



Discretionary Rate Rebates - Updated Guidelines

First Approved	Operational Policy not required to be adopted by Council
Review Frequency	Annually
Last Reviewed	June 2018
Next Review Due	June 2019
File Number	7.69.015/CD2018709
Responsible Division	Resources
Related Documents	Rating Policy Discretionary Rebates Procedure
Applicable Legislation	<i>Local Government Act (SA) 1999</i>

Preamble

Division 5 of the *Local Government Act 1999* (the Act), sets out grounds under which Council's must and can provide Rebates on rates and/or charges.

Sections 160 – 165 relate to Mandatory Rebates by which the Act stipulates what service providers will be granted a Mandatory Rebate and by what percentage the rates and charges will be rebated.

Section 166 of the Act covers Council's power to grant Discretionary Rebates for a number of land use categories. Among other criteria the Act states:

- Clause 2 – A rebate of rates or charges under subsection (1) may be granted on such conditions as the council thinks fit.
- Clause 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.

The application for Discretionary Rebates by individuals and/or organisations is fully outlined in Council's Rates Policy. The application forms are available via council's website or by contacting Council's Revenue & Property officers.

Guidelines

Each application, although treated individually and on merit regarding the benefit and/or impact to the local community will be assessed with reference to the guidelines outlined in Section 166 of the Act, which states in part:

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 the Division):

- (a) *where a rebate is desirable for the purpose of securing the proper development of the area (or 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 (Commonwealth) 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 right of access and enjoyment

For a comprehensive (but not exhaustive) list of criteria on the above please see Appendix 1.

Council will apply a time frame to the Discretionary Rebates granted and unless a rebate is offered for 1 or 2 years, each applicant will be required to re-apply after 3 years. This will ensure the rebates remain appropriate to their original purpose and council contact records remain up to date. This is in line with Section 166 (3) & (3a) of the Act which states:

- (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.

Where a rebate is granted under Section 166(1)(a):

Where the rebate is desirable for the purpose of securing the proper development of the area (or part of the area): This rebate will be granted for a one year period and re-assed on an annual basis if required or deemed appropriate by Council.

Council can apply the percentage of rebate at a level to their satisfaction. The Act states in Section 166 (4): *A council may grant a rebate under this section that is up to (and including) 100 percent of the relevant rates or service charge.*

Other than community based halls and incorporated sporting clubs with a demonstrated limited income stream, all other applicants will be subject to a maximum discretionary rebate of 75%. This assures the majority of ratepayers contribute an amount towards the cost of administering Council's activities and maintaining Council's assets.

The decision on the percentage of rebate granted will be made on an individual basis but with the following recommendations as a guideline:

Section 166(1) (a)	25%	1 year
(b)	50%	1 year
(c)	100%	3 years
(d)	50%	3 years
(e)	75%	3 years
(f)	75%	3 years
(g)	50%	1 year
(h)	50%	1 year
(i)	50%	1 year
(j)	75%	3 years
(with the exception of incorporated sporting clubs with a demonstrated limited income steam as below)		
(k)	0%	1 year

Discretionary Rebates for incorporated sporting clubs with limited income streams will be treated in accordance with the following criteria based on the prior year audited financial statements:

Total Income (for the previous financial year)	% Rebate
Under \$15,000	100%
\$15,000 - \$30,000	75%
\$30,000 - \$50,000	50%
\$50,000 - \$75,000	25%
Over \$75,000	0%

General Information

Rebates will not apply to service charges. Service Charges are a user pays charge unlike Rates which are a charge against the land.

As Discretionary Rebates are granted on application, the responsibility for application rests with the property owner. Discretionary Rebates will only be approved for the current and/or future Financial Years. **Under no circumstance will they be made retrospectively.**

Discretionary Rebates are not to be granted individually for properties which would otherwise be eligible for and receive:

- Rate Capping
- Financial Hardship assistance
- Postponement of rates for Seniors

To be eligible for a Discretionary Rebate all rates in the applicants name for previous years must be up to date.

