

Section Number:	6. Finance and Corporate Services
Policy Name:	Gawler East Development – Infrastructure Funding
Classification:	Public – Council Policy
Adopted:	16 July 2019
Frequency of Review:	Every 4 years or as required
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Next Review Due:	April 2023
Responsible Officer(s):	Manager – Finance & Corporate Services
Policy and Code of Practice Manual File Ref:	CC10/407
Council File Reference:	CR19/29710
Legislation Authority:	Local Government Act 1999
Related Policies and Codes:	Funding Policy Strategic Rating Policy
Related Procedures:	Gawler East Development – Procedure for accounting for revenue contributions

1. BACKGROUND / INTRODUCTION

- 1.1 In 2010, the Minister of Planning rezoned approximately 400ha of land in Gawler East as residential land. This land is contained in the Residential (Gawler East) and Residential Hills Zones of the Council's current Development Plan.
- 1.2 There will need to be a significant level of transport and community infrastructure provided in the Gawler East Development Area to facilitate its orderly development and to meet quality of life issues for future residents. As beneficiaries of such infrastructure, it is expected that those intending to develop land in the Gawler East Development Area will make an appropriate financial contribution towards the infrastructure.
- 1.3 The following infrastructure will be required for the Gawler East Development Area:
 - 1.3.1 Gawler East Link Road (GELR);
 - 1.3.2 Associated GELR roadworks (deferred);
 - 1.3.3 Community Infrastructure;
 - 1.3.4 Traffic interventions (on existing roads).

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- 1.4 The State Government has agreed to construct the GELR through the Gawler East Development Area to relieve potential traffic congestion along Adelaide Road and Murray Street by connecting in to Main North Road through a link to Potts Road.
- 1.5 The State Government has committed \$59.4m million for the construction of the GELR. There is an executed deed of agreement between the Council and the State Government (the Gawler East Link Road Deed) providing for the Council to contribute \$8.167 million towards the GELR, with the State's net contribution thereby being \$51.233 million.

2. POLICY BASIS AND OBJECTIVES

- 2.1 To outline the purpose of the separate rates declared in relation to the Gawler East Development Area and the circumstances in which such separate rates may be postponed and remitted.
- 2.2 It is intended that contributions towards the infrastructure required for the Gawler East Development Area as outlined in this policy will be made pursuant to deeds of agreement between the Council and those intending to develop the land.
- 2.2 The declaration of separate rates by the Council is for the purpose of ensuring the provision and delivery of the infrastructure that is required for the Gawler East Development Area. Traditionally bank guarantees have been sought from developers to secure developer contributions. The declaration of a separate rate has the benefit of constituting a statutory charge on the relevant land and also saving the developer the costs of establishing and maintaining bank guarantees.
- 2.3 As the life of development required within the Gawler East Development Area is expected to be over an extended period, (currently estimated between 10-15 years), to ensure the ongoing consistency in the accounting treatment of all financial transactions generated as a result of this policy, a procedure regarding the accounting treatment of such financial transactions has been developed.

3. DEFINITIONS

- 3.1 **Developable land** shall mean the component of an allotment that is deemed by Council to be capable of future development. This includes land that would be required for road reserves and areas of open space that facilitate development, but excludes land constrained within designated steep creek environment.
- 3.2 **Gawler East Development Area** shall mean land that is contained within the Residential (Gawler East), Residential Hills, and Open Space Zone of the Town of Gawler's Development Plan.
- 3.3 **Gawler East Link Road Deed** shall mean the deed executed between the Council and the Minister for Transport and Infrastructure on 25 May 2017, which expires on the earlier of 30 years from the commencement date or the date on which all payments under the Deed have been made.

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- 3.4 **GELR** shall mean the Gawler East Link Road.
- 3.5 **Minister** shall mean the Minister for Transport and Infrastructure.
- 3.6 **Separate Rates** shall mean separate rates declared by the Council pursuant to Section 154 of the Local Government Act 1999 in relation to the Gawler East Development Area as outlined in this policy.
- 3.7 **Springwood Development land** shall mean the whole of the land being comprised in Certificates of Title Volume 6186 Folio 896, Volume 6186 Folio 895, Volume 6118 Folio 249, Volume 6162 Folio 334, Volume 6167 Folio 581 and Volume 6184 Folio 173.
- 3.8 **‘the Act’** shall mean the Local Government Act 1999.

