



Financial Sustainability Program

Information Paper 20

Funding Policies and Strategies

April 2009



Introduction

In its final report, the Financial Sustainability Inquiry recommended:

“10.3 (1) That each council develops and publishes a ‘revenue and financing policy statement’ regarding the funding of both operating expenses and capital expenditures, along the lines of the statements required under law of councils in New Zealand.”

These Revenue and Financing Policies under the New Zealand legislation¹ require Councils to carefully assess the beneficiaries of all of their major services in determining how they should be funded. The rationale underlying these policies is that services benefiting the broader community are most appropriately funded by general rates and taxes whereas those that particularly benefit a section of the community or specific individual users should be funded (at least to some degree) by a specific rate or charge that only those beneficiaries or users pay.

The New Zealand legislative initiative has attracted interest among South Australian Council Members and officers.

This information paper, does not advocate the adoption by South Australian Councils of the New Zealand model of a ‘Revenue and Financing Policy’. It has been prepared, however, to assist Councils consider funding policy and strategy issues in the South Australian Local Government context and includes, at Attachment 1, a template of a Funding Policy that Councils might adopt to assist them in managing their finances.

Other information papers have been, or will soon be, prepared on the following topics:

- Financial Sustainability
- An Overview of Audit Mechanisms
- Audit Committees
- Scope of External Audit - Audit Specification
- Efficiency and Economy Audits
- Infrastructure and Asset Management (Policy and Planning)
- Service Delivery Framework including the Role of Shared Services
- Long-term Financial Plans
- Local Government Financial Indicators
- Debt Management
- Governance in Local Government
- Targets for Local Government Financial Indicators
- Model Framework for Council Annual Business Plans
- Model Work Program for Council Audit Committees
- Treasury Management
- Long-term Financial Plan - A Model Format for Financial Information
- Depreciation and Related Issues
- Financial Policies
- Audit Committee Reporting
- Internal Financial Controls
- Financial Governance
- *A New Approach to State-Local Resourcing (currently being prepared)*

A number of manuals, guidelines, templates, technical definitions, codes, standards and similar documents supporting this series of information papers are also being prepared by the LGA to provide practical assistance to Councils.

¹ See S.102 & 103 of New Zealand Local Government Act 2002.

To access the information papers that have now been completed or information about other documents and activities, including briefing and training sessions, please visit our website at: www.lga.sa.gov.au/goto/fsp.

What does the Act now require?

The Local Government Act, 1999 gives Councils flexible powers to raise funding through rates on property and charges for services. However the Act provides that, when making and adopting policies and determinations concerning rates under the Act, Councils should take into account the financial effects of their decisions on future generations. Sections 146 to 166 of the Act set out Councils' powers to raise funding through General Rates, Separate Rates, Service Rates and Service Charges.

Councils also have flexible powers over their financing arrangements which include undertaking borrowings or making investments. See LGA Financial Sustainability Information Paper 15: '*Treasury Management*' for more information on Councils' financing powers and activities.

The Local Government Act provisions referenced above are set out in Attachment 2.

Funding versus financing

People often use the terms 'financing' and 'funding' interchangeably. In this paper the two terms are used with specific and very different meanings.

'Funding' refers to the raising of revenue (e.g. through rates, user charges, or the receipt of grants, subsidies and contributions).

'Financing' describes how payment for an outlay is accommodated. This could for example be through a Council accessing its own funds (e.g. cash held in a bank account) or by an arrangement to use another entity's funds (e.g. by taking out a loan – also referred to as a borrowing).

While 'financing' and 'funding' are different functions they are inter-related. For example, where total outlays in a particular year cannot be met from revenue in that year, some outlays may be financed by raising a borrowing but the servicing of the loan will need to be funded from revenue over a period of time.

This paper therefore (and unlike the New Zealand approach) does not treat decisions regarding raising loans as part of a funding strategy – they are a financing strategy.

When are loans appropriate?

Borrowings are not a substitute for revenue.

On average over time organisations need to generate sufficient operating revenue to at least offset their operating costs. However even where a Council follows a well based funding strategy that generates adequate and equitable levels of revenue over time, it is still likely to need to make considerable use of borrowings. For example where a Council achieves an operating breakeven result on average over time it will generate approximately² sufficient funds to replace/renew all plant, infrastructure and other depreciating assets when required. Such a result will not however generate sufficient funds to also finance upgrades or additions to its stock of assets. Sooner or

² How 'accurate or approximate' will depend on how closely the accumulated depreciation raised on the original assets plus their disposal sale price matches the cost of their replacement. This will be affected for example by a Council's asset revaluation practices (as they affect annual depreciation expenses raised) and the effect of changes in technology and market conditions on the price of replacement assets.

later (not necessarily at the time the outlay arises) borrowings are likely to be needed to finance outlays that increase the quality and quantity of assets held.

Where a Council experiences peaks in its asset replacement needs, or if its assets need replacing earlier than expected, or it has not always averaged at least an operating breakeven result over the long term, it may have insufficient accumulated funds from its own revenue raising to finance required and cost effective asset replacement. It will need to raise additional borrowings in such circumstances.

Councils may not always need to raise borrowings at the time of acquisition of new infrastructure assets. Where a Council has always achieved a breakeven operating result or better, it may appropriately apply the accumulated funds generated, which could have financed subsequent asset replacement, to instead finance the provision of additions to its stock of infrastructure assets and defer the raising of a borrowing to finance these. This makes sense. In most instances there is no point in holding onto and investing funds if at the same time the Council is borrowing money to finance other outlay needs. In this example the Council is likely, as a consequence, to need to borrow to finance asset replacement at some later stage.

Where a Council tries to avoid raising borrowings to finance new infrastructure assets it is at risk of over-charging current service recipients and/or underspending on existing asset renewal and replacement. Councils should make every effort to avoid under-spending on asset renewal. Such under-spending results in premature asset failure and higher long-run costs and/or future unintended falls in service levels.

Further general information supporting appropriate debt raising strategies is outlined in LGA Financial Sustainability Information Paper No. 10: *'Debt Management'* and No. 15: *'Treasury Management'* which are available from the LGA website www.lga.sa.gov.au/goto/fsp.

Funding strategy – to what extent should funds be raised?

No individual, organisation or government can continue to carry on its business and financial affairs indefinitely with a large annual operating deficit i.e. where, year after year, operating expenses exceed operating revenue. In a Local Government context the most likely consequence of sustaining ongoing deficits will be that a Council will find it difficult to fund the renewal and replacement of assets, as and when required to maintain service standards, without excessively large increases in rate revenue.

Significant ongoing operating deficits are inequitable. Effectively the current generation of ratepayers is paying considerably less than the cost of services they enjoy, and this must have an adverse consequence for those who follow. In fact, Section 150(c) of the Local Government Act, 1999 requires Councils to take into account the financial effects on future generations when making rating policies and determinations. Of course, unless there are good reasons for doing so, ongoing excessive operating surpluses also are inequitable (because the current generation of ratepayers is paying considerably more than the cost of services it enjoys).

Councils should set short, medium and long-term targets for their operating result and base their annual budget and long-term financial plan on the achievement of these.

