RATES - NOT RATEABLE PROPERTIES EXEMPTIONS POLICY

COUNCIL POLICY	
Responsible Directorate	Corporate and Commercial Services
Responsible Section	Finance
Responsible Officer	Director Corporate and Commercial Services

OBJECTIVE:

To establish a consistent approach to determine whether land is rateable under section 6.26 of the *Local Government Act 1995* and determine the eligibility of a partial rate exemption to property where it is evidenced that a portion of the land is used for a not rateable purpose

SCOPE:

This policy applies to all directorates of the Town of Cambridge.

POLICY STATEMENT:

1. General

This Policy will:

- Ensure that determinations of rateable and not rateable land under section 6.26 of the *Local Government Act 1995* are made in a consistent, transparent and equitable manner.
- Provide a clear framework for assessing applications for Not Rateable Status and Partial Rate Exemptions based on the actual use of land.
- Support sound financial management by ensuring that rate exemptions are only granted where land use genuinely meets the statutory criteria.
- Promote fairness between ratepayers by ensuring that commercial or profit-generating uses of land contribute appropriately to the rating base.
- Provide clarity to applicants regarding eligibility, assessment criteria, ongoing obligations and review requirements.

2. Legislative Requirements

All determinations are to comply with the following:

- *Local Government Act 1995* – Section 6.14;
- *Local Government (Financial Management) Regulation 1996* – Regulation 19, 19C

Where there is any inconsistency between this Policy and the *Local Government Act 1995* or the *Local Government (Financial Management) Regulations 1996*, the legislation prevails.

3. Principles for Determining Applications for Not Rateable Status

Except as provided in Section 6.26 of the *Local Government Act 1995*, all land within a district is rateable land.

Land categorised as exempt under a sub-section of Section 6.26, with the exception of sub-sections (2)(a)–(c), will require submission of an application for Not Rateable Status with supporting evidence to be assessed in accordance with this policy. The supporting

evidence must demonstrate that the land is not rateable land under Section 6.26(2). Land will be treated as rateable land until sufficient evidence has been provided to establish otherwise.

When application is made for Not Rateable Status under Section 6.26(g) - land used exclusively for charitable purposes - the application will be determined with consideration of the following:-

(a) The land use must be for public benefit, where the benefit is available to members of the public generally or a particular section of the public and;

(b) The land use must be exclusively for charitable purposes, such as the relief of the disadvantaged, advancement of education, religious purposes or other purposes beneficial to the community at large and; and

(c) Land will not be used for a charitable purpose if the predominant or regular activity conducted on the land is a fundraising or revenue generating activity regardless of whether the proceeds are applied to charitable purposes conducted on the land or elsewhere. For the avoidance of doubt, systematic or ongoing fundraising activities that are commercial in nature, including retail operations, regular ticketed events, paid accommodation, or hire arrangements operated on a planned or continuous basis, will be regarded as rateable use.

1.1 Relevance of Land Use

When making a determination as to whether Section 6.26(2) applies in any particular case, careful consideration will be given to any commercial use of the land in question. If the land use is of the same nature as other land that is rateable land or the use is commercial in nature (for example, where a profit is being derived as the normal activity of a business), then it will be rateable land and Section 6.26(2) will not apply.

For a determination to be made that land is used exclusively for charitable purposes, the actual use of the land must be considered. Land will not be used exclusively for charitable purposes merely because it is owned or occupied by a charitable body.

In determining applications for Not Rateable Status where only a portion of the land is used for charitable purposes, consideration will be given as to whether or not the use of the land is ancillary to its primary use of charitable purposes. For example, where the primary use of the land is for a charitable purpose and an ancillary use produces minor income that is incidental, irregular and directly connected to the charitable activity conducted on the land, the land use will still be considered exclusively for charitable purposes and will therefore be eligible for Not Rateable Status.

Conversely, where the land is used for the purpose of deriving a profit, even if the proceeds are used to support charitable purposes, the use of the land will not be considered exclusively for charitable purposes and will therefore be considered rateable.

