### 11.3 REPORT TITLE: NAIRNE WASTEWATER (CWMS) INFRASTRUCTURE SEPARATE RATE PROPOSAL

DATE OF MEETING: 19 MAY 2014
FILE NUMBER: 14/037774

## Strategic Plan Ref:

Outcome 15: Organisational capacity to project delivery and effective and efficient services.
Performance Measure 37: Broaden revenue base to reduce reliance on general rates.

## Purpose:

It is proposed that Council declare a Nairne Wastewater (CWMS) Infrastructure Separate Rate on designated land within the Mount Barker Urban Growth DPA area.

## Summary - Key Issues:

- Council's position is the beneficiary pays principle for major infrastructure provision.
- The statutory power at section 154 of the Local Government Act supports the declaration of a separate rate on rateable land.
- Council to charge a once off $\$ 4,850$ (GST exempt) for Community Wastewater Management System (CWMS) infrastructure per new connection unit within the defined Nairne MDPA Area indexed for the life of the project.
- Council to undertake community consultation process to introduce a Nairne Wastewater (CWMS) Infrastructure Separate Rate as per Council's Public Consultation Policy.


## Recommendation:

That Council:

1. Endorses the community consultation report on a Nairne Wastewater (CWMS) Infrastructure Separate Rate which satisfies both the requirements of section 151(6) of the Local Government Act 1999 and the proposals contained in the report (refer attachment 1);

## Background:

1. On 16 December 2010, the Mount Barker Urban Growth Development Plan Amendment (MDPA) was gazetted by the Minister.
2. The MDPA rezoned approximately 1,310 hectares of land that was previously included in rural zones in the Council's area for urban development (MDPA Area).
3. The MDPA includes a very broad brush structure plan for the proposed zone that offers little guidance for the provision of infrastructure.
4. Council's powers under the Development Act 1993 provide limited scope and only enable Council to require developers to provide certain infrastructure within (and in some cases immediately adjacent) the developer's land when a development application is lodged and assessed.

## Discussion:

5. Council is already familiar with the revenue raising mechanism of section 154 (separate rate) of the Local Government Act 1999. This is a rating power that is already used by the Council for the purposes of the Mount Barker Town Centre Zone, Hahndorf Township Main Street, Developer Contributions (associated with Council and Developer Infrastructure Agreements executed back in late 2006), MDPA Transport, Recreation, Sport \& Community, Wastewater Infrastructure and the NRM levy separate rates.
6. The MDPA Wastewater Infrastructure separate rate declared in July 2013 by Council excluded the land in Nairne contained within the MDPA area. This was excluded due to the expectation of the Mount Barker MDPA area being provided with a sewer wastewater service but the Nairne MDPA Area being provided with CWMS i.e. different services and different amounts. This is reflected in the draft Annual Business Plan for 2014/15 - please refer separate agenda item.
7. As per the Council's Community Wastewater Management Scheme Infrastructure Fee Policy, charging is based on connection units as defined within the policy. This is to ensure equity, an example being a retirement complex accommodating a large number of people which may be only one new allotment.
8. Council to charge a once off $\$ 4,850$ (GST exempt) for Community Wastewater Management System (CWMS) infrastructure per new connection unit within the defined MDPA Nairne Area with the amount to be adjusted annually by Council for the life of the project. This amount replicates the applicable fee for CWMS in other townships in the Council area proposed for 2014/15.
9. The statutory power at section 154 supports the declaration of a separate rate on rateable land within a part of the Council area in respect of an activity that is, or is intended to be, of particular benefit to the land or occupiers of the land or to visitors to the part of the area to which the rate applies.
10. The Local Government Act at section 151(5)(c) provides that before the Council changes the imposition of rates on land by declaring a (new) separate rate, it is required to prepare a prescribed report on the proposed change and follow the steps set out in its public consultation
policy. The report, which forms the basis of the consultation, is prescribed at section 151(6) of the Act and is required to address at least:

- the reasons for the proposed separate rate;
- the relationship of the proposal to the Council's overall rates structure and policies;
- insofar as is reasonably practicable, the likely impact on the ratepayers; and
- issues concerning community equity.