LGA Financial Sustainability Information Paper No.12: *'Targets for Local Government Financial Indicators'* recommends that Councils should typically aim to generate an operating surplus equivalent to between 0% and 15% of general and other rate revenue (i.e. an operating surplus ratio of between 0% and 15%). Councils of course may choose a different target bearing in mind their circumstances and other relevant factors and implications. For example:

- a Council for which grants make up a majority of its operating revenue may decide it is prudent to generate a higher operating surplus relative to general and other rate revenue (operating surplus ratio);

- a Council may target a higher operating surplus ratio in order to reduce (or otherwise prevent a rise in projected) net financial liabilities in excess of a responsible target; or,
- a Council that has assets of significant value that it would not in future replace, may consider it equitable to target a lower operating surplus (or an operating deficit) to account for the effect of the depreciation of these items.

Funding sources

Having determined an operating revenue target relative to operating expenses, a Council needs to consider how best to raise this required amount. For most Councils, rates (including general and service rates and fixed and service charges) represent the overwhelmingly largest source of their operating revenue (average of 77% across all Councils in 2006-07). The percentage breakdown of aggregate rate revenue for all SA Councils in 2006-07 was as follows³:

- | | |
|------------------------|-----------------|
| • General rates | 62% |
| • Other rates | 3% |
| • Statutory charges | 3% |
| • User charges | 9% ⁴ |
| • Grants and subsidies | 17% |
| • Investment income | 1% |
| • Reimbursements | 2% |
| • Other | 3% |

Rating and other key funding sources are discussed further in subsequent sections of this paper.

Theoretical considerations in taxing and pricing decisions

Pricing decisions are relatively straight forward in the private sector. Most goods and services generated by businesses in the main are what economists call 'private goods' (i.e. their benefits are enjoyed predominantly by, or on behalf of, those who acquire them e.g. the purchase of household appliances or theatre tickets). Businesses price their goods and services according to market conditions and their own costs with a view to achieving a profit over time so that the business will survive and hopefully flourish.

Governments sometimes provide goods and services that have predominantly 'private good' type characteristics but more often their outputs and services are in the nature of 'public goods'. Public goods and services are those whose use and enjoyment or benefit by one or more persons does not diminish the potential access, enjoyment or benefit by others. Public parks or footpaths are examples of public goods - so are public health education campaigns. Public goods are generally widely appreciated and valued even by people who do not make direct use of them.

It is usually efficient and equitable to charge users of private goods for the full cost of their consumption. However, charging people a fee to access public goods is more problematic. Public goods are usually not supplied by the private sector because it is often difficult to restrict their access to just those consumers who pay the access charge. As a result, revenue raised is insufficient to cover the cost of providing the goods and private sector provision of these goods becomes unviable. Where it is possible to restrict access to those who pay, doing so will reduce public usage and therefore less people will benefit from the existence of the goods. The reduction in public usage will usually not be accompanied by any significant reduction in the costs of providing the public goods. Overall, as a whole, society will be worse off e.g. restricting access to a public park by fencing it and charging admission will reduce the number of people who use the park and the general community satisfaction will be reduced.

³ Source: South Australian Local Government Grants Commission's 2006/07 database reports.

⁴ 38% of all user charges were collected by Adelaide City Council, primarily from car parking.

Funding the provision of pure public goods from taxes overcomes the above issue. In practice though many goods and services have both public and private good characteristics and in proportions that vary in different circumstances. Provision of some private goods for example generate public good 'externalities' that for the broader community may be positive (e.g. attractive architecture and landscaping of a private building) or negative (sometimes called 'public bads' – e.g. CO² emissions from generation of electricity).

Because many government supplied goods and services have both public and private goods characteristics it is common to see governments price goods and services to charge users for part of the cost and meet the balance from taxation. For example:

- the hire rate for a public hall might be set to recover marginal but not full long-term average total costs in order to encourage use;
- dog registration fees might be set to recover less than full cost of a Council's dog management responsibilities recognising that non-dog owners also benefit from this service.

In New Zealand, Councils are required to assess the extent to which their services have public or private good characteristics in determining what proportion of their costs should be recovered from user charges and what proportion from taxes.

Appropriate policy responses to theoretical considerations

Councils need to determine how best to achieve their revenue targets from a combination of the various revenue raising options over which they have control. An appropriate starting point is to consider the public good/private good characteristics of the services they provide and to review the extent to which their user charges recover an appropriate proportion of service costs over the long run.

In most circumstances Councils should aim to charge prices comparable to those charged by private suppliers of similar services but should also consider targeted concessions where warranted on social or other policy grounds.

Pricing decisions also need to be mindful of Councils' national competition policy obligations⁵. Where a Council is a natural monopoly provider of private goods in its area (e.g. community wastewater management systems - CWMS) it should set rates or charges to recover full long-run costs (or for CWMS, at least charge the equivalent of what SA Water would charge for a similar service⁶).

Councils taxing powers are effectively limited to rates on property. Even where a Council fully exploits opportunities to levy user based rates and charges, it will still most likely need to rely on general rates for the majority of its required operating revenue⁷. General rates should not be considered a surrogate for user charges. In the Commonwealth and State taxation systems, individuals and businesses that pay the highest proportion of taxes do not necessarily consume the most services. Local Government taxation decisions should be equitable but this means not only taking account of who benefits from services but also having regard for their capacity to pay.

⁵ See 'National Competition Policy an Implementation Manual for Councils' on the LGA web site at the following link: http://www.lga.sa.gov.au/webdata/resources/files/National_Competition_Policy_-_An_Implementation_Manual_for_Councils1.pdf

⁶ Note, community wastewater management systems also have 'public good' characteristics and this is effectively recognised in the subsidy that is provided to help fund their initial establishment (subject to capacity to pay considerations).

⁷ Some Councils receive large levels of operating grants. By far the largest source is Commonwealth financial assistance grants distributed via the SA LG Grants Commission which are allocated to all Councils based mainly on need and independent of their own revenue raising and outlay decisions.

While there are certainly good arguments for the broadening of Councils' revenue sources, and in particular more financial support from other spheres of government, the fact remains that property rates are an efficient and appropriate tax source for Local Government. Council rates are a highly visible tax and perhaps for this reason they do at times attract public criticism even though as a proportion of average incomes they have remained at approximately the same level over the past 20 years while Local Government services and responsibilities have continued to grow. At the same time taxes generated by the other two spheres of government have increased as a proportion of national income. Perhaps the only valid criticism of Council rates is that they may cause difficulty for some people whose place of residence is highly valued but whose current income is relatively low.

It is important to recognise that the Local Government Act provides SA Councils with considerable flexibility in applying property rates. Councils are understandably sometimes reluctant to increase rates because of the impact this would have on specific sections of their communities. However, the flexibility of Local Government rating powers usually means it is possible for a Council, that wishes to generate more overall revenue, to structure its rating system to ensure an equitable impact while reasonably protecting particular classes of ratepayers (e.g. persons with low capacity to pay) from an unfair burden.

In making rating decisions Councils should be aware of the capacity to pay of their community overall, and between classes of ratepayers, to the extent that this is known or can be reasonably estimated. The Australian Bureau of Statistics (ABS) publishes average individual annual income levels by Council area and for South Australia. The ABS also can provide Councils with data on the socio-demographic composition of the communities in different parts of their areas. Councils should also bear in mind the level of rates paid by ratepayers generally, and residential ratepayers specifically (and possibly other classes of ratepayers too), in other Local Government areas. The SA Local Government Grants Commission provides, to each Council, annual database reports showing comparative rating information across all Councils.

Some of the key rating flexibilities and examples of their possible use are discussed more fully below.

