

SUBJECT: <i>RATES & CHARGES POLICY</i>	FILE NO:	FIN/0701 FIN/1207
ADOPTED BY COUNCIL ON: 26 th July 2012	MINUTE NO:	220.07.2012
AMENDED BY COUNCIL ON:	MINUTE NO:	

1 INTRODUCTION

- 1.1 In Tasmania, municipal rates are a form of property tax levied by Local Government entities as the primary source of funding for the many mandatory and discretionary services that they provided. The rating process is administered by the *Local Government Act 1993* (the LG Act) which allows some flexibility for each council to make decisions that best suit its local community.
- 1.2 This policy meets the requirements of section 86B of the LG Act, which states each council must prepare and adopt a 'Rates and Charges Policy' by 31 August 2012 and review that policy at the end of each successive four-year period after that date.
- 1.3 For the 2017/18 financial year the Flinders Council (Council) has been subjected to a municipal wide revaluation by the Valuer General as part of a 6-year revaluation cycle. Given the resultant movements in property values and as part of a continuous improvement process, at the April 2017 Ordinary Meeting of Council it was resolved to undertake a thorough review of Council's rating system and with it a review of Council's Rates and Charges Policy.

2 OBJECTIVES & PRINCIPLES

- 2.1 The objectives of this policy are to outline Council's approach to determining and collecting rates from its community.
- 2.2 Rates constitute taxation for the purposes of Local Government, rather than a fee for service. As such, the total amount of rates paid may not directly relate to or reflect the services used by each individual ratepayer.
- 2.3 Property values (as determined by the Office of the Valuer-General) play an important role in determining how much each individual ratepayer contributes to the cost of delivering Council services and activities. The LG Act advances the principles that the value of rateable land is an indicator of the capacity of the ratepayer in respect of that land to pay rates (s.86A(1)(b)). As such, the higher the value of the property the higher the capacity of the ratepayer of that property to pay municipal rates.
- 2.4 As rates constitute taxation there are a number of principles of taxation that apply and need to be considered. These principles include the following:
 - (a) The Equity Principle

There are two parts to the Equity Principle namely:

 - The 'Capacity to Pay Principle'; the higher the value of the property the higher the rates paid.
 - The 'Benefit Principle': ratepayers should receive some benefits from paying rates but that benefit will not necessarily be directly commensurate to the amount of rates paid. The use of a 'fixed charge' or a 'minimum amount payable' are typical examples.

- (b) User Pays Principle
He who uses the service pays. A Waste Collection Service is a typical example of this.
- (c) The Efficiency Principle
Does the rating system significantly distort property ownership and development decisions? In this respect, local government rating is typically modest compared to other costs associated with acquiring and holding property.
- (d) The Simplicity Principles – (Administratively and Compliance Simplicity).
Rates must be easy to understand, hard to avoid and easy to collect.

2.5 Excepting land which is subject to specific exemptions (see s.87 of the LG Act), all land within Council's municipal area is rateable land. In addition to using a general rate, Council also raises revenue through fees and charges which are set by giving consideration to the cost of the service provided and any equity issues.

3 SCOPE

3.1 This policy covers the following subject matters:

- (a) The relationship between Council's strategic plans, its budget and rates structure;
- (b) Council's revenue raising powers;
- (c) Method used to value land;
- (d) Adoption of valuations;
- (e) Fixed Charge vs Minimum Rate;
- (f) Concessions;
- (g) Discounts;
- (h) Payment of rates;
- (i) Late payment of rates;
- (j) Recovery of Rates;
- (k) Sale of land for non-payment of rates;
- (l) Remission and postponement of rates; and
- (m) Rebate of rates.

4 PROCEDURE

Strategic Focus

- 4.1 Council is faced with balancing its service levels, the needs and expectations of the Community and setting appropriate taxation levels to adequately resource and fulfil its roles and responsibilities.
- 4.2 In determining rates for the financial year Council gives primary consideration to:
 - (a) Council's Strategic Plan;
 - (b) the requirements of the LG Act;
 - (c) current economic climate; and
 - (d) likely impacts on the Community.

The resources required to successfully achieve this outcome are documented in Council's Annual Plan.

