



Item No: 19.2

Date: 16 October 2023

Attachment: A

Meeting:	Council
Title:	Jones (Watson Car Park) Discretionary Rebate Application 2023/24
Responsible Manager:	Group Manager Corporate Services Vikki Purtle
Author:	Rates and Finance Officer Christine Donnon
Key Pillar:	Strategic Framework – Key Pillar 7 – Leadership – A responsible and influential local government organisation
Key Focus Area:	Financial Guiding Principle 1 - Finances managed responsibly
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 Andrew MacDonald, Group Manager AssetS & Infrastructure James Kelly, Group Manager Corporate Services Vikki Purtle, Group Manager Public Relations & Community Services Sarah Spencer, Group Manager Strategy, Governance & Compliance Scott Reardon and Council Secretariat Danielle Edwards, be excluded from attendance at the meeting for Agenda Item 19.2 'Jones (Watson Car Park) Discretionary Rebate Application 2023/24'.

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 Mr Shane Jones' request for a discretionary rates rebate of \$1382.00 for the 2023/24 financial year.

Recommendation (Public)

Pursuant to s.91(7)

That having considered Agenda Item 'Jones (Watson Car Park) Discretionary Rebate Application 2023/24' 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.

Report Purpose

For Council to consider an application for a discretionary rate rebate.

Background

Council has previously approved discretionary rate rebate requests from Mr Shane Jones (**Owner**).

Discussion

Mr Shane R Jones (**Owner**) owns two separate property allotments in The Watson (33 Warwick Street Walkerville). Though these allotments are considered non-contiguous for rating purposes and as such are subject to differing rates categories and charges (one residential and the other non-residential), by the nature and virtue of the land and the provisions of the *Local Government Act 1999*, the owner has submitted a discretionary rates rebate application seeking a rebate of \$1,382.00 (minimum chargeable rate) on the supposition that the separate allotments are in fact considered to be contiguous.

With this in mind, should Council endorse the recommendation of this report, the applicable rates charge will be adjusted as follows:

Current Charge	Requested Rebate (Min. Rate)	Adjusted Charge
\$2,764.00	\$1,382.00	\$1,382.00

Property & Chargeable Rates

Mr Shane Jones (**Owner**) is the owner of two separate property allotments located at 'The Watson' (33 Warwick Street, Walkerville). These allotments, 204 and 2025, are respectively a residential apartment with a capital value of \$200,000, and an associated car park with a capital value of \$11,000.00.

On the basis that these two allotments have separate 'Certificates of Title' they are deemed as non-contiguous and as such are categorised differently and charged at separate rates - lot 204 (CT 6145/428) is charged at the residential rate (0.0016989) and lot 2025 (CT 6145/667) is charged at the non-residential rate (0.0028032).

It should be noted that both allotments qualify for the minimum rate charge of \$1,382.00, and as such, the total chargeable amount for the two properties combined in the 2023/24 financial year is **\$2,764.00**.

Local Government Act 1999 – Contiguous Land and Application of Minimum Rates

Pursuant to section 149 of the *Local Government Act 1999* (**Act**), for the purposes of rating, land is considered contiguous if the land is 'separated from the other land only by a road, street, lane, footway, court, alley, railway or thoroughfare'. As lot 2025 is a car park associated with the residential apartment which is only physically separated by a roadway and communal car park, it is prudent to consider these two properties as contiguous, thus categorising lot 2025 (the car park) as residential.

Additionally, pursuant to section 158 of the Act, while a Council can fix and charge a minimum rate for properties within the jurisdiction,¹ if two or more pieces of contiguous rateable land are owned by the same owner, a minimum rate may only be imposed against the whole of the land and not against individual pieces.²

On this basis, in applying the principles of section 158 of the Act, the capital value of the two properties is combined and the residential rate in the dollar (0.0016989) is applied:

Property	Individual Capital Value	Combined Capital Value	Rate on the Dollar	Preliminary Rates
Lot 204	\$200,000.00	\$211,000	x 0.0016989	= \$358.47
Lot 2025	\$11,000.00			

As the Preliminary Rates for the combined properties is below the minimum rate threshold, the Actual Rate applicable to this contiguous property will be the determined Minimum Rate of **\$1,382.00**.

Rating Policy.

Section 12.2 of Council’s current Rating Policy considers instances when Council should consider granting a discretionary rebates; including 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”.

Council does has 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.

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 2023/24 incorporates some provision for the granting of discretionary rebates.

Risk Assessment

The risk associated with this report has been assessed as low.

Attachments

Attachment A	Rate Rebate Application Form
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¹ Local Government Act 1999 (SA), s.158 (1) (a).

² Local Government Act 1999 (SA), s.158 (2).

RATE REBATE APPLICATION FORM

1. Details of applicant

Name Shane R Jones (please print)

Address [REDACTED]

Telephone _____ Mobile [REDACTED] Facsimile [REDACTED]

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

Name _____

Address _____

Telephone _____ Mobile _____ Facsimile _____

Email _____

2. Details of land

Assessment no/s A4199 and A4447

Certificate of Title [REDACTED]

Address [REDACTED]

Owner of land (if not you) _____

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

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.

\$1,382.75

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.

Paying rates on the apartment and also on the allocated carpark

Applying for a rebate on the carpark component

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

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 07th day of September year 2023

Signed 

Name (please print) Shane R Jones