Councils' rating options

Attachment 2 sets out relevant provisions of the Local Government Act 1999 and Local Government (Financial Management) Regulations 1999 relating to Councils' rating powers.

Research continues to indicate that in most (but not all) instances there is a reasonable correlation between the value of a property and the income levels of the owners and their capacity to pay rates. Councils need to consider whether some ratepayers should pay proportionately more (or less) than others relative to the value of their property having regard to both their capacity to pay and the benefits they receive. There are many ways that this can be achieved, including by use of the following.

Minimum Rates or Fixed Charges⁸

Application of minimum rates results in low valued properties being levied with a higher amount of rates than would otherwise be the case through the application of the ad valorem rate in the dollar. The use of a fixed charge also shifts the rate burden from higher to lower valued properties but has greater flexibility.

Separate Rates⁹

These are an equitable way of recovering the cost of provision of services that are intended to primarily benefit a specific identifiable group of ratepayers.

⁸ See Local Government Act, 1999 Sections 152 and 158

⁹ See Local Government Act, 1999 Section 154

Service Rates and Charges¹⁰

Councils have the power to impose service rates and charges in particular limited circumstances. Recovering costs associated with community wastewater management system services is a commonly used example. Another increasingly used opportunity to apply service rates and charges is in connection with the collection, treatment or disposal (including by recycling) of waste. This charging approach has particular merit where the same level of service is not uniformly available to all ratepayers. Regardless, there is a strong argument to use this charging option to transparently identify to ratepayers the cost of the particular service. If separate rates, service rates or service charges are used (or intended to be used), Local Government (Financial Management) Regulation 5A(d) requires Councils to include in their annual business plans (including consultation drafts) the reasons for the particular rate or charge.

Differential Rates¹¹

Many Councils apply a higher rate in the dollar to commercial and industrial properties and a lower rate for primary production properties relative to the rate applied to residential properties. Differential rates can also be applied in different localities within a Council area. They can be a very effective means of taking account of different benefits received by, and capacities to pay of, ratepayers when making rating decisions. If differential rates are used (or intended to be used), Local Government (Financial Management) Regulation 5A(b) requires Councils to include in their annual business plans (and consultation drafts) the reasons and justifications for any differentiation, and the expected level of revenue to be raised by each differential rate.

Rebates¹²

Section 150(b) of the Local Government Act requires Councils' rating policies to make reasonable provision with respect to their strategies for providing relief from rates where considered appropriate. Local Government (Financial Management) Regulations 5A(e) and (f) require Councils to include in their annual business plans (and consultation drafts) information regarding their policies on discretionary rebates and remissions and issues concerning equity within their communities and the impacts of rates across their areas.

Postponement of Rates¹³

Councils can also enter into arrangements with ratepayers to postpone rates payable and in fact must offer this to certain ratepayers. Unlike a rebate (where a Council effectively forgoes revenue which therefore has a funding impact), a postponement simply has financing consequences and therefore should be explored in preference to a rebate wherever possible. The postponement of rates for eligible State Seniors is an example of a non-concessional scheme aimed, in particular, at addressing rate affordability issues for a particular group of ratepayers (i.e. people whose place of residence may be highly valued but whose current income is relatively low).

Note, comments in this section are not intended to be a full and comprehensive discussion of the rating options available to Councils.

Relationship between funding policy/strategy, long-term financial plan and annual budget

A long-term financial plan should include a description of the financial strategy on which the plan is based. Work involved in the preparation of one of these is likely to influence the final content of the other. It makes sense for Councils to adopt a financial strategy and financial targets in conjunction with the adoption of their long-term financial plan. All three should be used to guide the preparation of the annual business plan and budget.

¹⁰ See Local Government Act, 1999 Section 155

¹¹ See Local Government Act, 1999 Sections 156 and 157

¹² See Local Government Act, 1999 Sections 150 and 159 to 166

¹³ See Local Government Act, 1999 Sections 182 and 182A

What are the issues for Councils?

Whether formalised as a policy or not all Councils should have a funding strategy that ensures they equitably generate appropriate levels of operating revenue. The strategy needs to:

- consider whether today's ratepayers and other service users should pay more or less than the cost of providing today's services to them and the consequential implications for future ratepayers;
- the best balance between funding from direct users of specific services (through user rates and charges) and broader public beneficiaries (through general rates) having regard to the public good/private good characteristics of key services;
- keep taxing and charging regimes under review to ensure they have appropriate regard for:
 - changes in capacity to pay within sections of the community;
 - the extent of opportunity of access to, use of, and benefit from, Council services by various groupings of service users and ratepayers.

Acknowledgements

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Attachment 1: Suggested Model Council Funding Policy Format and Content

POLICY NAME: Funding

Approved by: [Council]
[Date]

Subsequent Amendments: [Date]
[Authorisation]
[Reference to aspects amended]

Review Date: [Date of next review]

Document Owner: [Position responsible for maintenance of the document]

CONTENT

1. INTRODUCTION

This policy sets out Council's approach to the funding of services.

The policy is based on an assessment of the beneficiaries of all of Council's services and how these should be funded. It provides the framework within which Council will raise the revenue necessary to fund expenses of programs set out in its long-term financial plan.

2. POLICY OBJECTIVES

The Funding Policy reflects Council's determined balance between the principles of:

- i. user or beneficiary pays and capacity to pay of different sections of the community;
- ii. costs of provision of services and, where relevant, prices charged by others for provision of similar services;
- iii. maximising sourcing of external funding;
- iv. accommodating individual circumstances of financial hardship; and
- v. achieving and preserving reasonable inter-generational equity.

3. POLICY STATEMENTS

3.1 Long-term Financial Plan

Council has adopted a 10 year Long-term Financial Plan (LTFP) that sets out the funding (revenue raising) and financing (paying for outlays) requirements for services to be provided to equitably meet its Strategic Management Plan's identified community needs and preferences.

The LTFP has also been based on achievement of the targets set by Council for each of its financial sustainability indicators and in particular those for its operating result [*insert Council's operating surplus target*].

Decision Required:

Council will need to determine target values or ranges for each of its financial sustainability indicators.

Unless special circumstances exist, the recommended target for Council's operating result is a surplus (in dollar terms) equivalent to between 0% and 15% of general and other rate revenue over any five year period.

Alternatively Council may choose a different target bearing in mind their circumstances and other relevant factors and their implications.

3.2 Budget Management and Review

Council will manage its Long-term Financial Plan through its budget review process to ensure that its planned long-term service and infrastructure levels and standards are met without unplanned increases in rates or disruptive cuts to services.

3.3 Financial Assistance and Other Discretionary Grants

Council values the ongoing Commonwealth Financial Assistance Grants that it receives through the SA Local Government Grants Commission (LGGC). Similarly Roads to Recovery Grants from the Commonwealth are an important funding source.

Council will continue to provide timely and accurate information requested by the LGGC to ensure that it receives its appropriate funding allocation as determined by the LGGC's methodology for allocating Financial Assistance Grants. Timely and accurate information also will be provided to the Commonwealth in respect of Roads to Recovery Grants.

3.4 Special Purpose Grants

Council recognises that opportunities arise from time to time to secure grants or funding for specific projects or purposes.

Council will pursue such opportunities where the funding objectives support the directions of its Strategic Management Plan and its financial sustainability objectives.

