



Item No: 19.6
 File No: 7.69.3.8
 Date: 21 September 2021
 Attachment: A

Meeting: Council

Title: Walkerville Developments Pty Ltd (Watson Car Parks) Discretionary Rebate Request

Responsible Manager: Group Manager Corporate Service, Monique Palmer

Author: Group Manager Corporate Service, Monique Palmer

Key Pillar: Strategic Framework – Key Pillar 7 – Leadership – A responsible and influential local government organisation

Type of Report: **Decision Required**

Pursuant to Section 83(5) of the *Local Government Act 1999*, the Chief Executive Officer indicates that the matter contained in this report may, if the Council so determines, be considered in confidence pursuant to Section 90(2) of the *Local Government Act 1999* on the basis that the information contained in the attached report is information of the nature specified in subsections 90(3) (a) of the Act namely information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

Recommendation (Public)

Pursuant to s90(3)(b)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except the Chief Executive Officer Kiki Cristol, Group Manager Asset & Infrastructure Ben Clark, Group Manager Planning, Environment & Regulatory Services Andreea Caddy, Group Manager Corporate Services Monique Palmer, Group Manager Customer Experience Danielle Garvey, Manager, Manager Community Development & Engagement Fiona Deckert, Business Analyst (Property & Contracts) Scott Reardon and Council Secretariat Vanessa Davidson, be excluded from attendance at the meeting for Agenda Item 19.6 'Goode (Watson Car Park) Discretionary Rebate Request'.

The Council is satisfied that, pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

Recommendation (Confidential)

That Council accepts Walkerville Developments Pty Ltd request for a discretionary rebate for the financial year ending 30 June 2021, for an amount of \$12,150.00 over 11 car parks.

Recommendation (Public)

Pursuant to s.91(7)

That having considered Agenda Item 'Walkerville Developments Pty Ltd (Watson Car Parks) Discretionary Rebate Request' in confidence under section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and attachments

relevant to this Agenda Item be retained in confidence until the matter is resolved, excepting that the Council authorises the release of the Council resolution to those parties identified in the substantive resolution relating to this Agenda Item to enable enactment of the resolution and that pursuant to Section 91(9)(c) of the *Local Government Act 1999* the Council delegates to the Chief Executive Officer the review and power to revoke this Order;

and

That Council resolves to end its confidential deliberations pursuant to Section 90(2) of the *Local Government Act 1999* and re-admit the public.

Summary

Walkerville Developments Pty Ltd owns 33 properties at 33 Warwick Street, Walkerville (The Watson). 17 car parks are rated as Contiguous Land (minimum rate can only be imposed against the whole of the land and not against individual pieces ie contiguous land). They also own 5 other assessments at The Watson, being Viewing Deck, Unit, Tower and 2 x storage. There are also 11 other non-contiguous car parks being lots 2001, 2002, 2003, 2004, 2005, 2008, 2009, 2010, 2011, 2012 & 2013 all with a capital value of \$9,200 each, total value of \$101,200.

These properties are billed individually as they have separate 'Certificates of Title' and are not contiguous. They are charged at the "other" rate (0.0037966) and also attract the minimum charge of \$1,215.00, leading to a total rates charge of \$13,365.00 for all 11 car parks.

The owner of the properties is requesting a discretionary rebate such that the net rates charge for the 11 properties would be the equal to the rates charged if the properties were contiguous.

Background

Local Government Act 1999

Section 149—Contiguous land

For the purposes of this Part, land will be regarded as being contiguous to other land if the land—

- (a) abuts on the other land at any point; or*
- (b) is separated from the other land only by—*
 - (i) a road, street, lane, footway, court, alley, railway or thoroughfare; or*
 - (ii) a watercourse or channel; or*
 - (iii) a reserve or other similar open space.*

158—Minimum rates and special adjustments for specified values

- (1) A council can do one or both of the following:*
 - (a) fix a minimum amount payable by way of rates or charges under this Part (which may vary according to factors prescribed by the regulations);*
- (2) However—*
 - (c) if two or more pieces of contiguous rateable land are owned by the same owner and occupied by the same occupier, a minimum amount may only be imposed against the whole of the land and not against individual pieces of it; and...*

166—Discretionary rebates of rates

- (1) A council may grant a rebate of rates or service charges in any of the following cases (not being cases that fall within a preceding provision of this Division)*
 - (b) where the rebate is desirable for the purpose of assisting or supporting a business in its area;*
 - (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;*

- (m) where the rebate is considered by the council to be appropriate to provide relief in order to avoid what would otherwise constitute—
 - (i) 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; or
 - (ii) a liability that is unfair or unreasonable;...
- (2) A rebate of rates or charges under subsection (1) may be granted on such conditions as the council thinks fit.
- (3) A rebate of rates or charges under subsection (1)(a), (b) or (k) may be granted for a period exceeding one year, but not exceeding 10 years.
- (3a) A rebate of rates or charges under subsection (1)(l) may be granted for a period exceeding one year, but not exceeding three years.

