

## Separate Rate Policy

**Reference Number:**  
**Responsible Department:**  
**Related Policy/Procedure:**

Section 4 No 03  
Economic Development  
Public Consultation Policy  
Privately Funded Code Amendment Policy

**Date of Adoption:**  
**Current Review Date:**

22 July 2014  
25 May 2021

**Minute Reference:**

2021/115

**Version Number:**

Amendment 2

**Applicable Legislation:**

Local Government Act, 1999  
Planning, Development and  
Infrastructure Act, 2016

**Next Review Date:**

May 2024

**Review Frequency:**

Triennially, or otherwise as required by  
legislative changes

### 1. Background

Separate rates are a transparent and equitable means used by councils to generate revenue to deliver projects and activities of particular benefit to target areas.

The Local Government Act 1999 provides Light Regional Council with the framework to declare a separate rate on rateable land within a part of the region 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.

Council may elect to utilise the provisions of the Local Government Act, namely Section 154, to declare a separate rate for the purposes of funding the preparation of an amendment to the South Australian Planning and Design Code (Code Amendment) under the *Planning, Development and Infrastructure Act, 2016*.

Similarly, Council may also elect to utilise Section 154 of the Act to declare a separate rate for the purposes of infrastructure delivery. In both scenarios, Council must form the opinion that by applying the separate rate to a targeted area of rateable assessments, those landowners or occupiers will derive a benefit from the activity.

### 2. Separate Rate Policy - Overview

This Separate Rate Policy has the following purpose:

- To define and communicate Council's position on the declaration of separate rates;
- To provide a basis for a transparent, consistent and equitable approach to considering proposals for separate rates as a tool for Council decision making.

The Policy is underpinned by the fundamental principle of providing a means of raising revenue over and above Council's baseline revenue levied specifically to support activities of particular benefit to defined geographic areas of the region.

The Policy is separated into key themes, namely:

- Code Amendments – Funding Models;
- Infrastructure Works – Developer/State Government Funding Agreements;
- Declaration of Separate Rate;
- Consultation;
- Postponement of Payment;
- Rebates;
- References – Legislative Requirements; and

### Review.3. **Code Amendments – Funding Models**

Code Amendments may be funded through one of a few models, namely:

- A Privately Funded Code Amendment;
- General rate increase; or
- Section 154, Local Government Act 1999.

Council has considered which of the above funding models is most appropriate to pursue when funding Code Amendments where Council has formed the opinion that a benefit will be derived by those landowners or occupiers of land because of the Code Amendment. Such Code Amendments will usually relate to green-field or brown-field sites where, because of the Code Amendment, development opportunities are enhanced, and higher land values are realised.

Privately Funded Code Amendments carry with them perception concerns whereby the community may feel that the Proponent, having funded the process, has influence over the outcome; even though this is not the case. The perception of conflict of interest needs to be carefully managed and addressed. To mitigate against the public perception concerns, this model will only be considered in certain circumstances (refer to the Privately Funded Code Amendment Policy).

Applying Code Amendment costs to the general rate is likely to increase the overall general rate substantially depending on the extent of investigations, both planning and infrastructure, to complete the exercise. Spreading this cost across all Council ratepayers will undoubtedly raise equity questions, particularly when Section 154 of the Local Government Act and the raising of separate rates refer to an activity “of particular benefit to the land, or the occupiers of the land.”

Section 154 of the Local Government Act allows Council to apply a separate rate to raise sufficient funds for the purpose of planning an activity that is of particular benefit to the land (or the occupiers of the land). Key points to note in this model are:

- It is a charge on the land;
- The funds may be collected over the life of the Code Amendment;
- Funds not used can be refunded or credited against future liabilities.

Benefits of this approach include:

- Costs are confined to beneficiaries;

Policy No: Version:	Section 4 No. 03 Amendment No. 2	Date of this Policy: 25 May 2021	Page 2 of 4
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- Perception concerns are mitigated – Council is seen to be ‘in control’ with agreements targeted to cover required considerations;
- It is a charge upon the land, therefore the charge stays with the respective landowner;
- Landowners can factor in this charge over their land when negotiating with developers.

Therefore, for the reasons detailed within this section of the Policy, Council will pursue the application of a separate rate to fund specific DPAs pursuant to Section 154 of the Act where it is determined that those landowners or land occupiers will derive a benefit because of the Code Amendment.

#### **Infrastructure Works – Developer/State Government Funding Agreements**

Some development proposals will trigger a need for upgrades to surrounding infrastructure (such as roads/ intersections, stormwater and wastewater).

It is Council’s position that where such upgrades are required, they are to be funded by the proponent/s of the development that triggers the requirement for the upgrade. Such works are also to be secured through an appropriate Deed or Agreement for the funding, specifications and delivery of the required infrastructure that is external to the site.

The *Planning, Development and Infrastructure Act, 2016* contains provisions with respect to determining infrastructure that may be required and how this is to be funded.

Section 154 of the Local Government Act, 1999 may be contemplated by Council to secure contributions towards the provision of such infrastructure.

### **5. Consultation and Declaration of Separate Rate**

Declaration of a separate rate shall occur in accordance with Sections 151 and 154 of the Local Government Act, 1999.

### **6. Remission and Postponement of Payment**

6.1 Remission and postponement of payment of a separate rate may be considered by Council in accordance with Section 1842 and 182A of the Local Government Act 1999.

### **7. Rebates**

7.1 If a separate rate is declared to raise funds for a particular purpose and—

- (a) the Council and/or the Minister resolves not to carry the purpose into effect such as a Code Amendment for example; 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.

- 7.2 Should Council consider a rebate for any of the above circumstances, Council must follow all relevant steps set out in Section 166 of the Local Government Act 1999.
- 7.3 The Council may grant a rebate under this section that is up to (and including) 100 per cent of the relevant rates or service charge.

## 8. References - Legislative Requirements

- 8.1 In the event that the *Local Government Act 1999* (SA) is amended to render this Policy inconsistent with the Act this Policy will be automatically altered to make it consistent with the Act.

## 9. Key Performance Indicators

Objective	Key Performance Indicators	Data Source
Communicate Council's position on the declaration of separate rates	<ul style="list-style-type: none"> <li>The extent to which the Policy is understood and helpful to separate rate proponents and ratepayers</li> </ul>	<ul style="list-style-type: none"> <li>Feedback from users of the Policy</li> </ul>
Provide a policy basis for a transparent and consistent approach to considering proposals for separate rates	<ul style="list-style-type: none"> <li>The extent to which the policy provides a transparent and consistent approach to assessing separate rate proposals</li> </ul>	<ul style="list-style-type: none"> <li>Feedback from users of the Policy</li> </ul>

## 10. Review

This policy will be reviewed triennially, or otherwise as required by legislative changes.

## 11. Policy History:

1. Policy was adopted at the Ordinary Council meeting held on 22 July 2014, Item EDP9.3.1/2014, refer page 2014/262.
2. Amendment No. 1 adopted by Council on 26 February 2019, refer Council Minute STR9.3.7/2019-page 2019/53.
3. Amendment No. 2 adopted by Council on 25 May 2021, Minute Reference STR9.36/2021, Page Reference 2021/115