

<b>Policy Name</b>	<b>Rebates of Council Rates</b>
Policy Number	CS08
Responsible Section	Finance
Responsible Department	Corporate Services
Date Last Adopted	13 December 2016
Date of Next Review	December 2020
Applicable Legislation	Local Government Act 1999
Related Governance Documents	<ul style="list-style-type: none"><li>• Public Integrity - Complaints and Investigation</li><li>• Public Integrity Framework</li><li>• Public Integrity Guide</li><li>• Public Integrity Procedures - Request for an Internal Review of Council Decision under Section 270</li></ul>
City Plan Theme	Leadership - A City confident in its leaders

## **Purpose/Objective**

Assist eligible ratepayers in meeting their liability for the payment of council rates.

Assist the Council in the proper administration of the rate rebate provisions of the Local Government Act 1999.

Assist the Council in the exercise of its discretion to grant a rebate of rates, particularly in respect to the provisions of Section 166 of the Local Government Act 1999.

## **Scope**

This policy does not apply to the exemption from the payment of council rates that may be conferred upon land through the application of the Australian Constitution or any applicable legislation.

## **Principles**

The Council desires to exercise its authority in a fair and consistent manner to grant discretionary rebates, predominantly to not-for-profit organisations, within the powers provided in the Local Government Act 1999.

## Policy

The following are examples of the ways in which the Council is likely to exercise its discretion to grant rebates in accordance with the Local Government Act 1999. These examples are not intended to be a complete list of all circumstances in which a discretionary rebate may be given.

### General Discretionary Rebates

**Where the rebate is desirable for the purpose of securing the proper development of the area (or part of the area).  
(Pursuant to section 166(1)(a) of the Local Government Act 1999.)**

A. For the purpose of securing the proper development, and to ensure equity regarding the rates raised for the provision of a waste water and storm water treatment service at New Haven Village, North Haven, a rebate of the difference between the amount of the separate rate levied and an amount of \$625 applies.

B. For the purpose of securing the proper development of rateable land of rating category 8 (vacant land), if a building to be used as a residence is being constructed on the land, such rebate being a positive figure calculated in accordance with the following formula:

$$R = ACV \times Y$$

where:

R is the amount of the rebate in dollars

ACV is the assessed capital value of the land as adopted by the Council for purposes of the relevant rating year;

Y is the difference between the general rate in the dollar applicable to land of category 8 use in the area in which the rateable land is located, and the general rate in the dollar applicable to land of category 1 use in the area:

If the rebate as calculated reduces the rates payable in respect of the assessment to less than the amount fixed as the minimum amount payable by way of rates, then the rebate shall be reduced so that the rates payable are equal to the amount of the minimum.

A rebate on these grounds should not be granted unless the application is received within six calendar months of the footings being poured unless the Council, in its discretion, allows an extension of time for making the application.

**Where the rebate is desirable for the purpose of assisting or supporting a business in its area.  
(Pursuant to section 166(1)(b) of the Local Government Act 1999.)**

A. For the purpose of assisting or supporting a business within the municipality, a rebate does not generally apply but the power will be exercised as appropriate and in accordance with the Local Government Act 1999.

**Where the rebate will conduce to the preservation of buildings or places of historic significance.**

**(Pursuant to section 166(1)(c) of the Local Government Act 1999.)**

A. For the purpose of preserving buildings or places of historical significance, a rebate does not generally apply but the power will be exercised as appropriate and in accordance with the Local Government Act 1999.

**Where the land is being used for educational purposes.**

**(Pursuant to section 166(1)(d) of the Local Government Act 1999.)**

A. For the purpose of advancing education provided by not-for-profit organisations on land predominantly used for educational purposes, a rebate of 75 per cent applies.

**Where the land is being used for agricultural, horticultural or floricultural exhibitions.**

**(Pursuant to section 166(1)(e) of the Local Government Act 1999.)**

A. For the purpose of advancing agricultural, horticultural and floricultural exhibitions provided by not-for-profit organisations, a rebate does not generally apply but the power will be exercised as appropriate and in accordance with the Local Government Act 1999.

**Where the land is being used for a hospital or health centre.**

**(Pursuant to section 166(1)(f) of the Local Government Act 1999.)**

A. For the purpose of providing a hospital or health centre provided by not-for-profit organisations, a rebate of 100 per cent applies.

**Where the land is being used to provide facilities or services for children or young persons.**

**(Pursuant to section 166(1)(g) of the Local Government Act 1999.)**

A. For the purpose of providing facilities or services for children or young persons, on land occupied by a not-for-profit organisation, a rebate of 100 per cent applies.

**Where land is being used to provide accommodation for the aged or disabled.**

**(Pursuant to section 166(1)(h) of the Local Government Act 1999.)**

A. For the purpose of providing accommodation for the aged or disabled, on land occupied by a not-for-profit organisation, a rebate of 50 per cent applies.