Discussion/Issues for Consideration

The owner of the properties is requesting a discretionary rebate such that the net rates charge for the 11 properties would be the equal to the rates charged if the properties were contiguous, this would be as follows;

Current charge	\$13,123.00
Requested charge	\$ 1,193.00

Rebate (difference)	\$11,193.00

To do this we take the capital value of the 11 properties combined and apply the “other” rate in the dollar (0.0037966). If it is appropriate to charge the minimum rate it will only be charged once across all the properties that are contiguous.

The rates charged if contiguous would be;

Capital Value	\$	Rate in the dollar
Lot 2001	9,200	34.90
Lot 2002	9,200	34.90
Lot 2003	9,200	34.90
Lot 2004	9,200	34.90
Lot 2005	9,200	34.90
Lot 2008	9,200	34.90
Lot 2009	9,200	34.90
Lot 2010	9,200	34.90
Lot 2011	9,200	34.90
Lot 2012	9,200	34.90
Lot 2013	9,200	34.90
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	\$101,200	\$383.90
Rate in the dollar	0.0037966	
Preliminary rates	\$383.90	
Actual rate	\$1,215.00 x 11 = \$13,365.00 (minimum applied on each assessment)	

Applying the discretionary rebate as requested provides the following;

	\$
Current charge	13,365.00
Requested charge	1,215.00

Rebate (difference)	\$12,150.00

Rating Policy.

Council's Rating Policy outlines when Council would consider granting a discretionary rebate including the issues created by the structure of ownership at The Watson. The policy states;

'The Council may grant a discretionary rebate where two non-contiguous titles form a single residential. In those circumstances, Council may grant a rebate subject to further conditions. For example, in consideration for the grant of such a rebate and to avoid two non-contiguous titles from being sold independently, an applicant may be required to grant Council a caveatable interest over the relevant title (or titles). Any such conditions will be at the discretion of Council.'

Council does have the power to grant rebates for periods of up to three years, however consideration should be given to potential changes in ownership before doing so. It is on this basis, that Administration has consistently recommended that discretionary rate rebates be considered on an annual basis.

Options for Consideration

Option 1

That Council accepts the Walkerville Developments Pty Ltd request for a discretionary rebate for the financial year ending 30 June 2021, for an amount of \$12,150.00.

Option 2

That Council agrees to grant a different discretionary rebate in the amount of \$xxx.

Option 3

That Council rejects the request to grant a discretionary rate rebate.

Analysis of Options

Options 1 is in line with our current rating policy and past practice.

Financial and Governance Implications

Generally, the granting of a discretionary rebate will decrease rate revenue received by the Council. However, the budget for the financial year 2020/21 incorporates some provision for the granting of discretionary rebates and is based on those granted in the financial year 2019/20, which includes this request.

Preferred Option & Reasoning

Option 1 is recommended to Council. It is consistent with the Council's past decisions made in 2019/20 as they relate to the treatment of the Watson car parks and in particular this specific application.

Attachments

Attachment A	Rate Rebate Application Form
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RATE REBATE APPLICATION FORM

4. Amount of rebate

- 4.1 If you are seeking a mandatory rate rebate under Clause 3.1.5 or 3.1.6 (which allows for a 75% rebate) are you also applying to the Council to increase that rebate?

YES NO

If yes, please specify the amount of rebate that you are applying for: \$ _____

- 4.2 If you are applying for a discretionary rate rebate under Clause 3.2 of this Application, please specify the rebate amount you are applying for.

the listed car park lots are owned by Walkerville Developments for we are seeking a rate rebate of the entire liability except for the sum of \$34.35. We respectfully request this amendment to be applied in perpetuity of until such time that the council changes its rebate amount for these lots

Please specify why you (or your organisation) need financial assistance through a rebate and why the amount of rebate you have applied for is appropriate.

5. Additional information required

Council requires you to attach the following additional information to this application:

- 5.1 Where you are seeking a mandatory rebate under Clause 3.1.5 of this application – community services:

- 5.1.1 evidence that the land is being used for service delivery and/or administration
- 5.1.2 a copy of the organisation's constitution and/or other documentation establishing that it is incorporated on a not-for-profit basis
- 5.1.3 a copy of the organisation's latest Annual Report (including most recent financial statements)
- 5.1.4 evidence that the organisation provides services free of charge or below cost
- 5.1.5 evidence that the organisation provides services to persons other than members.

