

## Debt Recovery & Financial Hardship Policy

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Applicable Legislation	Local Government Act 1999 Local Government (Financial Management) Regulations 2011
Related Policies	Community Wastewater Management Scheme (CWMS) Hardship Policy Rating Policy
Related Documents	Financial Hardship Application Form Payment Arrangement Application Form Community Wastewater Management Scheme Customer Service Charter

### 1. Policy Objective

The objective of this Policy is to ensure that all applications for rate relief and debt management are considered in a consistent, equal and fair manner in line with the provisions set out under the Local Government Act 1999 and this Policy.

### 2. Policy Statement

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. Rates relief will only be considered in accordance with this Policy.

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### **3. Definitions**

**Financial Hardship** - A person experiencing hardship generally includes, but is not limited to; suffering through a difficult circumstance, family tragedy, financial misfortune, serious illness, or impacts of natural disaster.

**Rebates** - The reduction in rates in accordance with the rebate provisions of the Local Government Act 1999.

**Remission and Remittance** - The reduction of the amount of rates payable in accordance with the remission and postponement of payment provision of the Local Government Act 1999.

**Senior Postponement** - The delay of payment of rates until a future date for Seniors. Subject to interest charges, the annual rates payable are delayed and do not become payable until a future date.

### **4. Debt Management**

The following will be applied to all debts (rates and sundry debtors) over \$200 that is not in dispute which have been outstanding for sixty (60) days:

1. First reminder letter will be forwarded, requesting payment within twenty one (21) days, or to contact Council to enter into a payment arrangement (the application form can be accessed via Council's website [www.coorong.sa.gov.au](http://www.coorong.sa.gov.au). Alternatively, a copy may be obtained from any of our Customer Service Centres).
2. Second letter of demand for payment within fourteen (14) days will be forwarded.
3. Account forwarded to Council's external debt collection agency after further fourteen (14) days.

### **5. Disputing a Sundry Debt**

In the event that a sundry debt is in dispute, the debtor may lodge a complaint in writing.

## **6. Rebates**

### **6.1 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 the Education and Early Childhood Services (Registration and Standards) Act 2011 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.

### **6.2 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;

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- 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.

### **7. Applications**

Council will inform the community of the provisions for rate rebates under the Local Government Act by the inclusion of suitable details in the Annual Business Plan. Persons or bodies who seek a rebate of rates in accordance with Division 5 of the Act must make written application every five (5) years 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.

Council may take into account other matters considered relevant, 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 application 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 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.

All persons or bodies which wish to apply to 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.

The Act provides that Council may grant a rebate of rates or service charges on such conditions as Council thinks fit.

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Council may, for proper cause, determine that an entitlement to a rebate of rates or service charges under the Act no longer applies.

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.

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 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 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, in writing, advise an applicant for a rebate of its determination of that application. The advice will state:

- if the application has been granted, the amount of the rebate; or
- if the application has not been granted, the reasons why.

### **Property Valuation Objection**

As rates are based on property value, prior to lodging any application for deferment or postponement, the ratepayer should first determine if they consider their valuation to be a fair assessment of their property.

**If the valuation is considered to be incorrect, an objection to valuation must be lodged through the State Valuation Office within 60 days after the service of the first rate notice for the current year.**

## **8. 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 this Policy 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, they are invited to contact Council's Finance Officer - Rates 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.

**All such inquiries are treated confidentially by Council.**

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### **9. 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 the property.

If the mortgage 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 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.

#### 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  $P = \frac{\text{CADR} + 1\%}{12}$  where:

*P = Prescribed Interest Rate*

*CADR = Cash Advance Debenture Rate for the relevant financial year as advised by the Local Government Finance Authority*

#### 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 and accompanied by the appropriate supporting documentation.

**10. Remittance of Fines and Interest**

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

**10.1 Fines and interest raised due to the delay of rate payment delivery via Australia Post:**

- Where a request is received by Council to remit fines and/or interest due to the delay in delivery of payment Council's policy is that fines and/or interest will only be remitted where it can be demonstrated that the delay was caused by Australia Post.

**10.2 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 remit 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 an administrative error by Council.

**10.3 Fines and interest raised due to an administrative error by Council**

**10.4 Fines and interest raised on rates and unable to be paid due to illness, death or whereby financial hardship is demonstrated**

All requests for remittance of fines and/or interest must be made in writing to Council with relevant supporting documentation attached.

The following Council officers are permitted to authorise remission of fines and interest in accordance with this Policy:

- Chief Executive Officer: up to and including \$500
- Director Community & Corporate and Finance Officer – Rates: up to and including \$20

The Chief Executive Officer has final discretion on the remittance of fines and interest.

**11. Sale of Property for Non-Payment of Rates**

In accordance with Section 184 of the Local Government Act 1999, Council may sell land for the non-payment of rates where the ratepayer has not applied for and been granted waiver or remission of the overdue rates by Council.

The Director Community & Corporate will report to Council any rate assessments that have remained unpaid following implementation of recovery action as detailed above and are in arrears for three (3) years or more. Council will give the Director Community & Corporate direction on recovery action pursuant to Section 184 of the Local Government Act 1999 on presentation of such a report.

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### **12. Complaints & Appeals**

Complaints will be considered in accordance with Council's complaints and grievance procedures and Sections 270 and 271 of the Local Government Act 1999. A copy of the Complaints Handling Policy can be found at [www.coorong.sa.gov.au](http://www.coorong.sa.gov.au). Complaints should be forwarded to Council in writing, addressed to the Chief Executive Officer.

If you are not satisfied with the outcome of your complaint you may contact the Ombudsman SA on (08) 8226 8699 or email [Ombudsman@ombudsman.sa.gov.au](mailto:Ombudsman@ombudsman.sa.gov.au)

### **13. Further Information and Policy Review**

This Policy will be reviewed every three (3) years in line with Council's Policy Framework or as necessary due to relevant legislation changes and/or Government recommendations.

This Policy will be available for inspection at the Council offices listed below during ordinary business hours. Alternatively, it can be accessed via Council's website [www.coorong.sa.gov.au](http://www.coorong.sa.gov.au).

#### **Coorong Civic Centre**

95 - 101 Railway Terrace  
PO Box 399  
Taillem Bend  
Phone: 1300 785 277  
Fax: 8572 3822

#### **Meningie Information Hub**

49 Princes Highway  
Meningie

#### **Tintinara Customer Service Centre**

37 Becker Terrace  
Tintinara