4. PRINCIPLES

- 4.1 This policy is predicated on the basis that the infrastructure to be provided in the Gawler East Development Area will be of benefit to the Gawler East Development Area as well as occupiers of and visitors to Gawler East Development Area. Therefore those persons intending to develop the land are the expected beneficiaries of the infrastructure to be provided.
- 4.2 The infrastructure required for the orderly development of the Gawler East Development Area is set out below.
- 4.3 Infrastructure Contributions

4.3.1 Gawler East Link Road

- 4.3.1.1 The State Government has committed \$59.4 million for the construction of the GELR. The Council will contribute \$8.167 million towards the GELR, with the State’s net contribution thereby being \$51.233 million. In accordance with the Gawler East Link Road Deed, the Council will pay \$2.4m to the Minister (being its contribution towards the upgrade of Potts Road) within 30 days of practical completion of the GELR works.
- 4.3.1.2 The Council will pay \$500,000 to the Minister (being a contribution pertaining to the Springwood Development Land for the Village Centre connection to Calton Road). The Council’s contribution to these works will be reimbursed to Council by the developer of the Springwood Development Land as the direct beneficiary of these works.
- 4.3.1.3 Other financial contributions from the Council to the Minister towards the GELR are intended to be funded from separate rates in respect of the Gawler East Development Area and/or pursuant to deeds of agreement between the Council and those persons developing land within the Gawler East Development Area. These other financial contributions are payable by the Council to the Minister as development occurs within the Gawler East Development Area. Thus, such contributions payable to the Minister will only be required upon contributions being received from ratepayers or developers.

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- 4.3.2 Deferred Infrastructure associated with the Gawler East Link Road includes infrastructure such as road lighting for the full length of the Gawler East Link Road, an additional footpath, on street car parking.
- 4.3.3 Community Infrastructure includes infrastructure such as a Community Centre, general sporting facilities (including mixed use courts) and a district level play space.
- 4.3.4 Traffic Interventions (on existing roads) includes infrastructure such as future upgrades required to Council's existing road network and intersections as a direct result of the construction of the Gawler East Link Road.

4.4 Application of Separate Rates

4.4.1 Adoption and Review

- 4.4.1.1 Separate rates for the Gawler East Development Area will be considered and declared on an annual basis over the life of the development of the Gawler East Development Area, based on a number of factors including completed construction costs and revised estimates. The declaration of a separate rate creates a charge against the respective land.
- 4.4.1.2 The amount of the separate rates for the Gawler East Development Area will likely change over time based on a number of factors including developer contributions received over the life of the development of the Gawler East Development Area.
- 4.4.1.3 The amount of a separate rate will be determined on a proportional basis, based on the quantum of developable land within each allotment. The amount of the developable land within each allotment may be subject to change from year to year based on a number of factors such as new construction methodologies.

4.4.2 Postponement and Conditions

- 4.4.2.1 Once declared, payment of a separate rate in relation to the Gawler East Development Area, payable in respect of a particular piece of land, will be postponed unless the principal ratepayer of the land or any other person seeks to have a certificate under Section 51 of the *Development Act 1993* issued for any division of the land involving the creation of one or more allotments intended for residential or commercial use; or otherwise obtains development approval under the *Development Act, 1993* for construction of a residential development involving more than one dwelling, or a commercial development, on the land, and either:
 - payment has not already been made to the Council (or security provided to the Council's satisfaction) in accordance with another mechanism (including under a deed) for an amount equivalent to the amount of the separate rate declared and payable in respect of the land; or
 - in kind capital works have not been undertaken (or security

provided to the Council's satisfaction) which the Council is satisfied in its absolute discretion are equivalent to the amount of the separate rate declared and payable in respect of the land, in which case the postponement is revoked and ceases to operate.

4.4.2.2 For the avoidance of doubt, the postponement of a separate rate payable in respect of a particular piece of land is granted on the condition that at no time in the financial year that the separate rate has been declared the principal ratepayer of the land or any other person seeks to have a certificate under Section 51 of the *Development Act 1993* issued for any division of the land involving the creation of one or more allotments intended for residential or commercial use or, in respect of development that is not land division, development approval is not granted in respect of the land for either multiple dwellings or a commercial development on the land unless:

- payment has already been made to the Council (or security provided to the Council's satisfaction) in accordance with another mechanism (including under a deed) for an amount equivalent to the amount of the separate rate declared and payable in respect of the land; or
- in kind capital works have been undertaken which the Council is satisfied in its absolute discretion are equivalent to the amount of the separate rate declared and payable in respect of the land.