Appendix 1

Criteria for consideration when appraising applications for Discretionary Rebate

Section 166 of the *Local Government Act 1999*, sets out cases for which councils may grant discretionary rebates. Below is a list of these cases with criteria that council should consider when addressing new applications:

- (a) Where the rebate is desirable for the purpose of securing the proper development of the area (or part of the area):
 - a. Is the applicant a local organisation or person?
 - b. What is the benefit from the development to the local community?
 - c. Is the development focussed on local residents or will it see an influx of new people to the area, or both?
 - d. Is the development imminent, long term or dependent on other outcomes?
 - e. How long will it be before the development is completed?
 - f. Will local tradesmen/businesses be utilised (either through a tender process or by direct employment), during the project establishment or development?
 - g. Will the project when completed see local employment grow?
 - h. What other services does Council provided to this property/owner and what (if any) are the requests covering these?
- (b) Where the rebate is desirable for the purpose of assisting or supporting a business in its area:
 - a. Is the business new to the area or is it a long established business?
 - b. If new, is the business's ongoing success vital to improving services to the community?
 - c. Are there other long established local businesses offering/supplying the same service and/or goods?
 - d. Does the business employ local people; does it offer apprenticeships or traineeships to locals?
 - e. Has there been short term or unusual circumstances (drought, fire), affecting the business's viability of late?
 - f. Would granting a rebate to this business create an unfair advantage for them over their competitors?
 - g. Will offering a rebate to this business set precedence for other business' to expect the same support from council?
 - h. What other services does Council provided to this property/owner and what (if any) are the requests covering these?
 - i. Is this rebate being considered for one year or is it expected to be longer term?
 - j. Would a postponement of rates for twelve months be a better option?

- (c) Where the rebate will conduce to the preservation of buildings or places of historic significance:
- a. Does the property or building have Local or other Heritage Listing attached to it?
 - b. Is the building owned and utilised by a local community group or a not-for-profit organisation?
 - c. Is the building rented or leased to a second party (therefore creating an income)?
 - d. Is the building utilised for commercial purposes?
 - e. Does the owner receive State or Federal Government financial assistance?
 - f. Does Council supply other support to the owner or the service provided from the building?
 - g. Does the service provided come at a cost to those using it?
 - h. If the site is a “place of historic significance” containing no infrastructure and it is deemed appropriate that Council strive to retain the site in its current condition, a rebate should be automatically granted.
- (d) Where land is being used for educational purposes:
- a. Should this assessment be granted a Mandatory Rebate under Section 165 of the Act?
 - b. What is/are the “educational” purpose/s offered from the property?
 - c. Are the educational services offered, available to the general public or are the services limited to members or a select group of users?
 - d. What percentage of the property is used for educational purposes?
 - e. Will granting a discretionary rebate for this property create a precedence for other owner/operators to follow?
 - f. Do the owners/occupiers receive any other State, Federal or Local Government assistance regarding the ownership of the property, Management or operation of the service provided?
- (e) Where the land is being used for agricultural, horticultural or floricultural exhibitions:
- a. Is entry to the exhibitions open to the general public, or is it restricted to members or a select group of users?
 - b. Are exhibitors charged an entry fee and is this fee in excess to the costs involved in running the exhibitions (therefore creating an income)?
 - c. Are the exhibits open to the general public for viewing and is there a cost involved?
 - d. Do the owners have other income avenues associated to this property?
 - e. Do the owners receive financial assistance from any other Council, Government, sponsors or the general public?
 - f. What percentage of the property is used for the exhibitions?