Council will assess the whole-of-life costs of a project considered for a special purpose grant or funding application (including maintenance and other operating costs over the life of the project) and will consider the impact of these costs on Council's financial sustainability indicators over the life of the project when considering a special purpose grant or funding opportunity.

3.5 General and Other Rates

Council will raise general and other rates from its community in accordance with its [*Rating – or insert policy name*] Policy.

Council's [*Rating - or insert policy name*] Policy sets out its application of the following rating provisions contained in the Local Government Act, 1999:

- minimum rates or fixed charges;
- separate rates;
- service rates and charges;
- differential rates;
- rate rebates;
- postponement of rates.

Council keeps its [*Rating – or insert policy name*] Policy under review to ensure it has appropriate regard for Council's Funding Policy Objectives (outlined in 2. above) and in particular any material changes in:

- capacity to pay within sections of the community;
- the extent of opportunity of access to, use of, and benefit from, Council services by various groupings of service users and ratepayers

Revenue from general rates helps meet a substantial part of the cost of Council services and activities that are widely available to ratepayers.

3.6 User Charges

To reduce dependence on rate revenue Council applies user charges to meet the cost of its services where this is equitable, efficient and practical. Charges set have regard to Council's costs, the benefits to direct users and others from the provision of the services and prices charged elsewhere for similar services.

Council's user charges are set out in Schedule 1.

Decision Required:

Council will need to determine those services for which it will levy a user charge and the level of the charges. These should be documented in Schedule 1 and reviewed at least annually.

3.7 Borrowings

Council recognises that borrowings are not a funding source but are nevertheless likely to be required at times particularly as a result of decisions to add to or enhance Council's stock of assets. If Council sets revenue raising targets at levels that not only meet the full cost of existing services but also enable it to accumulate funds to finance net asset acquisition it could create significant inter-generational inequity between beneficiaries of Council's services. Council manages decisions about when to borrow and what type of borrowings to raise in accordance with its Treasury Management policy.

3.8 Private Sector Contributions/Partnerships

Council will seek private sector funding for projects e.g. through joint venture, grants or provision of infrastructure etc where this is considered beneficial to the community. In assessing the community benefit of such arrangements Council will take account of its financial exposure through an analysis of the whole-of-life costs of the project.

4. LEGISLATIVE REQUIREMENTS AND CORPORATE POLICY CONTEXT

4.1 Relevant Legislation

Local Government Act, 1999

- Section 133
- Sections 146 – 166
- Sections 182 and 182A

Local Government (Financial Management) Regulations 1999

- Regulation 5A

4.2 Related Policies

[*Council name*] [*Rating - or insert policy name*] Policy

[Council Name]

Schedule 1 – User Charges

Service	Charge
<i>[insert name or description of service]</i>	<i>[insert description charge]</i>
<i>[etc.]</i>	<i>[etc.]</i>

Attachment 2: Local Government Act Provisions Relating to Council Funding and Financing

Local Government Act 1999

Chapter 9—Finances

Part 1—Sources of funds

133—Sources of funds

A council may obtain funds—

- (a) as permitted by or under this or another Act; and
- (b) as may otherwise be appropriate in order to carry out its functions under this or another Act.

Examples—

The following are examples of ways in which a council may raise funds:

- (a) by imposing rates and charges in accordance with this Act;
- (b) by borrowing money and obtaining other forms of financial accommodation;
- (c) by selling property;
- (d) by leasing or hiring out property;
- (e) by obtaining grants and other allocations of money;
- (f) by carrying out commercial activities;
- (g) by recovering fees, charges, penalties or other money payable to the council.

Chapter 10—Rates and charges

Part 1—Rates and charges on land

Division 1—Preliminary

146—Rates and charges that a council may impose

A council may impose rates and charges of the following kinds on land within its area:

- (a) general rates;
- (b) separate rates;
- (c) service rates;
- (d) service charges.

147—Rateability of land

- (1) All land within the area of a council is rateable, except for land within a specific exemption (see especially subsection (2)).
- (2) The following is not rateable:

- (a) unalienated Crown land;
 - (b) land used or held by the Crown or an instrumentality of the Crown for a public purpose (including an educational purpose), except any such land—
 - (i) that is held or occupied by the Crown or instrumentality under a lease or licence; or
 - (ii) that constitutes domestic premises;
 - (c) land (not including domestic or residential premises) occupied by a university established by statute;
 - (d) land that is exempt from rates or taxes by virtue of the *Recreation Grounds Rates and Taxes Exemption Act 1981*;
 - (e) land within the area of the District Council of Coober Pedy that is subject to a mining lease under the *Mining Act 1971* or a precious stones tenement under the *Opal Mining Act 1995*;
 - (f) land occupied or held by the council, except any such land held from a council under a lease or licence;
 - (g) land occupied by a subsidiary where the land is situated in the area of the council that established the subsidiary or a constituent council (as the case may be);
 - (ga) land occupied or held by an emergency services organisation under the *Fire and Emergency Services Act 2005*;
 - (h) land that is exempt from council rates under or by virtue of another Act.
- (3) If land is divided by a strata plan under the *Strata Titles Act 1988*—
- (a) rates will be assessed against the units and not against the common property; but
 - (b) the equitable interest in the common property that attaches to each unit will be regarded, for the purpose of valuation, as part of the unit.
- (4) If land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996*—
- (a) in the case of the division of land by a primary plan—rates will be assessed against the primary lots that are not divided by a secondary plan and against the development lot or lots (if any);
 - (b) in the case of the division of land by a secondary plan—rates will be assessed against the secondary lots that are not divided by a tertiary plan and against the development lot or lots (if any);
 - (c) in the case of the division of land by a tertiary plan—rates will be assessed against the tertiary lots and a development lot or lots (if any).
- (5) If land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996*—
- (a) in the case of the division of land by a primary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General, reasonably incidental to

the use of one or more of the primary lots, rates will not be assessed against the common property, or that part of it, but the interest in the common property, or that part of it, that attaches to each primary lot will be regarded for the purposes of valuation as part of the lot;

- (b) in the case of the division of land by a secondary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General, reasonably incidental to the use of one or more of the secondary lots, rates will not be assessed against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary scheme referred to in paragraph (a) (if any)) that attaches to each secondary lot will be regarded for the purposes of valuation as part of the lot;
 - (c) in the case of the division of land by a tertiary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the tertiary lots, rates will not be assessed against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary and secondary schemes referred to in paragraphs (a) and (b) (if any)) that attaches to each tertiary lot will be regarded for the purposes of valuation as part of the lot.
- (6) If land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996* and the use of common property or any part of it is not, in the opinion of the Valuer-General, reasonably incidental to the use of any of the community lots, rates will be assessed against the common property or that part of it and the relevant community corporation is liable for those rates as though it were the owner of the common property.
- (7) Despite subsection (3)(b) and subsection (5), the interest in that part of the common property of a strata scheme under the *Strata Titles Act 1988* or the *Community Titles Act 1996* that comprises the building divided into units or lots by the scheme will not be taken into account if rates are based on site value.

148—Land against which rates may be assessed

- (1) Rates may be assessed against—
 - (a) any piece or section of land subject to separate ownership or occupation; or
 - (b) any aggregation of contiguous land subject to the same ownership or occupation.
- (2) However, decisions about—
 - (a) the division of land for the purposes of subsection (1); or
 - (b) the aggregation of land for the purposes of subsection (1),must be made fairly and in accordance with principles and practices that apply on a uniform basis across the area of the council.

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.