**Where the land is being used for a residential aged care facility that is approved for Commonwealth funding under the Aged Care Act 1997 (Cwlth) or a day therapy centre.**

**(Pursuant to section 166(1)(i) of the Local Government Act 1999.)**

A. For the purpose of assisting in the provision of residential aged care facilities that are approved for Commonwealth funding under the Aged Care Act 1997 (Cwlth) and day

therapy centres, a rebate of 50 per cent applies.

**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  
(Pursuant to section 166(1)(j) of the Local Government Act 1999.)**

A. For the purpose of assisting organisations which, in the opinion of the Council, provide a benefit or service to the local community, land used by a not-for-profit organisation to provide community or sporting facilities and/or services, a rebate of 50 per cent applies.

B. For the purpose of assisting organisations which, in the opinion of the Council, provide a benefit or service to the local community, land used by a not-for-profit organisation to provide facilities or services for the aged or people with a disability, a rebate of 100 per cent applies.

C. For the purpose of assisting organisations which, in the opinion of the Council, provide a benefit or service to the local community, land used by a not-for-profit organisation to provide a museum, a rebate of 100 per cent applies.

**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.  
(Pursuant to section 166(1)(k) of the Local Government Act 1999.)**

A. For the purpose of providing assistance in the payment of council rates charged upon land relating 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 rebate does not generally apply but the power will be exercised as appropriate and in accordance with the Local Government Act 1999.

**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 redistribution of the rates burden within the community arising from a change to the basis or structure of the council's rates.  
(Pursuant to section 166(1)(l)(i) of the Local Government Act 1999.)**

A. For the purpose of providing relief against what would otherwise amount to a substantial change in rates payable by a ratepayer due to a redistribution of the rates burden within the community arising from a change to the basis of the council's rates, a rebate does not generally apply but the power will be exercised as appropriate and in accordance with the Local Government Act 1999.

**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 change in the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations.  
(Pursuant to section 166(1)(l)(ii) of the Local Government Act 1999.)**

A. For the purpose of providing relief against what would otherwise amount to a substantial change in rates payable by a ratepayer due to a change in the basis on which

land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations, a rebate does not generally apply but the power will be exercised as appropriate and in accordance with the Local Government Act 1999.

**Where the rebate is considered by the council to be appropriate to provide relief in order to avoid what would otherwise constitute 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.**

**(Pursuant to section 166(1)(m)(i) of the Local Government Act 1999.)**

A. For the purpose of providing relief in order to avoid what would otherwise constitute 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, a rebate does not generally apply but the power will be exercised as appropriate and in accordance with the Local Government Act 1999.

**Where the rebate is considered by the council to be appropriate to provide relief in order to avoid what would otherwise constitute a liability that is unfair or unreasonable.**

**(Pursuant to section 166(1)(m)(ii) of the Local Government Act 1999.)**

A. For the purpose of providing relief in order to avoid what would otherwise constitute a liability that is unfair or unreasonable, a rebate does not generally apply but the power will be exercised as appropriate and in accordance with the Local Government Act 1999.

B. For the purpose of providing relief in order to avoid what would otherwise constitute a liability that is unfair or unreasonable, a rateable property of rating category 4 (Commercial Other), if a building (Show/Display home) is to be used for residential purposes by the owner of the property (being a natural person or persons) such a rebate being a positive figure calculated in accordance with the following formula:

$$R = ACV \times Y \times (365-D)/365$$

where:

R is the amount of the rebate in dollars

ACV is the assessed capital value of the land as adopted by the Council for purposes of the relevant rating year;

Y is the difference between the general rate in the dollar applicable to commercial other of category 4 use in the area in which the rateable land is located, and the general rate in the dollar applicable to land of category 1 use in the area:

D is the number of days elapsed between the first day of July in the relevant rating year and the date the building was occupied as a residence (being a date not later than June 30, in the relevant rating year); but if the rebate as calculated reduces the rates payable in respect of the assessment to less than the amount fixed as the minimum amount payable by way of rates, then the rebate shall be reduced so that the rates payable are equal to the amount of the minimum.

A rebate on these grounds should not be granted unless the application is received within

six calendar months of the property no longer being used as a Show/Display Home unless the Council, in its discretion, allows an extension of time for making the application.

**Where the rebate is to give effect to a review of a decision of the council under Chapter 13 Part 2 [section 270(2)(ca)]  
(Pursuant to section 166(1)(n) of the Local Government Act 1999.)**

A. For the purpose of granting the provision or relief or concession under Chapter 13 Part 2 of the Local Government Act 1999 upon an internal review of council actions in respect to a grievance procedure, a relief or concession does not generally apply but the power will be exercised as appropriate and in accordance with the Local Government Act 1999.