The applicant must provide sufficient information about the use of the land to demonstrate that the purpose for which the property is used is for a public or other benevolent community benefit and available to members of the public generally, or a sufficient section of the public.

In making the determinations of Not Rateable Status for land used exclusively for charitable purposes, consideration will be given to decisions made by other authorities and relevant case law.

Where fundraising or commercial activity forms a distinct, identifiable or material component of the land use, the Town may determine that a Partial Rate Exemption is appropriate rather than granting Not Rateable Status to the property as a whole.

2. Principles for Determining Applications for Partial Rate Exemption when only a portion of the land is used for a not rateable purpose

The Town may apply a Partial Rate Exemption to a rateable property where it is evidenced that a portion of the land is used exclusively for a not rateable purpose as defined under Section 6.26 of the *Local Government Act 1995*. In this case and at the determination of the Town, only the portion of land that is not used exclusively for a not rateable purpose and is a material part of the property will be rated.

Where sufficient evidence is provided that only a portion of a property is used for a rateable purpose and the remainder of the property is used for a not rateable purpose as classified under Section 6.26, then a proportionate assessment of rates will be levied for the portion of land used for the rateable purpose. For example, an educational institution making one of its buildings available to the general public for accommodation at a commercial rent, is subject to the payment of rates for that building. A religious organisation utilising a hall for general public use or community hire is subject to the payment of rates on that facility.

In determining the proportion of land that is rateable or not rateable, the Town will assess the physical extent, frequency and nature of use of the relevant portions of the land. The basis on which a partial exemption is calculated will be documented and recorded in the determination, including the information provided by the applicant and any additional analysis undertaken by the Town.
Whether the portion of the property used for the rateable purpose will be subject to rates will be determined by the materiality of the frequency of the rateable use and the actual use of the land as evidenced by information supplied with the application.

In assessing materiality for the purposes of Partial Rate Exemptions, the Town may have regard to indicative percentage thresholds as a guide only. These thresholds do not create an automatic entitlement to any exemption and do not limit the Town's discretion to consider the overall circumstances, including the nature, regularity and commercial character of the use of the land.

The following will apply:

(a) Where the materiality of the frequency of the rateable use does not exceed approximately 10% of the total land use, that portion of the land may, subject to the Town's overall assessment of the use, be eligible for Not Rateable Status and a Partial Rate Exemption may be applied to the property.

(b) Where the materiality of the frequency of the rateable use exceeds approximately 10% of the total land use but the income earned is less than approximately 10% of the total income derived from that property, that portion of the land may, be considered eligible for Not Rateable Status and a Partial Rate Exemption may be applied to the property.

(c) If the level of income derived from commercial or revenue generating activities is material in relation to total income from the property, the Town will ordinarily regard the use as rateable and a partial exemption will not be granted. Section 15 (a) of the Australian Accounting Standard for Materiality states; "an amount which is

equal to or greater than 10 per cent of the appropriate base amount may be presumed to be material unless there is evidence or convincing argument to the contrary". The Accounting Standard is referenced as a general indicator only and does not replace the Town's obligation to consider the particular facts and land use circumstances of each application.

(d) The analysis of the financial data must be for the property to which the application applies and not the organisation as a whole.

(e) Where a portion of rateable land is leased to a charitable organisation that uses the land for a charitable purpose, then the portion of the land subject to that lease will be eligible for Not Rateable Status and a Partial Rate Exemption may be applied to the property. For example; where 30% of the property is leased to be used for a charitable purpose, then 30% of that land will not be rateable and the remainder of the land will be rateable.

(f) Where a clearly defined part of otherwise not rateable land is used for a rateable purpose, the portion of the property used for a rateable purpose will be rated and the remainder of the property will be eligible for Not Rateable Status and a Partial Rate Exemption may be applied to the property. For example commercial business leases being part of a property otherwise used for charitable purposes.

In any case where a portion of a rateable property is exempt or vice versa, any common area will be apportioned on a pro rata basis for rating purposes.

Nothing in this section is intended to limit the discretion of the Town to determine whether land is rateable or not rateable under section 6.26 of the *Local Government Act 1995*, having regard to the dominant character, purpose and use of the land.