The General Rate

- 4.3 Council considers the best combination for the making of General Rates is one that is based on two components; namely one which is based on the value of rateable land and the other which is a fixed charge. This combination best reflects the Capacity to Pay and Benefit Principles as outlined in section 2.4(a) of this policy and provides the fairest and most equitable method of charging rates to the Community.
- 4.4 Council considers that the imposition of a fixed charge component is the most fair and equitable means of ensuring that all ratepayers contribute in part on an equal, non-discriminatory basis, for the availability of a range of infrastructure, services and actions that Council provides.
- 4.5 From an equity or fairness consideration the use of a fixed charge is preferable to a minimum rate. A minimum rate arbitrarily assigns a minimum amount to a property but it only applies to a percentage of properties as determined under the LG Act. By contrast, a fixed charge treats everyone equally because, to a degree, all ratepaying properties are considered to derive similar benefit from all of the services and activities of Council.
- 4.6 Council adopts the Capital Value (CV) method as determined by the Valuer-General as the valuation method to be used in determining rates. Council considers that the CV method of valuing land provides a fair method of distributing the rates burden across all ratepayers on the following basis:
- (a) Rates constitute a system of taxation and the capacity to pay aspect of the equity principle of taxation requires that ratepayers of similar wealth pay similar taxes and ratepayers of greater wealth pay more tax than ratepayers of lesser wealth. Property value is the legislated indicator of wealth, and the assessed capital value is reflective and a strong indicator of the overall market value of a property.
 - (b) Essentially, CV is more representative of a ratepayer's capacity to pay under the LG Act. This can be contrasted with Assessed Annual Value (AAV) which is essentially a theoretical rental value. There are also no distortions due to artificial minimum caps imposed under AAV and the data that underpins the valuation is more transparent.
 - (c) Being much easier to explain to ratepayers is an advantage and a change which is in line with the State Government's desire to eventually eliminate AAV as a valuation basis and ultimately reduce the revaluation costs for all councils.

Service Charge

- 4.7 Council considers that the fairest means to charge for waste infrastructure is as part of the General Rate because this service forms just one of many activities that Council undertakes and should not be singled out. Were it to be singled out, only a small percentage of the costs should be recovered as a rate or charge.
- 4.8 Council considers that waste collection services, if provided, would be more equitably funded through the imposition of a waste service charge. This accords with the User Pays Principle set out in section 2.4(b) of this policy. If applied it would be set as a service charge and only levied on those properties that are actually supplied with a waste collection service, the form and frequency of which would be determined by Council.

Differential Rating

- 4.9 Under the LG Act Council is able to vary by declaration a different general rate, service rate or service charge in different parts of the municipal area according to a variety of factors. These include but are not limited to the use or predominant use of land, the non-use of land and any other prescribed factor which includes adoption of Land Use Codes that are provided to the councils by the Valuer-General and published on the internet by the Tasmanian Government as part of the Land Information System Tasmania (see r.33 of the *Local Government (General) Regulations 2015*).
- 4.10 Council has decided that the General Rate will be varied for all Non-Vacant Commercial and Non-Vacant Residential Properties throughout the Municipality. In addition, the General Rate will be also varied for all properties located on Cape Barren Island.
- 4.11 Council has also decided that, if a waste collection service is provided, then the costs and extent of the service will be varied according to locality and/or the level of service being provided.

Fire Protection Service Rate

- 4.12 Council collects a fire service levy on behalf of the State Fire Commission. Council is required to collect a set amount and deliver this, less set collection costs, to the Fire Services Commission.
- 4.13 The Fire Service Rate is based on the cents in the dollar of AAV, with a minimum fire levy charge as set by the Fire Services Commission.

Rate Exemptions

- 4.14 There are a number of properties which are public, educational, religious or charitable in use or ownership and properties as defined under the *Aboriginal Lands Act 1995* which are, in part or in full, exempt from the general rate.

Adoption of Valuations

- 4.15 Council adopts the CV as assessed by the Office of the Valuer-General as the valuation method to be used in determining rates. If a ratepayer is dissatisfied with the valuation made, the ratepayer may object to the Office of the Valuer-General in writing.
- 4.16 Council has no role in the assessment of objections to valuations. The lodgement of an objection does not alter the due date for the payment of rates. Rates must be paid in accordance with the relevant rates notice until otherwise notified by Council.

Objections to Rates Notice

- 4.17 Council will consider any objections to rate notices in accordance with section 123 of the LG Act.

Rate Concessions

- 4.18 The State Government, in providing equity across Tasmania, funds a range of concessions in relation to Council rates. The concessions are administered by various State Government agencies that determine eligibility and pay the concession directly to Council on behalf of the ratepayer. Concessions are available only on a ratepayer's principal place of residence.
- 4.19 Ratepayers seeking a rate concession are not to withhold payment of rates pending assessment of an application by the State Government. Rates must be paid in accordance with the relevant rates notice.
- 4.20 A refund will be paid to an eligible person if Council is advised that a concession applies and rates instalments have already been paid.

Payment of Rates

- 4.21 Council rates are payable by two equal instalments in October and February. The total outstanding balance of rates may be paid in full at any time. Any arrears outstanding are payable along with the first instalment.
- 4.22 Any ratepayer who may, or is likely to, experience difficulty meeting an instalment should contact Council's Rates Officer to discuss alternative payment arrangements. Such enquiries are treated confidentially by Council.
- 4.23 A discount at a rate set by Council's annual Rates Resolution applies for rates paid in full before or on the due date of the first instalment.

Late Payment of Rates

- 4.24 Council has determined that penalties for late payments will be imposed in accordance with the provisions of the LG Act and any relevant Council procedures.
- 4.25 A penalty at a rate set by Council's annual Rates Resolution may be imposed on instalments not paid by or on the due date.
- 4.26 Daily interest at a rate set by Council's annual Rates Resolution may be applied in respect of the unpaid rate or instalment for the period during which it remains unpaid.