11. The community consultation report (attachment 1) on the proposed Nairne Wastewater (CWMS) Infrastructure Separate Rate which satisfies the above legislative requirements will address matters such as:

- the details of the 'activity' being funded;
- the quantum of funds that the 'activity' requires;
- the application of the separate rate on a 'per allotment' basis over affected assessments;
- rate relief and postponement proposals;
- the period for which the rate is proposed to apply;
and other matters necessary to achieve a fully transparent and informed process with resultant informed feedback, including the application of the relevant 'Principles of Taxation'.


## Business Plan

9. The need for the introduction of a Nairne Wastewater (CWMS) Infrastructure Separate Rate to meet the cost of this facility where it is provided is included in the 2014/15 Draft Annual Business Plan submitted to Council for community consultation concurrently with this report.
10. The separate rate will be imposed, but not become payable, until development of the subject land occurs (i.e. payable by the developer of the land) by subdivision and the attribution of a valuation assessment to each of the created allotments.

## Proposal

11. It is proposed that the separate rate power be used for the purpose of contributing funding for Nairne Wastewater (CWMS) Infrastructure required to contribute to meeting the costs of a wastewater service for the Nairne MDPA Area.
12. That the Council declare a separate rate within the Nairne MDPA Area as the primary mechanism to raise funds to meet the costs of the required Nairne Wastewater (CWMS) Infrastructure.

## Community Engagement:

A community engagement is to be undertaken at the same time as any statutory process under the Local Government Act 1999 and Council's consultation policy.

## Policy:

Separate Rate - Developer Contributions: Payment, Rebate, Postponement Policy.
Separate Rate - MDPA Infrastructure: Payment, Rebate, Remission, Postponement Policy.
Community Wastewater Management Scheme Infrastructure Fee Policy.

## Budget:

Rates raised from the separate rate are an essential component as part of the funding strategy to procure essential infrastructure works to meet Nairne Wastewater (CWMS) Infrastructure needs as a result of the rezoning of the MDPA.

## Statutory/Legal:

A Council may declare separate rates in accordance with the provisions of Section 154 of the Local Government Act.
Independent legal advice has been received in relation to this proposal.

## Staff Resource Requirements:

Rates staff would be required to implement and administer the separate rate and postponement or rebate once the separate rate is adopted.

## Environmental:

Not applicable to this report.

## Social:

Council considers the impact of rates on all sections of the community.
Separate rates are raised 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.

Public Consultation will be undertaken.
The separate rate facility is being used to lessen impact on existing ratepayers for required infrastructure within the Nairne MDPA Area.

## Risk Assessment:

Legislation is not efficient for development which may result in legal challenge.

## Asset Management:

 N/A
## Conclusion:

Council authorise the undertaking of community consultation over the entire Council area in accordance with the requirements of Council's community consultation policy for the purpose of introducing a Nairne Wastewater (CWMS) Infrastructure Separate Rate.

## Key Contact

Neville Gay, Senior Rates Officer:

Manager or Sponsor of Project
David Peters, General Manager Corporate Services
Brian Clancey, General Manager Projects \& Infrastructure

Attachments
Attachment 1: Community Consultation report (14/037776)

Attachment 1 to Item 11.3
The District Council of Mount Barker
Proposed Declaration Nairne Wastewater (CWMS) Infrastructure
3
5 Separaíe Raie 2014/'15

## CONSULTATION REPORT

# Proposed Nairne Wastewater (CWMS) Infrastructure Separate Rate in the defined area within the Nairne MDPA Area 

May 2014

# The District Council of Mount Barker Proposed Declaration Nairne Wastewater (CWMS) Infrastructure Separate Rate 2014/15 

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# The District Council of Mount Barker Proposed Declaration Nairne Wastewater (CWMS) Infrastructure Separate Rate 2014/15 

## INTRODUCTION

In accordance with Section 154 of the Local Government Act 1999 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. It is a charge on the land.

Section 154 of the Local Government Act 1999 permits Council to raise a separate rate on rateable properties, which will or which it is intended will benefit from a project or undertaking. The main legislative features of a separate rate are:

- it can be applied to rateable properties that benefit from the purpose of raising the separate rate;
- money raised by these means cannot be put to any other use; and
- the separate rate must cease when the purpose has been completed and paid for.

