of buildings or places of historic significance;
- d) where the land is being used for educational purposes;
- e) where the land is being used for agricultural, horticultural or floricultural exhibitions;
- f) where the land is being used for a hospital or health centre;
- g) where the land is being used to provide facilities or services for children or young persons;
- h) where the land is being used to provide accommodation for the aged or disabled;
- i) 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;
- j) 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;
- k) 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;
- l) 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:
 - a redistribution of the rates burden within the community arising from a change to the basis or structure of the council's rates; or
 - a change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations;
- m) where the rebate is considered by the council to be appropriate to provide relief against 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
- n) where the rebate 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)
- o) 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 5(a), 5(b) or 5(k) a rebate of rates and charges under Sub Section 5(l) may be granted for a period exceeding 1 year but not exceeding 3 years.

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, to a maximum of 100% of the relevant rate or service rate.

The Council may take into account, but is not limited to, the following:

1. why there is a need for financial assistance through a rebate;
2. the level of rebate (percentage and dollar amount) being sought and why it is appropriate;
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;
4. whether the applicant has made/intends to make application to another Council(s) where it is the ratepayer;
5. whether, and if so to what extent, the applicant is or will be providing a service within the Council area;
6. whether the applicant is a public sector body, a private not for profit body or a private for profit body;
7. whether there are any relevant historical considerations that may be relevant for all or any part of the current Council term;
8. the desirability of granting a rebate for more than one year in those circumstances identified at Clause 4.2 of this policy;
9. consideration of the full financial consequences of the rebate for the Council;
10. the time the application is received;
11. the availability of any community grant to the person or body making the application;
12. whether the applicant is in receipt of a community grant; and
13. any other matters, and policies of the Council, which the Council considers relevant.

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

6. Recreation Grounds Rates & Taxes Exemption

The Recreation Grounds Rates and Taxes Exemption Act 1981 exempts certain land used for sport or recreation in South Australia from rates and taxes. Such land is, therefore, not rateable pursuant to section 147(d) of the Recreation Grounds Rates and Taxes Exemption Act 1981.

To be eligible for exemption conferred by the Recreation Grounds Rates and Taxes Exemption Act 1981, the land in question must satisfy the criteria in Section 4(a)(b) or (c) and in respect of Section 4 (a) and (b) all of the income that is derived from the land (if any) by a Council, trustees or an association must be applied towards the maintenance, repair or improvement of the land.

To assist with determining whether or not the land is used for sport or recreation, the Council will have regard to the land use codes utilised by the Office of the Valuer-General. Specifically, land to which the land use codes 7100 to 7900 (excluding 7510 and 7520) apply will be assessed by Council, unless there is evidence to the contrary, as land used for sport and recreation.

Entities must apply to Council in writing for an exemption setting out the reasons eligibility is considered to arise in the circumstances. Applications should be accompanied by supporting documentation and should include the following information:

- details of the applicant including name and contact details;
- details of the owner of the land including
 - a copy of the certificate of title; and
 - where the land vests in a trust, a copy of the trust deed; or
 - where the land vests in an association, a copy of the constitution or rules of the association;
- the use to which the land is put;
- whether the public is entitled to access the land and if so, whether access is restricted in any way, and details of any instrument conferring public access rights;
- details of income derived from the land and supporting certified financial statements that evidence income and expenditure over the last 12 months,

Even if an organisation/club does not qualify for an exemption under the Recreation Grounds Rates and Taxes Exemption Act 1981 it may still apply for a discretionary rate rebate. Please refer to the Rates Fact Sheet 01 Recreation Grounds Rates & Taxes Exemption available on the Council's website (www.mtr.sa.gov.au) or at the Council office for further information.

7. Rebate Applications

Persons or bodies who seek a rebate of rates must make a written application. Applicants may first make contact with the Council's Rates Officer to discuss the application process. Applications must be received before 30 April each year in order to be considered for the following financial year.

The Council will notify the applicant if their request is not granted, otherwise the rebate will appear on their rate notice.

8. Penalties

There are penalties for making false statements and for failing to advise Council of changes in circumstances which would remove the entitlement to a rebate. See Section 159 of the Act.

Section 159 of the Act also allows Council to recover the rates if it determines that the rebate no longer applies. If the rebate ceases to apply for the whole of the financial year, Council will reverse the whole of the rebate and send a rate notice as soon as possible, giving the ratepayer 30 days to pay. If the rebate ceases to apply for part of the financial year, the rebate will be reversed for that portion of the year and a rate notice will be sent to the ratepayer as soon as possible giving 30 days to pay. Council will, in writing, as soon as possible after the decision is made terminating the rebate, advise the applicant of this determination.

9. 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 5 of this policy.

10. Records Management

All records should be treated in accordance with the Local Government Act 1999 and the State Records Act 1991.

11. Legislation

- Local Government Act 1999
- Health Care Act 2008
- Community Housing Providers National Law Act 2013
- Aged Care Act 1987 (Commonwealth)
- Community Titles Act 1996
- Recreation Grounds Rates and Taxes Exemption Act 1981
- Landscape South Australia Act 2019

12. Relevant Documents

- Rates Fact Sheet 01 Recreation Grounds Rates & Taxes Exemption
- Rate Rebate Application

13. Document administration and control

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| Policy title: | Rate Rebate Policy |
| Policy number: | 04.77 |
| Policy type: | Council / Governance |
| Responsible Officer | Director Community & Corporate |
| Committee Review: | Audit & Risk Committee May 2023 [033-2023] |
| First issued / adopted: | May 2021; 101-2021 |
| Review period: | Reviewed within 12 months following the conclusion of a periodic election, inline with legislative changes or by resolution of Council. |
| Last reviewed: | 18 May 2021; 103-2021 19 July 2022; 149-2022 20 June 2023; 113-2023 |
| Next review date: | July 2027 |
| Version: | Version 3 |
| Date revoked: | N/A |
| Applicable legislation: | Refer Section 11 of Policy |
| Related documents: | Refer Section 12 of Policy |
| Public consultation required / undertaken: | Yes |
| Availability | <p>This Policy is available for inspection at the Council office and any person may obtain a copy of this Policy upon payment of the fee fixed by Council in accordance with Council's Fees and Charges adopted each financial year. It is also available on Council's website www.mtr.sa.gov.au.</p> <p>Any grievance in relation to this policy or its application should be forwarded in writing to the Chief Executive Officer of the Council.</p> |
| File reference: | 4. Policy Manuals /Current Policy Manual |