



Rate Rebate Policy

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Responsible Officer:	Chief Executive Officer Director Corporate Services Rates & Property Officer
Applicable Legislation:	Local Government Act 1999 Sections 159 to 166
Related Policies/Procedures:	Rating Policy Mobile Garbage Bin Collection and Disposal Service Policy Internal Review of a Council Decision Procedure

1. PURPOSE:

The Kingston District Council is committed to the fair and responsible granting of rebate of rates within its Council area. Council will consider the impact of granting rebates on its ratepayers, whilst ensuring compliance with its legislative duties.

This policy is intended to provide guidance to the community on where a ratepayer may be considered for a rebate of rates, and the matters that the Council will take into account in deciding an application for a rebate.

2. LEGISLATIVE CONTEXT:

2.1 Section 159 to Section 166 of the Local Government Act 1999 (“the Act”), provides duties and powers to Council to grant rebates on rates:

- 2.1.1 where it is satisfied that it is appropriate to do so;
- 2.1.2 where requirements are met for a mandatory rebate;
- 2.1.3 where Council determines a discretionary rebate is appropriate.

3. SCOPE:

This policy applies to any granting or consideration of rebates relating to rates and/or service charges.

4. MANDATORY REBATES:

4.1 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.

4.2 Rates on the following land will be rebated at **100%**:

4.2.1 **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;

4.2.2 **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;

4.2.3 **Public cemeteries** (Section 163) - Land being used for the purposes of a public cemetery;

4.2.4 **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.

4.3 Rates on the following land will be rebated at **75%**:

4.3.1 **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 –

4.3.1.1 is incorporated on a not for profit basis for the benefit of the public; **and**

4.3.1.2 provides community services without charge or for a charge that is below the cost to the body of providing the services; **and**

- 4.3.1.3 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 entitled to the mandatory 75% rebate.

The Act further provides that eligibility for a rebate by a community services organisation is subject to it providing one or more of the following community services –

- 4.3.1.4 emergency accommodation;
- 4.3.1.5 food or clothing for disadvantaged persons (i.e., persons who are disadvantaged by reason of poverty, illness, frailty, or mental, intellectual or physical disability);
- 4.3.1.6 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);
- 4.3.1.7 essential services, or employment support, for persons with mental health disabilities, or with intellectual or physical disabilities;
- 4.3.1.8 legal services for disadvantaged persons;
- 4.3.1.9 drug or alcohol rehabilitation services; or
- 4.3.1.10 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.

4.3.2 **Educational Purposes** (Section 165)

- 4.3.2.1 land occupied by a government school under a lease or licence and being used for educational purposes; or
- 4.3.2.2 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; or
- 4.3.2.3 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.

- 4.4 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 of its own initiative.

- 4.5 Where the Council is not so satisfied it will require the person or body to apply for the rebate in accordance with Clause 6 of this policy.
- 4.6 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 a further 25% at its discretion in accordance with clause 5 of this policy. The Council may grant the further 25% rebate upon application or on its own initiative. In either case the Council will take into account those matters set out at clause 6.3 of this policy and may take into account any or all of those matters set out at clause 6.4 of this policy.

5. DESCRETIONARY REBATES:

- 5.1 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 of the Act –
- 5.1.1 where it is desirable for the purpose of securing the proper development of the area (or a part of the area) (Section 166 (a));
 - 5.1.2 where it is desirable for the purpose of assisting or supporting a business in its area (Section 166 (b));
 - 5.1.3 where it will be conducive to the preservation of buildings or places of historic significance (Section 166 (c));
 - 5.1.4 where the land is being used for educational purposes (Section 166 (d));
 - 5.1.5 where the land is being used for agricultural, horticultural or floricultural exhibitions (Section 166 (e));
 - 5.1.6 where the land is being used for a hospital or health centre (Section 166 (f));
 - 5.1.7 where the land is being used to provide facilities or services for children or young persons (Section 166 (g));
 - 5.1.8 where the land is being used to provide accommodation for the aged or disabled (Section 166 (h));
 - 5.1.9 where the land is being used for a residential aged care facility that is approved for Commonwealth funding under the Aged Care Act 1997 (Commonwealth) or a day therapy centre (Section 166 (i));
 - 5.1.10 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 (Section 166 (j));
 - 5.1.11 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 (Section 166(k));
 - 5.1.12 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 due to a change in the basis of valuation used for the purposes of rating, rapid changes in valuations, or anomalies in valuations (Section 166 (l));

5.1.13 where the rebate is considered by the Council to be appropriate to provide relief in order to avoid what would otherwise constitute a liability to pay a rate or charge what is inconsistent with the liabilities that were anticipated by the Council in its annual business plan or a liability that is unfair or unreasonable (Section 166 (m));

5.1.14 where the rebate is to give effect to a review of a decision of the Council under Chapter 13 Part 2 (Section 166 (n));

5.1.15 where the rebate is contemplated under another provision of this Act (Section 166 (o)).

5.2 The Council has absolute discretion:

- to grant a rebate of rates in accordance with clause 5.1 of this policy; and
- to determine the amount of any such rebate (which may be up to and including 100%).

5.3 Persons who or bodies which seek a discretionary rebate will be required to submit an application in accordance with clause 6 of this policy.

6. APPLICATIONS:

6.1 Persons or bodies who seek a rebate of rates must make written application to the Council by completing the required application form and providing any information as the Council may reasonably require.

6.2 Application forms may be obtained from the Council office located at 29 Holland Street, Kingston and from Council's website www.kingstondc.sa.gov.au.

6.3 The Council will take into account, in accordance with the Act, the following matters:

- 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's area;
- the community need that is being met by activities carried out on the land for which the rebate is sought; and
- the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons.

- 6.4 The Council may take into account other matters considered relevant by the Council including, but not limited to, the following:
- 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 or profit body;
 - whether there are any relevant historical considerations that may be relevant for all or any part of the current Council term;
 - the availability of granting a rebate for more than one year (where available in accordance with legislation);
 - consideration of the full financial consequences of the rebate for the 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; and
 - any other matters, and policies of the Council, which the Council considers relevant.
- 6.5 All persons who or bodies, who wish to apply to the Council for a rebate of rates must do so on or before 30 April each year. This does not prevent Council from considering applications at any other time on its merits.
- 6.6 The Act provides that the Council may grant a rebate of rates or charges on such conditions as the Council thinks fit.
- 6.7 The Council will, in writing, advise the applicant of its determination.
- 6.8 The Council may determine that an entitlement to a rebate of rates under the Act no longer applies. Where an entitlement to a rebate of rates 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.

- 6.9 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.
- 6.10 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 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. The maximum penalty for this offence is \$5,000.

7. DELEGATION:

- 7.1 Council has not delegated its power, pursuant to Section 44 of the Act to determine applications and grant discretionary rebates of rates in accordance with Section 166 of the Act, with the exception of Section 166 (l)(ii), which has been delegated to the Chief Executive Officer (or his/her nominees) to determine applications for rate capping rebates in accordance with Council's Rating Policy.

8. REVIEW OF DECISION:

A person who or a body which is aggrieved by a determination of the Council in respect of an application for a rebate may seek a review of that decision in accordance with the Council's *Internal Review of a Council Decisions Procedure* within thirty (30) days of the date of the notice of determination.

9. AVAILABILITY OF THE POLICY:

This policy will be available for inspection at the Council's principal office, 29 Holland Street Kingston SE, during ordinary business hours and on Council's website: www.kingstondc.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon such payment of the fee set by Council.