This consultation report is provided as information for the proposed declaration of a separate rate to contribute funding for the provision of Nairne Wastewater (Community Waste Water Management system) Infrastructure including collection, treatment, storage and re-use infrastructure required to connect and service the defined area within the Nairne land of the Mount Barker Urban Growth Development Plan Amendment (MDPA) Area. This report is prepared and provided for public consultation purposes in accordance with the provisions of the Local Government Act, 1999.

The proposed Separate Rate will constitute a mechanism to raise funds to contribute to meeting the costs of providing the required infrastructure for the defined area within the MDPA Area.

A publication has been placed in The Courier describing the proposed declaration of a separate rate and inviting interested parties to:

- Access and consider the content of this report;
- Provide a written submission to Council; and/or
- Provide feedback at a public meeting

The public meeting is to be held at the commencement of Council's Ordinary Meeting to be held on 16 June 2014. The public meeting is to receive and consider presentations from the community. The Council is also seeking written submissions from the community on the proposed declaration of the separate rate to be received at the Council Office, 6 Dutton Road, Mount Barker no later than at 5 pm on Friday 13 June 2014.

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# The District Council of Mount Barker Proposed Declaration Nairne Wastewater (CWMS) Infrastructure Separate Rate 2014/15 

Copies of this report are available to the public at the Local Government Centre, on Council's website and copies have also been forwarded to affected ratepayers.

## BACKGROUND

On 16 December 2010, the Mount Barker Urban Growth Development Plan Amendment (MDPA) was Gazetted by the Minister.

The MDPA rezoned approximately 1,310 hectares of land that was previously included in rural zones in the Council's area for urban development which included 45 hectares in Nairne (MDPA Area).

Development of the MDPA Area will necessitate the provision of transport, wastewater, stormwater and community and recreation infrastructure within, and outside of, the MDPA Area.

In the absence of a statutory scheme for levying developer or infrastructure contributions, Council needs to use alternative mechanisms if it is to target the funding of this specific infrastructure rather than funding it from general revenue and thereby apportioning the cost over the entire Council ratepayer base.

## DISCUSSION

## Activity

1. A separate rate is proposed to be declared for the purpose of contributing to Nairne Wastewater (CWMS) Infrastructure required to connect and service approximately 420 allotments within the Nairne MDPA Area.
2. This approach is proposed by Council for a number of sound public policy reasons including the desirability of maintaining management control over the provision of Nairne Wastewater (CWMS) Infrastructure.

## Reasons for the proposed separate rate

3 Council acknowledges that basic infrastructure is required in order for there to be orderly growth and development within the District.
4. Within the Nairne MDPA Area certain infrastructure will be required as development is undertaken and this will need to be funded. This infrastructure includes the provision of a suitable wastewater collection, treatment, storage, disposal and reuse facility.

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5. Council's Long Term Financial Plan (Budgets) indicates that the existing ratepayers can not afford to finance an undertaking of this magnitude. The proposed separate rate is also consistent with the Council's position for infrastructure provision that the beneficiary pays.
6. To address this funding issue and to protect existing ratepayers of the District from excessive rate increases it is proposed that a new separate rate be implemented to secure capital funding for Nairne Wastewater (CWMS) Infrastructure.

## Relationship of proposed change to overall rates structure and policies

7. Council's existing rates structure can not cater for the proposed new infrastructure required to meet the development within the MDPA Area.
8. Current rating structures have historically funded existing Council services in place today.
9. Policies \& procedures will be developed to meet the challenges of additional infrastructure required within the Nairne MDPA Area. This will occur in an equitable way so that existing ratepayers are protected financially to minimise increases in existing general rates.
10. The proposed separate rate is independent from the existing rating structure and is being introduced to rate only those properties that will benefit from the infrastructure and to meet the expected growth within the Nairne MDPA Area.