- (f) Where the land is being used for a hospital or health centre:
- a. Should this assessment be granted a Mandatory Rebate under Section 160 of the Act?
 - b. Is the service provided available to the general public?
 - c. Do the owners/occupiers receive any other State, Federal or Local Government assistance regarding the ownership of the property, Management or operation of the service provided?
- (g) Where the land is being used to provide facilities or services for children or young persons:
- a. Are the facilities and/or services provided available to the general public?
 - b. Do the owners/occupiers receive any other State, Federal or Local Government assistance regarding the ownership of the property, Management or operation of the service provided?
 - c. Are the services provided deemed necessary, are they an improvement or do they enhance the services already provided in the community and do they add to the quality of life or future employment opportunities for the proposed users?
 - d. Will granting a discretionary rebate for this property create precedence for other owners to follow?
 - e. What percentage of the property is used for this given purpose?
- (h) Where the land is being used to provide accommodation for the aged or disabled:
- a. Is the accommodation available to the wider community or restricted on religious, financial or other basis?
 - b. What other services other than accommodation are the owners/operators planning to offer?
 - c. What costs to the residents (if any) are applied to the accommodation and/or other services?
 - d. Do the owners/occupiers receive any other State, Federal or Local Government assistance regarding the ownership of the property, Management or operation of the service provided?
- (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* (Commonwealth) or a day therapy centre:
- a. Has the operator received funding to cover Council Rates as part of their funding arrangements, as per Section 3-1(1)(b) of the *Aged Care Act 1997*?
 - b. Are there provisions under another Act which make this property free from the obligation of paying Council rates and/or services?
- (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?
- a. Is the operator a not-for-profit organisation?

- b. Is the operator locally based or does it have State, National or International connections?
 - c. Is there a cost to the consumer for the service provided?
 - d. Is it a new service, does it enhance currently provided services or does it conflict with other providers?
 - e. Will granting a discretionary rebate for this property (particularly under this subsection), create a precedence for other owners to follow?
 - f. What percentage of the property is used in providing a benefit or service to the local community?
 - g. Is the organisation an incorporated sporting club with a limited income stream?
 - h. Does the organisation have an income generated from poker machines?
 - i. Does the sporting club qualify for an exemption under the Recreation Grounds Act 1931?
 - j. Does the club own its own property and infrastructure?
- (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:
- a. Prior to consideration of the application it is recommended that the officer making that consideration undertakes a site visit to fully appreciate the physical situation.
 - b. Are there any restrictions (physical or administrative), given by the owner/s, placed on the general public regarding access to this land?
 - c. Is access restricted due to fencing or other limiting factors?
 - d. Would the general public avail themselves to use the land or would it be generally seen as a confined space and not for general use?
- (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-
- a. A redistribution of the rates burden within the community arising from a change to the basis or structure of council's rates; or
 - b. A change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations:
 - i. Generally increases to rates of this nature are covered by Council's Rate Policy, in particular Rate Capping (criteria applied).
 - ii. Does the ratepayer already receive relief regarding the increase in rates from Rates Capping or any other Council granted relief?
 - iii. What were the causes of the increase in rates?
 - iv. Is the owner in receipt of other Local, State or Federal Government support (drought relief, financial hardship, rates remission or postponement)?
 - v. Are rates payments otherwise up to date?

- vi. Will granting a discretionary rebate for this property (particularly under this subsection), create a precedence for other owners to follow?
- (m) Where the rebate is considered by the council to be appropriate to provide relief in order to avoid what would otherwise constitute –
- a. 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
 - b. A liability that is unfair or unreasonable;
 - c. Where the rebate is to give effect to a review of a decision of the council under Chapter 13 Part 2 (Review of local government acts, decisions and operations – Internal review of council actions);
 - d. Where the rebate is contemplated under another provision of this Act:
 - i. Has this rebate been directed as a consequence of a decision by the Elected Members via a meeting of Council?
 - ii. If it is a directive from Management has it been presented in writing and recorded via Council's Record Management system?
 - iii. Is there a conflict of interest from the individual decision making officer, or the officer giving the directive?