3. Applications for Not Rateable Status or Partial Rate Exemption

Applications are to be made on the form provided by the Town and contain a declaration as to the accuracy of the information contained therein. The Town may seek any additional information deemed necessary to evidence the application as to the nature and extent of the purposes for which the land is used.

Applications will be reviewed and determined in accordance with Section 6.26(2) of the *Local Government Act 1995*, general rating practices applied by local governments and any other criteria contained in this policy.

Where it is considered that an applicant does not qualify for Not Rateable Status or Partial Rate Exemption, the application will be refused and the applicant provided with written advice outlining the reasons for the decision, including reference to the relevant land use, evidence considered and applicable provisions of this Policy.

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Where a determination of Not Rateable Status or Partial Rate Exemption is granted, the amendment to the rate record indicating Not Rateable Status or Partial Rate Exemption will take effect from the 1st July of the current financial year in which the application was received. In the instance where there has been a change of use of the land during a financial year an exemption can only be approved from the date of the change in use.

4. Review of Determinations

A determination of Not Rateable Status or Partial Rate Exemption is granted for a fixed period only and does not continue automatically beyond the approved term.

A determination of Not Rateable Status or Partial Rate Exemption may be approved for a maximum of three (3) years depending on the nature and stability of the land use, subject to the review requirements set out below.

1. the purpose for which the land is used is considered to be on a continuous basis, not subject to frequent operational change;

2. the applicant has provided evidence of a legal right to occupy that land for the full period of the determination; and

3. the land use clearly and consistently meet the qualifying criteria under section 6.26 of the *Local Government Act 1995*.

A determination of Not Rateable Status or Partial Rate Exemption is to be reviewed on a triennial or annual basis (whichever is considered applicable) for continued eligibility. A triennial review will generally apply where land use is stable and ongoing. An annual review will generally apply where land use is seasonal, mixed-use, or otherwise subject to variation.

The applicant is required to advise the Town within one month of any change occurring to either their operations, activities or land use that may affect the basis on which Not Rateable Status or a Partial Rate Exemption has been granted.. Failure to notify the Town of a relevant change in use may result in the variation or revocation of the exemption and the reassessment of rates from the date the change in use is determined to have occurred.

In any case, all determinations will be subject to ongoing review to ensure that the land use continues to meet the qualifying criteria. The Town may review the Not Rateable Status of land or request additional information from an applicant at any time during the term of Not Rateable Status where it is considered that the circumstances of the land use may have changed. As part of any review, the Town may require updated evidence of land use and may inspect, audit or otherwise assess the property to verify continued eligibility.

A new application form, together with current supporting evidence, must be submitted to the Town prior to the expiry of each determination in order for Not Rateable Status or a Partial Rate Exemption to be renewed. Where a renewal application is not submitted prior to expiry, the determination will lapse and the land will be assessed as rateable from the date of expiry.

As part of any review, the Town may reassess the basis on which a Partial Rate Exemption was originally granted and may vary or revoke the exemption where the evidence no longer supports the extent of the exemption. Nothing in this Policy prevents the Town from reassessing rates from the date a change of use occurred, regardless of when the change was notified.

5. Rates Exemption Register

The Town will maintain a register of determinations made in accordance with this Policy. The Register will record details of the organisation, the property and the purpose for which the land is used; the extent of any Partial Rate Exemption granted, the basis for the determination made, review dates and the equivalent amount of the rates levy affected by the exemption. The register will be used to facilitate the initiation of the review processes as appropriate and also be supplied to Council each June for consideration prior to budget adoption.

DEFINITIONS:

Definitions are taken as those detailed in the *Local Government Act 1995* and associated legislation.

Document Control	
Office Use Only:	
Previous Policy No	Policy No. 3.2.12
Statutory Legislation and Compliance	*Local Government Act 1995*
Related Documents/Legislation	*Local Government (Financial Management) Regulations 1996*
Date of Adoption by Council	Council Meeting – 28 July 2020
Date Reviewed/Amended	26 May 2026
Next Review Date	May 2028