## Likely impact on the ratepayers

11. The current existing ratepayers will not pay the separate rate until there is a creation of a new valuation assessment on an existing landholding.
12. The separate rate will be declared to apply, in accordance with the Act, upon the creation of a new valuation assessment, as and when advised by the Office of Valuer General e.g. Land Division. Attachment 2 shows Sample Rate Notices.
13. This is best explained by way of example:

- if a parcel of land has been subdivided creating new valuation assessments e.g: one parcel into 50 new allotments (ie. In respect of each valuation assessment created), the separate rate will become due and payable as follows:-

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Proposed Declaration Nairne Wastewater (CWMS) Infrastructure
Separate Rate 2014/15

- 50 Allotments (ie: in respect of each valuation assessment created) x $\$ 4,850$ (separate rate) $=\$ 242,500$ in the relevant financial year.
- this liability could be paid either as a lump sum or in quarterly instalments in the financial year in which the separate rate is raised.
- if one of these 50 allotments (ie. In respect of each valuation assessment created) is subsequently further subdivided then the new owner will also be subject to this separate rate. This will occur as the separate is to be applied to the new valuation assessments created for each of the new allotments.
- future ratepayers will continue to pay the separate rate (indexed) to allow for future expansion of the plant and network as the population increases.

14. It is important to note that the intention is that a ratepayer will only pay the separate rate once on any separate allotment (i.e. in respect of each valuation assessment created). Therefore, whenever any allotment is subdivided or further subdivided the separate rate will apply on a once-off basis to each new allotment as it is created and attributed its own valuation assessment.

## Equity Issues

15. Considerations to be taken to account in relation to rating principles are as follows:

- Benefits received: Reliance on this principle suggests that (all other things being equal) a person who receives more benefits should pay a higher share of tax. The proposed separate rate will be applicable to those landholders within the Nairne MDPA Area who develop land. This will enable those landholders to access the new infrastructure that they have both contributed to and which is essential for their development.
- Capacity to pay: this principle suggests that a person who has less capacity to pay should pay less; and that person is of similar means should pay similar amount. This proposal has mechanisms in place e.g. remissions and rebates to existing ratepayers who do undertake development. Council intends to impose a separate rate on those with the capacity to pay for development as they will receive benefits from the infrastructure. This proposal is based upon the premise that existing ratepayers do not subsidize all new development.


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For this proposal;
16. A general rating principle is that a separate rate is an equitable, targeted way of recovering the cost of the provision of services and infrastructure that are intended to primarily benefit a specific identifiable group of ratepayers.
17. Council 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.
18. Council needs to strike an appropriate 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 characteristics of key services.
19. The principal of intergenerational equity highlights the importance of financial sustainability to ensure that each generation 'pays their way', rather than any generation 'living off their assets' and leaving it to future generations to address the issue of financing new infrastructure.

## Area

20. The Local Government Act allows Council to declare a separate rate over only a portion of the land in Council's area.
21. This area is defined in Attachment 1.

## Basis of charging

22. The separate rate will be declared on a per allotment basis, using Council's price for a CWMS Wastewater connection unit as annually adjusted by Council. This will be a once off fixed charge payment of $\$ 4,850$ per allotment (i.e. in respect of each valuation assessment created) (excluding GST) indexed for the life of the project.
23. As and when new allotments (i.e. in respect of each valuation assessment created) are created the separate rate will 'multiply' and apply over all of the newly created allotments at the same amount of \$4,850 (to be adjusted annually).
24. This amount reflects the current cost to Council of providing expansion to the capacity of the CWMS network.

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25. The separate rate will be indexed each year to reflect the Water \& Sewerage Index (Series ID: A2329871C) as published from the Australian Bureau of Statistics.

## Basis of rating

26. The separate rate will be a fixed charge rate, applied on the same basis to all land within the relevant portion of the Nairne MDPA Area, regardless of land use.

## Period of rating

27. The separate rate can be declared for a specified period (e.g. the period of time taken to undertaken a capital project) and may be declared for a period exceeding one year.
28. It is proposed that the annual amount of the fixed charge separate rate will be declared each single financial year for the duration of the project having been included in and accounted for as part of the usual annual business planning process.