- 5.2 Where you are seeking a discretionary rebate in Clause 3.2:

- 5.2.1 evidence that the land is being used for the purpose for which the rebate is being sought
- 5.2.2 information as to whether, and if so to what extent, you (or your organisation) will be providing a service within the Council area
- 5.2.3 whether you have made or intend to make an application to another Council
- 5.2.4 the extent of financial assistance (if any) being provided by Commonwealth or State agencies
- 5.2.5 whether you are in receipt of a community grant or money from Council's Community Fund
- 5.2.6 any other information that you believe is relevant in support of this application.

RATE REBATE APPLICATION FORM

1. Details of applicant

Name Jonathan David Deague c/- Walkerville Developments Pty Ltd (please print)

Address [REDACTED]

Telephone [REDACTED] Mobile [REDACTED] Facsimile [REDACTED]

If the applicant is not a natural person, please provide details of a contact person for the applicant.

Name as above

Address

Telephone Mobile Facsimile

Email

2. Details of land

Assessment no/s A4423, A4424, A4425, A4426, A4427, A4428, A4430, A4431, A4432, A4433, A4434, A4435

Certificate of Title 6145/643/644/645/646/646/648/650/651/652/653/654/655

Address CPK 2001/2002,2003/2004/2004/2005/2006/2008/2009/2010/2011/2012/2013 33 Warwick St

Owner of land (if not you) Walkerville Developments Pty Ltd

3. Categories of rebate

Please tick the category of rebate under which you are seeking a rebate:

3.1 Mandatory rate rebate

- 3.1.1 **Health services (100%)** – Land being predominantly used for service delivery or administration by a hospital or health centre incorporated under the *South Australia Health Commission Act 1976*;
- 3.1.2 **Religious purposes (100%)** – Land containing a church or other building used for public worship (and any grounds), or land solely used for religious purposes;
- 3.1.3 **Public cemeteries (100%)** – Land being used for the purposes of a public cemetery;
- 3.1.4 **Royal Zoological Society of SA (100%)** – 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.
- 3.1.5 **Community services (75%)** – Land being predominantly used for service delivery and administration by a community services organisation.

Does your organisation satisfy the following:

- 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.

RATE REBATE APPLICATION FORM

If you have ticked (a), (b) and (c), which of the following services does your organisation provide:

- 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
- legal services for disadvantaged persons
- drug or alcohol rehabilitation services; and/or
- research into, or community education about, diseases or illnesses, or palliative care to persons who suffer from diseases or illnesses
- other: please specify _____

3.1.6 **Educational purposes (75%)**

Which of the following criteria apply:

- land occupied by a government school under a lease or licence and being used for educational purposes **OR**
- 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.

3.2 Discretionary rate rebate

Council may at its discretion grant a rebate of rates or service charges in any of the following cases.

Please indicate which of the following is applicable to your application:

- the rebate is desirable for the purpose of securing the proper development of the area (or a part of the area)
- the rebate is desirable for the purpose of assisting or supporting a business in its area
- the rebate will be conducive to the preservation of buildings or places of historic significance
- the land is being used for educational purposes
- the land is 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 (Commonwealth)* or a day therapy centre
- the land is being used by an organisation which provides a benefit or service 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 a free and unrestricted right of access and enjoyment
- the rebate is appropriate to provide relief against what would otherwise amount to a substantial change in rates payable by a rate payer due to a change in the basis of valuation used for the purposes of rating, rapid changes in valuations, or anomalies in valuations.

RATE REBATE APPLICATION FORM

6. Application forms

Application forms and all additional information must be submitted to the Council as soon as possible. A failure to submit application forms or to provide the additional information required by Council to assess the application by the due date may result in Council refusing to consider the application.

IMPORTANT INFORMATION

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 \$5,000.00 (*Section 159 (2) of the Local Government Act 1999*).

Council may grant a rebate of rates or charges on such conditions as Council thinks fit.

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 notify Council that person or body is guilty of an offence and liable to a maximum penalty of \$5,000.00. (*Section 159 (7) (8) of the Local Government Act 1999*).

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, 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.

I declare that the information I have provided on this application form is true.

I declare that I have attached the additional information required under Clause 5.

DATED the 8 day of September year 2020

Signed

Name (please print) Jonathan David Deague