Division 2—Basis of rating

150—General principles

A council should, when making and adopting policies and determinations concerning rates under this Act, take into account the following principles:

- (a) rates constitute a system of taxation for local government purposes (generally based on the value of land);
- (b) rating policies should make reasonable provision with respect to strategies to provide relief from rates (where appropriate), and any such strategies should avoid narrow or unreasonably restrictive criteria and should not require ratepayers to meet onerous application requirements;
- (c) the council should, in making any decision, take into account the financial effects of the decision on future generations,

(but a challenge to a rate cannot be based on the extent to which a council has (or has not) applied these principles).

151—Basis of rating

- (1) Subject to this Act, a rate must be—
 - (a) a rate based on the value of land subject to the rate;¹ or
 - (c) a rate based on two components—
 - (i) one being based on the value of land subject to the rate; and
 - (ii) the other being a fixed charge; or
 - (d) a rate based on some other factor or factors specifically allowed under this Act.
- (2) The value of land for the purpose of rating is its capital value.
- (3) However, a council may declare rates on the basis of the annual value or site value of land if—
 - (a) the council declared rates in respect of that land on that basis for the previous financial year; or

- (b) the council declared rates in respect of that land on the basis of capital value for the previous three financial years.
- (4) Except as authorised by proclamation under Chapter 3, a council must not apply different valuation bases to different parts of its area.
- (5) Before a council—
 - (a) changes the basis of the rating of any land (including by imposing differential rates on land that has not been differentially rated in the preceding financial year, or by no longer imposing differential rates on land that has been differentially rated in the preceding financial year); or
 - (b) changes the basis on which land is valued for the purposes of rating; or
 - (c) changes the imposition of rates on land by declaring or imposing a separate rate, service rate or service charge on any land,the council must—
 - (d) prepare a report on the proposed change; and
 - (e) follow the relevant steps set out in its public consultation policy.
- (6) A report prepared for the purposes of subsection (5)(d) must address the following:
 - (a) the reasons for the proposed change;
 - (b) the relationship of the proposed change to the council's overall rates structure and policies;
 - (c) in so far as may be reasonably practicable, the likely impact of the proposed change on ratepayers (using such assumptions, rate modelling and levels of detail as the council thinks fit);
 - (d) issues concerning equity within the community,and may address other issues considered relevant by the council.
- (7) A public consultation policy for the purposes of subsection (5)(e) must at least provide for—
 - (a) the publication in a newspaper circulating within the area of the council a notice describing the proposed change, informing the public of the preparation of the report required under subsection (5)(d), and inviting interested persons—
 - (i) to attend a public meeting in relation to the matter to be held on a date (which must be at least 21 days after the publication of the notice) stated in the notice; or
 - (ii) to make written submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and
 - (b) the council to organise the public meeting contemplated by paragraph (a)(i) and the consideration by the council of any submissions made at that meeting or in response to the invitation under paragraph (a)(ii).
- (8) The council must ensure that copies of the report required under subsection (5)(d) are available at the meeting held under subsection (7)(a)(i), and for inspection (without charge)

and purchase (on payment of a fee fixed by the council) at the principal office of the council at least 21 days before the end of the period for public consultation.

- (8a) Subject to complying with the requirements of this section—
- (a) a report required under subsection (5)(d) may form part of the council's draft annual business plan (and that plan as adopted); and
 - (b) the public consultation required under subsection (7) may be undertaken as part of the public consultation required with respect to the council's draft annual business plan.
- (9) A rate cannot be challenged on a ground based on the contents of a report prepared by a council for the purposes of subsection (5)(d).

Note—

- 1 See Division 6 for provisions concerning the valuation of land for the purpose of rating.

Division 3—Specific characteristics of rates and charges

152—General rates

- (1) A general rate may—
- (a) be a rate based on the value of the land subject to the rate; or
 - (c) be a rate that consists of two components—
 - (i) one being based on the value of the land subject to the rate; and
 - (ii) the other being a fixed charge.
- (2) The following provisions apply in relation to a fixed charge under subsection (1)(c):
- (a) except as provided by paragraphs (b), (c) and (d), a fixed charge must apply equally to each separate piece of rateable land in the area;
 - (b) a fixed charge cannot be imposed against land that constitutes less than the whole of a single allotment;
 - (c) if two or more pieces of contiguous rateable land are owned by the same owner and occupied by the same occupier, only one fixed charge may be imposed against the whole of that land;
 - (d) if two or more pieces of rateable land within the area of the council constitute a single farm enterprise, only one fixed charge may be imposed against the whole of the land.
- (3) Subsection (2)(d) only applies if the council is satisfied, on application to the council and by provision of such information or evidence as the council may reasonably require, that the relevant land is within the ambit of the provision.

- (4) If the grounds on which land is within the ambit of subsection (2)(d) cease to exist, the person who has the benefit of the provision must immediately inform the council of that fact.
Maximum penalty: \$5 000.
- (5) In this section—
- (a) an allotment is—
- (i) the whole of the land comprised in a certificate of title; or
 - (ii) the whole of land subject to a separate lease or licence, other than a lease or licence of a prescribed class (if any);
- (b) a reference to a single farm enterprise is a reference to two or more pieces of rateable land—
- (i) which—
 - (A) are farm land; and
 - (B) are farmed as a single enterprise; and
 - (C) are occupied by the same person or persons, whether or not the pieces of land are contiguous; or
 - (ii) which—
 - (A) as to all the pieces except one, are farm land farmed as a single enterprise occupied by the same person or persons; and
 - (B) as to one piece contiguous with at least one of the other pieces, is the principal place of residence of that person or one of those persons.

153—Declaration of general rate (including differential general rates)

- (1) A council may declare—
- (a) a general rate on all rateable land within its area for a particular financial year; or
 - (b) differential general rates on rateable land within its area for a particular financial year.
- (2) A council must, in fixing its rates for the purposes of this section, consider issues of consistency and comparability across council areas in the imposition of rates on various sectors of the business and wider community.
- (3) A council must, in declaring a general rate under this section, determine whether it will fix a maximum increase in the general rate to be charged on any rateable land within its area that constitutes the principal place of residence of a principal ratepayer (and a council is, by force of this subsection, authorised to fix such a maximum).
- (4) For the purposes of subsection (3)—
- (a) any maximum increase may be set according to such method as the council thinks fit; and

- (b) the council may fix conditions that may apply in order for a ratepayer to qualify for the benefit of a maximum increase (including that some or all of any increase in the general rate for particular land is not attributable to a change in the valuation of the land due to development (including by virtue of a change in use) that has been undertaken (or occurred) in relation to the land).
- (5) A council must not—
- (a) declare a general rate until after it has adopted its annual business plan and its budget for the financial year to which the rate relates; and
 - (b) except in a case involving extraordinary administrative difficulty, declare a general rate for a particular financial year after 31 August in that financial year.