Recovery of Rates

- 4.27 In accordance with sound financial management principles, Council's Rates Department will apply prudent debt management practices to Rate Debtors. This includes an ongoing review of rates in arrears and following a systematic debt recovery approach in line with Council's Debt Collection Policy.
- 4.28 Rates, which remain in arrears for a period exceeding 21 days from the due date of an instalment, will be subject to a reminder notice.
- 4.29 Council will seek to recover a rate debt through Council's debt collection agency if an amount remains overdue after the final instalment date.
- 4.30 Prior to taking legal action Council will provide the ratepayer with a notice in writing of its intention to recover the outstanding debt through legal action and provide 14 days for payment prior to lodging the outstanding debt with its debt collection agency.
- 4.31 Prior to taking legal action Council will take all reasonable steps to establish a payment arrangement or negotiate settlement of the outstanding debt.

Sale of Land for Non-payment of Rates

- 4.32 The LG Act provides that a Council may sell any property where the rates have been in arrears for a period of three years or more. Council is required to among other things:
- (a) Notify the owner of the land of its intention to sell the land;
 - (b) Provide the owner with details of the outstanding amounts; and
 - (c) Advise the owner of its intention to sell the land if payment of the outstanding amount is not received within 90 days. Except in extraordinary circumstances, Council will enforce the sale of land for arrears of rates.
 - (d) In the event the owner cannot be contacted follow the procedure as outlined within the Act.

Remission and Postponement of Rates

- 4.33 Application for remission of rates and charges or postponement of rates will be considered under the discretionary provisions of section 129 of the LG Act.

Rebate of Rates

- 4.34 Council has determined that rebates of rates will be only granted when the applicant satisfies the requirements for mandatory rebates under applicable sections of the LG Act.

Compliance with policy

- 4.35 A rate cannot be challenged on the basis of noncompliance with this policy and must be paid in accordance with the required payment provisions (see s.86B(6) of the LG Act).
- 4.36 Where a ratepayer believes that Council has failed to properly apply this policy, it should raise the matter with Council. In the first instance contact should be made with Council's Rates Officer.

5 GUIDELINES

- 5.1 Rates constitute taxation for the purposes of Council, rather than a fee for service.
- 5.2 The value of rateable land is an indicator of the capacity of ratepayers to pay rates.
- 5.3 There is a commitment to the broad principle of fairness and equity in the distribution of rates across all ratepayers.

- 5.4 Capital Value (The valuation of the rental potential of the property) as determined by the Valuer-General each year, is used as the basis for valuing land within the Council area.
- 5.5 A general rate comprising a rate in the dollar of Capital Value and a Fixed Charge with variations through differentials according to land use and location will be applied as a means of raising taxation revenue within the Community.
- 5.6 An annual service charge for Waste Infrastructure will now not specifically apply separately to land within the Municipal Area but if a Waste Collection Service is applied it will be set as a Service Charge but only applied to those properties that are actually provided with such a service: the form and frequency of which would be set by Council.
- 5.7 The fire service levy that Council collects on behalf of the State Fire Commission is based on the cents in the AAV dollar.
- 5.8 Eligible Pensioner ratepayers are entitled to a remission of rates, subject to a range of criteria. This remission does not apply to holders of the Commonwealth Seniors Health Cards.
- 5.9 Council will apply rebates in accordance with the LG Act. Council will adhere to the LG Act in granting full or part exemption for general rates for properties which may include public, educational, religious, aboriginal, cultural or charitable in use and ownership.
- 5.10 Council will continue to accept the payment of rates in full or by two instalments. Council will consider other payment arrangements with ratepayers when requested.
- 5.11 Council will impose late payment penalties strictly in accordance with the LG Act.
- 5.12 Council may enforce the sale of land for non-payment of rates in accordance with the LG Act.
- 5.13 Council advises that a rate cannot be challenged on the basis of noncompliance with this policy and rates must be paid in accordance with the required payment provisions.

6 COMMUNICATION

All Councillors and employees will be briefed on this policy as part of the induction program and on an on-going basis as and when required.

7 KEY LEGISLATION

The rating and valuation methods available to Local Government are prescribed under various pieces of legislation. In particular, Part 9 of the LG Act and parts of the *Valuation of Land Act 2001* are the most relevant.

8 DEFINITIONS

Part 9, Section 86, of the LG Act provides definitions for the key terms used in the Local Government rating system.

9 RELATED INSTRUMENTS

Flinders Council Strategic Plan
Local Government Act 1993
Valuation of Land Act 2001
Fire Service Act 1979
Aboriginal Lands Act 1995

10 APPLICATION OF POLICY

- 10.1 The Rates and Charges Policy applies to Councillors in setting annual rates and charges for the Community.
- 10.2 Upon adoption, the Rates and Charges Policy will apply for a 4-year period unless there are circumstances, as envisaged under the LG Act, that warrant its amendment.

DRAFT