At any time, a person is able to seek an internal review of a council decision under Section 270(2)(ca) relating to the impact of the declaration of a rate or service charge.

The person can expect to be treated fairly and promptly in accordance with Councils *Public Integrity – Complaints and Investigations Council Policy* and related procedures.

An application under Section 270(2)(ca) can be lodged before or after a person seeks a rate rebate or concession under this Rebates of Council Rates Council Policy.

An application under Section 270(2)(ca) must be made in writing to the Chief Executive Officer.

If a decision to apply or amend a council rate or service charge is determined by the Chief Executive Officer (or a Reviewing Officer appointed by the Chief Executive Officer), a rebate or concession may be applied under Section 166 (1)(n) of the Local Government Act 1999.

**Where the rebate is contemplated under another provision of the Act. [section 187B(7)]  
(Pursuant to section 166(1)(o) of the Local Government Act 1999.)**

A. For the purpose of granting a rebate or remission of any rate or service charge, or of any charge, fine or interest under Part 1 of Chapter 10 of the Local Government 1999, if the Ombudsman recommends that the council do so on the ground of special circumstances pertaining to a particular ratepayer, a rebate or remission does not generally apply but the power will be exercised as appropriate and in accordance with the Local Government Act 1999.

**General Provisions:**

In respect to rebates that must be granted in respect to section 161 of the Local Government Act 1999, the Council, at its discretion, determines that a rebate of 75 per cent will generally apply.

In respect to rebates that must be granted in respect to section 165 of the Local Government Act 1999, the Council, at its discretion, determines that a rebate of 75 per cent will generally apply.

Regard may be given to the capacity of the organisation to raise funds. As a guide, organisations with an annual gross operating income exceeding \$800,000 (for 2015-2016 then the \$800,000 threshold is to be indexed annually for Adelaide Consumer Price Index (CPI)) indexed annually for Adelaide Consumer Price Index (CPI), would not be eligible for assistance under this policy. Organisations that receive one off grants will not have the grant assessed as annual gross operating income. For organisations that receive more than 25 per cent of their operating income from recurring State or Federal Government sources are not eligible for assistance under this policy.

Services and/or facilities provided by groups receiving assistance should be open to broad community use and not restricted to individuals or small groups within the broader community. Small groups are defined as less than 50 people.

Financial assistance via rate rebates will not be provided to groups and organisation whose purposes are considered to be primarily the responsibility of State or Federal Government.

Rebates of rates will be applied yearly at the time of rates generation and be shown on the Rate Notice as a credit.

Eligibility for a rebate of rates is subject to review.

New applications for rate rebates under this policy must be received by the council by the due dates for rates to be paid in each year, i.e. the day set by the Council in the months of September, December, March and June. Applications will apply from the latter of the date that they are received or the date upon which the land becomes eligible for a rebate unless it is considered that unique or special circumstances apply.

### Special Discretionary Rebates

All requests for a rebate shall be directed to the Chief Executive Officer for consideration as a General Discretionary Rebate under this policy.

If an applicant wishes to pursue an application for a rebate that does not fall within the General Discretionary Rebate section of this policy, a report must be submitted to the Council for consideration.

The report to the Council will include:

- The reasons that the application could not be approved under delegated authority.
- Any unique or special circumstances which may apply.
- An assessment of the financial resources of the applicant, including any known other appropriate sources or avenues available to meet the applicant's needs.
- Services provided to the community by the applicant.
- A recommendation, including the rationale, for consideration by the Council.

### Conditions

A number of basic conditions shall apply which will both guide and provide a level of flexibility to Council during this decision making process.

The Council will make every endeavour to direct and restrict funding requests to the General Discretionary Rebates section of this policy and it will only be through a

resolution of Council, and based upon unique and special circumstances, that funding will be pursued under the Special Discretionary Rebates section.

To be eligible for a Special Discretionary Rebate, applicants must:

- Be incorporated and/or auspiced by an incorporated body
- Be not-for-profit
- Have a limited capacity to raise funds
- Provide a service that meets a recognised community need within the City and/or provide access and opportunity and/or development to the wider community.

## Definitions

*“children and young persons”* are defined as those under 18 years of age.

*“not-for-profit organisation”* is defined, for the purpose of this Policy, as:

- Not having a principal or subsidiary object of the organisation secure a pecuniary profit for the members of the body or any of them or to engage in trade or commerce.
- Not having a constitution or rules that provide that the surplus assets of the body on a winding-up are to be distributed to its members or to another body that does not have identical or similar aims or objects.

*“gross operating income”* is defined as including such items as members’ subscriptions, donations, bar and dining areas gross income and gross revenue from gaming machines.