154—Separate rates

- (1) A council may declare a separate rate on rateable land within a part of the area of the council for the purpose of planning, carrying out, making available, supporting, maintaining or improving an activity that is, or is intended to be, of particular benefit to the land, or the occupiers of the land, within that part of the area, or to visitors to that part of the area.
- (2) A separate rate may be based on—
- (a) the value of land subject to the rate; or
 - (b) a proportional measure or other proportional basis related to the relevant land or the area, or to the estimated benefit to the occupiers of the land in the part of the area subject to the rate; or
 - (c) a fixed charge.
- (4) A council may declare a separate rate in respect of a particular activity despite the fact that the activity is not to be directly undertaken or provided by the council.
- (5) A separate rate—
- (a) may be declared for a specified period (eg the time taken to carry out a capital project);
 - (b) may be declared for a period exceeding one year.
- (6) Except where a separate rate is declared for more than one year, a separate rate must not be declared more than one month before the commencement of the financial year to which the rate relates.
- (7) A council may declare differential separate rates.
- (8) A council must, at the time that it declares a separate rate, identify the land to which the rate will relate.
- (9) If a council declares a separate rate, the council must, in each rate notice sent to each ratepayer who is liable to pay the separate rate, specify—
- (a) the purpose or purposes for which the rate is declared; and
 - (b) the basis on which the rate is declared; and

- (c) the amount payable for the particular financial year; and
 - (d) if relevant, the period for which the rate will apply (according to a determination of the council under subsection (5)).
- (10) If a separate rate is declared to raise funds for a particular purpose and—
- (a) the council resolves not to carry the purpose into effect; or
 - (b) there is an excess of funds over the amount required for that purpose, the revenue raised by the rate or the excess (as the case may be) must, according to a determination of the council, be—
 - (c) credited against future liabilities for rates in respect of the land on which the separate rate was imposed; or
 - (d) refunded to the persons who paid the rate, in proportion to the amounts paid by each person.

155—Service rates and service charges

- (1) In this section—
- prescribed service** means any of the following services:
- (a) the treatment or provision of water;
 - (b) the collection, treatment or disposal (including by recycling) of waste;
 - (ba) a television transmission (or retransmission) service;
 - (c) any other service prescribed by the regulations for the purposes of this definition.
- (2) A council may impose—
- (a) a service rate, an annual service charge, or a combination of a service rate and an annual service charge, on rateable land within its area to which it provides, or makes available, a prescribed service;
 - (b) an annual service charge on non-rateable land to which it provides, or makes available, a prescribed service.
- (3) A service rate, or annual service charge, may vary—
- (a) according to whether the land to which it applies is vacant or occupied; or
 - (b) according to any other factor prescribed by the regulations and applied by the council.
- (4) If a council provides more than one prescribed service of a particular kind in its area, a different service rate or annual service charge may be imposed in respect of each service.
- (5) A council must not seek to recover in relation to a prescribed service an amount by way of service rate, annual service charge, or a combination of both exceeding the cost to the council of establishing, operating, maintaining, improving and replacing (including by future capital works) the service in its area.
- (6) If amounts are recovered by a council for future works—
- (a) the amounts must be allocated to a reserve for that purpose; and

- (b) the amounts must be applied for that purpose unless the council subsequently resolves not to carry the purpose into effect.
- (7) If—
- (a) there are excess funds over the amount required for the relevant work in a reserve under subsection (6); or
 - (b) the council makes a resolution under subsection (6)(b), the amounts standing to the credit of the reserve must, according to a determination of the council, be—
 - (c) credited against future liabilities that the persons who paid the relevant amounts may incur under this Chapter; or
 - (d) refunded to the persons who paid the relevant amounts, in proportion to the amounts paid by each person.
- (8) An annual service charge may be based on—
- (a) the nature of the service; or
 - (b) the level of usage of the service; or
 - (c) any factor that applies under subsection (3); or
 - (d) a combination of 2 or more factors under the preceding paragraphs.
- (9) A service charge imposed by a council under this section is recoverable as if it were a rate (even as against non-rateable land).
- (10) A council may declare a service rate or an annual service charge in respect of a particular prescribed service despite the fact that the service is provided on behalf of the council by a third party.

Division 4—Differential rating and special adjustments

156—Basis of differential rates

- (1) Differential rates may vary—
- (a) according to the use of the land; or
 - (b) according to the locality of the land; or
 - (c) according to the locality of the land and its use; or
 - (d) on some other basis determined by the council.
- (2) A determination under subsection (1)(d)—
- (a) may only be made if—
 - (i) the council is a new council with an area that includes land previously within the area of a different council; or
 - (ii) the council has been formed by the amalgamation of two or more councils; or
 - (iii) the boundaries of the area of the council have been altered; or

- (iv) the council has changed the basis of valuation used for the purpose of rating,
and the council has resolved that in the circumstances differential rating is appropriate in order to allow rating relativities within the area of the council to be gradually altered or realigned; and
 - (b) may not be inconsistent with a proclamation under Chapter 3 (insofar as a proclamation under that Chapter provides for the realignment of rating relativities during a specified period); and
 - (c) may not apply for more than five financial years or, if a proclamation under Chapter 3 so provides, a longer period specified by proclamation.
- (3) If land has more than one use, the use of the land will, for the purpose of rating, be taken to be its predominant use.
- (4) A particular land use must not be used as a differentiating factor affecting the incidence of differential rates unless the land use is declared by the regulations to be a permissible differentiating factor.
- (5) If a council declares differential rates according to the use of land and thus provides for a distinct residential rate, the residential rate must be applied to land occupied by any of the following:
 - (a) supported accommodation;
 - (b) independent living units;
 - (c) day therapy centres.
- (6) If land is vacant, the non-use of the land is capable of constituting a land use for the purpose of the declaration of differential rates.
- (7) A differentiating factor based on the locality of the land must comply with any requirement or principle prescribed by the regulations.
- (8) A change in the use of land after differential rates are declared does not affect the incidence of the rates.
- (9) A ratepayer, if of the opinion that a particular land use has been wrongly attributed to the ratepayer's land by the council for the purpose of levying differential rates, may object to the attribution of that land use to the land.
- (10) An objection under subsection (9)—
 - (a) must be in writing; and
 - (b) must set out—
 - (i) the grounds of the objection; and
 - (ii) the land use (being a land use being used by the council as a differentiating factor) that should, in the objector's opinion, have been attributed to the land; and

- (c) must be made within 60 days after the objector receives notice of the attribution of the particular land use to which the objection relates (unless the council, in its discretion, allows an extension of time for making the objection).
- (11) The council may decide an objection as it thinks fit and must notify the objector in writing of its decision.
- (12) The objector, if dissatisfied with the council's decision on the objection may, subject to the relevant rules of court, appeal against the decision to the Land and Valuation Court.
- (13) Except as provided by this section, the attribution of a particular land use to land for the purpose of levying differential rates cannot be challenged.
- (14) A regulation cannot be made for the purposes of this section except after consultation with the LGA.
- (14a) Before a council changes from declaring differential rates in relation to any land on the basis of a differentiating factor under either paragraph (a), (b) or (c) of subsection (1) to a differentiating factor under another of those paragraphs, the council must—
 - (a) prepare a report on the proposed change; and
 - (b) follow the relevant steps set out in its public consultation policy.
- (14b) A report prepared for the purposes of subsection (14a)(a) must address the following:
 - (a) the reasons for the proposed change;
 - (b) the relationship of the proposed change to the council's overall rates structure and policies;
 - (c) in so far as may be reasonably practicable, the likely impact of the proposed change on rate payers (using such assumptions, rate modelling and levels of detail as the council thinks fit);
 - (d) issues concerning equity within the community,and may address other issues considered relevant by the council.
- (14d) A public consultation policy for the purposes of subsection (14a) must at least provide for—
 - (a) the publication in a newspaper circulating within the area of the council a notice describing the proposed change, informing the public of the preparation of the report required under subsection (14a)(a), and inviting interested persons—
 - (i) to attend a public meeting in relation to the matter to be held on a date (which must be at least 21 days after the publication of the notice) stated in the notice; or
 - (ii) to make written submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and
 - (b) the council to organise the public meeting contemplated by paragraph (a)(i) and the consideration by the council of any submissions made at that meeting or in response to the invitation under paragraph (a)(ii).