4.4.2.3 A separate rate postponed in accordance with this policy will not be subject to the imposition of interest during the period of postponement unless the Council determines otherwise.

4.4.3 Remission

A separate rate declared and payable in respect of a particular piece of land for a particular year as anticipated by this policy will (unless the Council resolves otherwise) be remitted in whole or in part (as appropriate) immediately upon the declaration by the Council of a further separate rate in the following year in respect of the same land provided:

- the principal ratepayer of the land or any other person has not sought to have a certificate under Section 51 of the *Development Act 1993* issued for any division of the land involving the creation of one or more allotments intended for residential or commercial use; or
- development approval in relation to the land involving multiple dwellings or any commercial development on the land has not been granted; or
- payment has already been made to the Council (or security provided to the Council's satisfaction) in accordance with another mechanism (including under a deed) for an amount equivalent to the amount of the separate rate declared and payable in respect of the land; or

- in-kind capital works have been undertaken which the Council is satisfied in its absolute discretion are equivalent to the amount of the separate rate declared and payable in respect of the land.

4.4.4 Basis of Postponement and Remission

The basis of the postponement, and if relevant remission, is that the Council is satisfied that payment of the separate rate in respect of such land would cause the principal ratepayer hardship in circumstances where:

- neither the principal ratepayer of the land nor any other person has sought to have a certificate under Section 51 of the *Development Act 1993* issued for any division of the land involving the creation of one or more allotments intended for residential or commercial use, or, in respect of development that is not land division, development approval is not granted in respect of the land for either multiple dwellings or a commercial development on the land; or
- payment has already been made to the Council (or security provided to the Council's satisfaction) in accordance with another mechanism (including under a deed) for an amount equivalent to the amount of the separate rate declared and payable in respect of the land; or
- in kind capital works have been undertaken which the Council is satisfied in its absolute discretion are equivalent to the amount of the separate rate declared and payable in respect of the land.

4.4.5 Payment

4.4.5.1 A postponement ceases to apply if:

- the principal ratepayer of the land or any other person seeks to have a certificate under Section 51 of the *Development Act, 1993* issued for any division of the land involving the creation of one or more allotments intended for residential or commercial use; or in respect of development that is not land division the granting of a development approval for either a multiple dwelling building or commercial development on the land, and either:
 - payment has not already been made to the Council (or security provided) in accordance with another mechanism (including under a deed) for an amount equivalent to the amount of the separate rate declared and payable in respect of the land; or
 - in-kind capital works have not been undertaken which the Council is satisfied in its absolute discretion are equivalent to the amount of the separate rate declared and payable in respect of the land;
- the Council in its discretion revokes the postponement in which case the Council must give the principal ratepayer at least 30 days written notice before taking action to recover the rates affected by the postponement; or

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- The principal ratepayer ceases to own or occupy the land in respect of which the rates are imposed (in which case the rates are payable immediately).

4.4.5.2 A separate rate that is not subject to postponement or remission under this policy will be a liability of the principal ratepayer of the land, amongst others in accordance with the Act, and will be payable in accordance with Council's determination for payment in accordance with the Act and set out in the rate notices issued by the Council, or as otherwise agreed between the Council and the principal ratepayer.

4.5 Any person who is aggrieved by a determination of the Council under this policy or by the application of this policy by the Council may seek a review of that decision in accordance with the Council's Review of Decisions Policy under Section 270 of the Act – in accordance with the time limitations and other provisions set out therein.

5. REVIEW AND EVALUATION

The Policy will be reviewed after each general election of Council and may be reviewed at any time. .

The Chief Executive Officer will report to Council on the outcome of the review, and if relevant make recommendations for amendments, alteration or substitution of a new Policy.

6. FURTHER INFORMATION

Further information about this Policy can be obtained by:-

Telephone: 8522 9211
Email: council@gawler.sa.gov.au
Appointment: Town of Gawler Administration Centre, 43 High Street, Gawler East.
Letter: PO Box 130, Gawler SA 5118

7. AVAILABILITY OF POLICY

The Policy is available for inspection during ordinary business hours at the Council principal office, Town of Gawler Administration Centre 43 High Street, Gawler East or is available on the Council website at www.gawler.sa.gov.au.

A copy of this Policy will be provided to interested parties upon request, for a fee as contained in the Register of Fees and Charges.