## Postponement of Payment

29. It is not proposed that the separate rate will be postponed. It will be due and payable (quarterly) immediately following declaration.
30. In accordance with usual conveyancing practices, if an allotment over which the separate rate has been declared is sold by the developer before the separate is paid, the full year's rate will be adjusted as between the vendor and purchaser.
31. Pursuant to section 182 of the Local Government Act, if Council is satisfied on application of a ratepayer that payment of the separate rate would cause hardship, Council may postpone payment in whole or in part for such period as Council sees fit.
32. This application can only occur after the application of the separate rate to land is triggered by development.

## Remission

33. A complete remission (100\%) will apply when a developer has entered into an agreement with Council to contribute (by monetary payment or in-kind works) to the provision of contributing to the funding of the Nairne Wastewater (CWMS) Infrastructure and can demonstrate that all of the developer's obligations under that agreement have been complied with or secured by means that are

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satisfactory to the Council which may be via a separate rate. Such a developer would apply to Council for a remission of the separate rate on the grounds of hardship, when they have already made an equivalent payment or have legally committed to do so to the Council inclusive of the required security.

## Rebates

34. A rebate of the separate rate will be granted to all current existing land and property holders as defined in the Land Use Regulations. The separate rate will be imposed to any newly created valuation assessment e.g. as triggered by land division.
35. A Council may grant a discretionary rebate of rates or service charges in specific circumstances on such conditions as the Council sees fit. Council will give reasonable consideration to the granting of rebates on merit. Council complies with the provisions in relation to the Local Government Act in regard to rebates and has an existing policy: Rates Rebate Policy.

## Accountability

36. Council is accountable to spend the revenue collected by the separate rate only for the purposes of the activity for which the rate is declared.
37. If a separate rate is declared to raise funds for a particular purpose and Council resolves not to carry the purpose into effect, or there is an excess of funds remaining, the revenue or excess revenue from the separate rate must be refunded to the persons who paid the rate, or credited against future rate liabilities in relation to the land subject to the rate.
38. Council will precisely determine and track all costs of providing infrastructure to the relevant area against the revenue raised from the separate rate declared. A separate fund will be established so that financial statements can readily be prepared which will be publicly available in accordance with the Australian Accounting Standards.
39. There is also further transparency required in terms of the specific separate rate information that is included in each rate notice sent to each ratepayer.

# The District Council of Mount Barker <br> Proposed Declaration Nairne Wastewater (CWMS) Infrastructure Separate Rate 2014/15 

## CURRENT RATING OVERVIEW

40. Council's current rating strategies are included in Council's endorsed Annual Business Plan, includes a number of policy areas that have been implemented throughout the District. A copy of the Annual Business Plan is available upon request or on Councils website.

## CONSULTATION PLAN \& TIMETABLE:

- Council Meeting to endorse Community consultation 19 May 14
- Advertise consultation 21 May 14
- Cut off date to receive written submissions 13 Jun 14
- Public meeting for consultation

16 Jun 14

- Council meeting to adopt new separate rate

7 Jul 14

## Feedback on the Proposed Separate Rate

Written submissions are being sought on the proposed declaration of a separate rates on rateable land identified in the MDPA Area. Submissions are to be submitted to:

The Chief Executive Officer
District Council of Mount Barker
PO Box 54
Mount Barker SA 5251
or council@dcmtbarker.sa.gov.au with "Nairne Wastewater (CWMS) Infrastructure Separate Rate" in the heading

Please Note: If you intend to come to the Council meeting (and present any feedback) you will need to advise Council by Friday 13 June 2014, by emailing Neville Gay at; ngay@dcmtbarker.sa.gov.au or register by phone 83917207.

## by no later than at 5.00 pm on 13 June 2014

If you have any queries in relation to the declaration of a separate rate contact Neville Gay, Senior Rates and Property Officer on 83917207 or email: ngay@dcmtbarker.sa.gov.au.

Andrew Stuart
CHIEF EXECUTIVE OFFICER

## Area Defined for Application of Nairne Wastewater Infrastructure Separate Rate



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## Attachment 2



## Sample Rate Notice <br> (Nairne Wastewater (CWMS) Infrastructure Separate Rate - REBATED)



## Sample Rate Notice

(Nairne Wastewater (CWMS) Infrastructure Separate Rate - POSTPONED)