- (14e) The council must ensure that copies of the report required under subsection (14a)(a) are available at the meeting held under subsection (14d)(a)(i), and for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council at least 21 days before the end of the period for public consultation.
- (14ea) Subject to complying with the requirements of this section—
- (a) a report required under subsection (14a)(a) may form part of the council's draft annual business plan (and that plan as adopted), or a report prepared for the purposes of section 151(5)(d); and
 - (b) the public consultation required under subsection (14d) may be undertaken as part of the public consultation required with respect to the council's draft annual business plan, or the public consultation under section 151(7).
- (14f) A rate cannot be challenged on a ground based on the contents of a report prepared by a council for the purposes of subsection (14a)(a).
- (15) This section does not limit any other differentiating factor that may be applied under another section with respect to a particular rate.

157—Notice of differentiating factors

If a council declares differential rates, the council must, in each rates notice, specify the differentiating factor or combination of factors that governs the calculation of rates on the land to which the account relates.

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);
 - (b) alter the amount that would otherwise be payable by way of rates in respect of land that falls within a range of values determined by the council.
- (2) However—
- (a) a minimum amount cannot be imposed against land that constitutes less than the whole of a single allotment; and
 - (b) a minimum amount cannot be imposed against each supported accommodation unit or independent living unit within a group or complex of units; and
 - (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
 - (d) a council may not apply this section so as to affect or alter the rates that would be otherwise payable under this Part in relation to more than 35 per cent of the total number of properties in the area subject to the separate assessment of rates; and

- (e) a council cannot apply this section if the council has included a fixed charge as a component of a general rate.
- (3) In subsection (2), an allotment is—
 - (a) the whole of the land comprised in a certificate of title; or
 - (b) the whole of land subject to a separate lease or licence, other than a lease or licence of a prescribed class (if any).
- (4) Subsection (2) does not apply in relation to a service rate or annual service charge.
- (5) However, the ability to fix a minimum amount payable by way of a service rate or annual service charge will apply subject to any restriction, limitation or condition made by the regulations (including a provision that only allows the fixing of a minimum amount in prescribed circumstances).

Division 5—Rebates of rates

159—Preliminary

- (1) If grounds exist for a person or body to receive a rebate of rates in pursuance of this Division, the person or body may apply to the council in a manner and form determined by the council (supplying such information as the council may reasonably require).
- (2) A person or body must not—
 - (a) make a false or misleading statement or representation in an application made (or purporting to be made) under this Division; or
 - (b) provide false or misleading information or evidence in support of an application made (or purporting to be made) under this Division.

Maximum penalty: \$5 000.

- (3) A council may grant a rebate of rates under this Division if satisfied that it is appropriate to do so (whether on application under this Division or on its own initiative).
- (4) If a rebate specifically fixed by this Division is less than 100%, the council may, on its own initiative, increase the rebate.
- (6) If—
 - (a) land is used by a person or body for purposes on which an entitlement to a rebate is based in pursuance of this Division (**Category A purposes**), and for business purposes or other purposes concerned with the production of income (**Category B purposes**); and
 - (b) it is possible to separate the part of the land used for Category A purposes from the part of the land used for Category B purposes,the council is not required to grant a rebate of rates on the land used for the Category B purposes but if the council has declared differential rates in its area and thus provided for a

distinct residential rate then that residential rate must be applied to the land that does not receive a rebate on account of the operation of this subsection.

- (7) If a person or body has the benefit of a rebate of rates under this Division 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.
- (8) If a person or body fails to comply with subsection (7), the person or body is guilty of an offence.
Maximum penalty: \$5 000.
- (9) A council cannot grant to a person or body a rebate of general rates under this Division without also granting to the person or body a comparable rebate of any other rates that may also apply under this Part.
- (10) A council may, for proper cause, determine that an entitlement to a rebate of rates in pursuance of this Division no longer applies.
- (11) If 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.

160—Rebate of rates—health services

The rates on land being predominantly used for service delivery or administration by a hospital or health centre incorporated under the *South Australian Health Commission Act 1976* will be rebated at 100 per cent.

161—Rebate of rates—community services

- (1) The rates on land being predominantly used for service delivery and administration by a community service organisation will be rebated at 75 per cent (or, at the discretion of the council, at a higher rate).
- (2) If—
 - (a) a community service organisation is entitled to a rebate of rates under subsection (1); and
 - (b) the council has declared differential rates according to the use of land and thus provided for a distinct residential rate,then that residential rate must be applied to the land to which the rebate relates.
- (3) For the purposes of this section, a community services organisation is a body that—
 - (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.

- (4) For the purposes of subsection (3)—
- (a) a body will not be regarded as incorporated on a not-for-profit basis—
 - (i) if a principal or subsidiary object of the body is—
 - (A) to secure a pecuniary profit for the members of the body or any of them; or
 - (B) to engage in trade or commerce; or
 - (ii) if the constitution or rules of the body provide that the surplus assets of the body on a winding-up are to be distributed to its members or to another body that does not have identical or similar aims or objects;
 - (b) subject to the operation of paragraph (a), a body that receives funds from the State or Commonwealth Governments in order to subsidise its costs or charges will be taken to satisfy the requirements of subsection (3)(b);
 - (c) any of the following are community services:
 - (i) the provision of emergency accommodation;
 - (ii) the provision of food or clothing for disadvantaged persons;
 - (iii) the provision of supported accommodation;
 - (iv) the provision of essential services, or employment support, for persons with mental health disabilities, or with intellectual or physical disabilities;
 - (v) the provision of legal services for disadvantaged persons;
 - (vi) the provision of drug or alcohol rehabilitation services;
 - (vii) 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;
 - (d) disadvantaged persons are persons who are disadvantaged by reason of poverty, illness, frailty, or mental, intellectual or physical disability.

162—Rebate of rates—religious purposes

The rates on land containing a church or other building used for public worship (and any grounds), or land solely used for religious purposes, will be rebated at 100 per cent.

163—Rebate of rates—public cemeteries

The rates on land being used for the purposes of a public cemetery will be rebated at 100 per cent.

164—Rebate of rates—Royal Zoological Society of SA

The rates on 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 will be rebated at 100 per cent.

165—Rebate of rates—educational purposes

- (1) The rates on land—
 - (a) occupied by a government school under a lease or licence and being used for educational purposes; or
 - (b) occupied by a non-government school registered under Part 5 of the *Education Act 1972* and being used for educational purposes,will be rebated at 75 per cent (or, at the discretion of the council, at a higher rate).
- (2) The rates on 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 will be rebated at 75 per cent (or, at the discretion of the council, at a higher rate).

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):
 - (a) where the rebate is desirable for the purpose of securing the proper development of the area (or a part of the area);
 - (b) where the rebate is desirable for the purpose of assisting or supporting a business in its area;
 - (c) where the rebate will conduce to the preservation of buildings or places of historic significance;
 - (d) where the land is being used for educational purposes;
 - (e) where the land is being used for agricultural, horticultural or floricultural exhibitions;
 - (f) where the land is being used for a hospital or health centre;
 - (g) where the land is being used to provide facilities or services for children or young persons;
 - (h) where the land is being used to provide accommodation for the aged or disabled;
 - (i) where 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;
 - (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;
 - (k) 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;
 - (l) 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 by a ratepayer due to—

- (i) a redistribution of the rates burden within the community arising from a change to the basis or structure of the council's rates; or
 - (ii) a change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations;
 - (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;
 - (n) where the rebate is to give effect to a review of a decision of the council under Chapter 13 Part 2;
 - (o) where the rebate is contemplated under another provision of this Act.
- (1a) A council must, in deciding whether to grant a rebate of rates or charges under subsection (1)(d), (e), (f), (g), (h), (i) or (j), take into account—
- (a) 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 its area; and
 - (b) the community need that is being met by activities carried out on the land for which the rebate is sought; and
 - (c) the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons,
- and may take into account other matters considered relevant by the council.
- (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.
- (3b) A council should give reasonable consideration to the granting of rebates under this section and should not adopt a policy that excludes the consideration of applications for rebates on their merits.
- (4) A council may grant a rebate under this section that is up to (and including) 100 per cent of the relevant rates or service charge.

182—Remission and postponement of payment

- (1) If a council is satisfied on the application of a ratepayer that payment of rates in accordance with this Act would cause hardship, the council may—
- (a) postpone payment in whole or in part for such period as the council thinks fit; or

- (b) remit the rates in whole or in part.
- (2) A postponement under subsection (1)—
 - (a) may, if the council thinks fit, be granted on condition that the ratepayer pay interest on the amount affected by the postponement at a rate fixed by the council (but not exceeding the cash advance debenture rate); and
 - (b) may be granted on other conditions determined by the council; and
 - (c) ceases to operate if—
 - (i) the council in its discretion revokes the postponement (in which case the council must give the ratepayer at least 30 days written notice of the revocation before taking action to recover rates affected by the postponement); or
 - (ii) the ratepayer ceases to own or occupy the land in respect of which the rates are imposed (in which case the rates are immediately payable).
- (3) A council may grant other or additional postponements of rates—
 - (a) to assist or support a business in its area; or
 - (b) to alleviate the effects of anomalies that have occurred in valuations under this Act.
- (4) A council may grant other or additional remissions of rates on the same basis as applies under the *Rates and Land Tax Remission Act 1986* (and such remissions will be in addition to the remissions that are available under that Act).
- (5) A council may require a ratepayer who claims to be entitled to a remission of rates by virtue of a determination under subsection (4) to provide evidence verifying his or her entitlement.
- (6) A council may revoke a determination under subsection (4) at any time (but the revocation will not affect an entitlement to remission in relation to rates declared before the revocation takes effect).
- (7) A council cannot grant to a ratepayer a remission of general rates under this section without also granting to the ratepayer a comparable remission of any other rates that may also apply under this Part.
- (8) Nothing in this section applies with respect to the postponement of rates under section 182A.

182A—Postponement of rates—Seniors

- (1) A person may apply to a council for a postponement of the payment of the prescribed proportion of rates for the current or a future financial year if—
 - (a) the person is a prescribed ratepayer, or is the spouse or domestic partner of a prescribed ratepayer; and
 - (b) the rates are payable on land that is the principal place of residence of the prescribed ratepayer; and
 - (c) the land is owned by—

- (i) the prescribed ratepayer; or
 - (ii) the prescribed ratepayer and his or her spouse or domestic partner, (and no other person has an interest (as owner) in the land).
- (2) An application must be made in the prescribed manner and form and be accompanied by such information as the council may reasonably require.
- (3) A council may—
 - (a) reject an application for the postponement of rates; or
 - (b) impose conditions on the postponement of rates, but only in accordance with the regulations.
- (4) Any rates that are within the ambit of a postponement under this section with respect to a particular financial year will become due and payable—
 - (a) when title to the relevant land is transferred to another person; or
 - (b) in the event of a failure to comply with a condition that applies under subsection (3), (and will not be payable before this time even if rates declared with respect to a subsequent financial year are not to be postponed due to a change in circumstances).
- (5) If a postponement of the payment of rates occurs under this section, interest will accrue on the amount affected by the postponement at the prescribed rate per month (applied with respect to the amount postponed and compounded on a monthly basis) until the amount is paid.
- (6) Nothing in subsection (4) prevents the payment of the relevant rates in whole or in part (together with any interest that has accrued under subsection (5)) at an earlier time.
- (7) If rates that are within the ambit of a postponement under this section become due and payable under subsection (4), the following provisions will apply in connection with the liability to pay the rates (and any interest that has accrued under subsection (5)):
 - (a) in a case where subsection (4)(a) applies—the rates (and interest) will be taken to be a charge over the land that ranks—
 - (i) after—
 - (A) any liability to the Crown for rates, charges or taxes; and
 - (B) any prescribed liability to the Crown in respect of the land; and
 - (C) any mortgage, encumbrance or charge registered before the commencement of this section; and
 - (ii) before—
 - (A) any mortgage, encumbrance or charge registered after the commencement of this section (even if the registration occurs before the charge arises); and

- (B) any mortgage, encumbrance or charge that is not registered in respect of the land (even if in existence before the commencement of this section or before the charge arises); and
 - (C) any other interest or liability of a prescribed kind, (and the charge will attach to the land until it is discharged);
- (b) in a case where subsection (4)(b) applies—the rates (and interest) will be taken to be rates in arrears from the date of the failure to comply with the relevant condition (and to be recoverable as such under this Act).
- (8) If a person has applied for the benefit of this section and an entitlement to a postponement ceases to exist, the owner of the land must, within the period prescribed by the regulations, inform the council in writing of that fact (unless the liability to the relevant rates has been discharged).
- Maximum penalty: \$5 000.
- (9) A person must not make a false or misleading statement or representation in an application made (or purporting to be made) under this section.
- Maximum penalty: \$10 000.
- (10) The Governor may, by regulation, make any other provision relating to the operation or administration of this section.
- (11) A regulation cannot be made for the purposes of this section except after consultation with the LGA.
- (12) In this section—

prescribed rate is an amount calculated as follows:

$$P = \frac{CADR + 1\%}{12}$$

where—

P is the prescribed rate

CADR is the cash advance debenture rate for any relevant financial year;

prescribed ratepayer means a person who holds a current *State Seniors Card* issued by the State Government, or who has the qualifications to hold such a card and has applied for the card but has yet to be issued with the card.

Local Government (Financial Management) Regulations 1999

Part 2—Financial accountability

5A—Annual business plans

Pursuant to section 123(2)(g) of the Act, an annual business plan (including a draft for the purposes of public consultation) must include information with respect to the following additional matters:

- (a) the reason why the council has adopted its valuation method for rating purposes;
- (b) if differential rates are used, the reasons and justifications for the differentiation, and the expected level of revenue to be raised by each differential rate;
- (c) if applicable, the use and level of a fixed charge component of a general rate;
- (d) the use and level of any separate rate, service rate or service charge, including the reasons for the rate or charge;
- (e) the council's policy on discretionary rebates and remissions, with particular reference to the rebates that will apply for more than one financial year and including information on how a rebate is designed to meet the purpose behind the rebate;
- (f) issues concerning equity within the community and the impact of rates across the area;
- (g) the application or operation of a minimum amount payable by way of rates (if applicable).