

Crown land financial concessions

POLICY NUMBER: IND-O-254	VERSION 3.0
AUTHORISED BY: Executive Director Crown Lands	AUTHORISED DATE: 02/05/2019
ISSUED BY: Department of Planning, Industry and Environment – Crown Lands	EFFECTIVE DATE: 02/05/2019
CATEGORY: Operations and Industry	REVIEW DATE 02/05/2022

Policy Statement

This policy provides the eligibility and assessment criteria considered NSW Department of Planning, Industry and Environment–Crown Lands (the department) when granting financial concessions in respect to Crown land holdings or permits (tenures).

Our approach provides clarity and confidence to account holders that they will receive consistent, transparent and fair treatment when financial concessions are assessed in accordance with the *Crown Land Management Act 2016* (the Act).

Scope

Policy authority is drawn from sections 12.7, 12.15 and 12.16 of the Act.

This policy does not apply to the management of debt (refer separate Crown land debt management policy IND-O-255).

Requirements

Financial concessions are applied by the department with decisions being informed by an assessment of the following criteria:

- the benefits that the activity provides to the local environment, community, protection of Aboriginal cultural heritage values or economy.
- the costs and/or risks of activities being undertaken pursuant to the tenure.
- the past performance (for example compliance) and/or circumstances (such as financial hardship) of the account holder in respect to Crown land tenures.
- the extent to which the financial concession would comply with any relevant direction of the Minister (e.g. area of a natural disaster), Cabinet or departmental policy.

Account holders should refer to the separate *Guideline - Crown land financial concessions* document before applying for concessions under this policy.

1. Hardship

Financial concessions may be offered to account holders experiencing circumstances of genuine financial hardship impacting their ability to pay their account on time. Applications for waivers, billing frequency changes, postponement of payments and instalment plans may be considered.

At the direction of the Minister, concessions may be granted to areas declared as an emergency or significantly affected by natural disaster (for example flood, bushfire or drought).

2. Types of financial concessions available:

a. Rebate

A rebate is a reduction in rent which applies on either an ongoing basis or until the rent is re-determined but cannot be used to reduce rent below the statutory minimum. Applications will be considered by the department against the eligibility criteria outlined in Annexure A.

b. Waiver

A waiver reduces any amount payable to the department in whole or part. A waiver can be applied to amounts that are already due and payable or to specified future amounts. A waiver can be:

- i. applied once to an amount due and payable.
- ii. scheduled - so that the whole of a nominated reduction is applied for a defined time period.
- iii. phased in - so that a nominated reduction is progressively decreased over a defined period until it is no longer in effect.

A waiver is applied at the discretion of the department with reference to the criteria set out in Annexure B or for account holders experiencing circumstances of genuine financial hardship.

c. Billing frequency change

The date on which payment of a regular, scheduled amount (for example annual rent) is due may be changed by prior arrangement. Changes to due dates for payments in excess of 12 months will not be considered under this policy.

d. Refund

The department may refund a previous payment in whole or part. A refund will be considered at the request of the account holder and will only be issued where no other amounts are due and payable on related accounts.

e. Postponement

The department may consider granting an extension of time to make a payment which is not yet overdue. Postponement is only offered as part of a successful financial hardship application. Refer to the Crown land debt management policy IND-O-255 for further information on how the department manages accounts with debt.

f. Instalment plan

An instalment plan enables a payment to be completed through several, smaller amounts over a specified period of time. An instalment plan is only offered as part of a successful financial hardship application. Refer to the Crown land debt management policy IND-O-255 for further information on how the department manages accounts with debt.

Guidelines

The Guideline - Crown land financial concessions, provides information to assist account holders in making an application for a financial concession under this policy.

Roles and Responsibilities

- The department: determine eligibility for financial concessions, communicate determinations and apply concessions where appropriate
- Account holders: provide accurate and timely information to support their application.

Delegations

This policy does not change, remove or add delegation for any officer. Staff must comply with all relevant delegations, including those made under the Act and the *Public Finance and Audit (Special Delegations) Instrument of Delegation 2016* under the *Public Finance and Audit Act 1983*.

Definitions

- Account holder: the holder of a tenure administered under the Act.
- The Act: *Crown Land Management Act 2016*.
- Gaming revenue: revenue gained from poker machines less prizes paid. Does not include TAB or Keno operations.
- Gross revenue (exclusive): revenue from operations excluding gaming revenue.

- Holding: a holding as defined by the Act.
- IPART: Independent Pricing and Regulatory Tribunal.
- Local Councils: Local Councils whose holdings are used to provide facilities, without charge, for the benefit of the general community.
- Permit: a permit granted under the Act.
- Rehabilitation: any activity carried out to improve the condition and functioning of the natural environment.
- Rent: the amount payable by account holders for occupation and use of Crown land, as assessed by the department.
- Statutory minimum rent: the minimum amount that can be charged as rent for a holding, determined under section 6.4 of the Act.
- Tenure: a holding or permit under the Act.
- Western lands leases: leases granted under the *Western Lands Act 1901* or Schedule 3 of the Act.

Legislation

- *Aboriginal Lands Rights Act 1983*
- *Associations Incorporation Act 2009*
- *Charitable Fundraising Act 1991*
- *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)*
- *Crown Land Management Act 2016*
- *Crown Land Management Regulation 2018*
- *Independent Pricing & Regulatory Tribunal Act 1992*
- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Public Finance and Audit Act 1983*
- *Registered Clubs Act 1976*
- *Western Lands Act 1901*

Related policies

- Crown land debt management policy IND-O-255
- Delegations of authority for Crown lands policy IND-O-179
- Licensing of Crown land policy IND-O-252

Other related documents

- *Crown Land Management (Minister) Instrument of Delegation 2018 No. 1*
- *Public Finance and Audit (Special Delegations) Instrument of Delegation 2016 under the Public Finance and Audit Act 1983*

Revision history

Version	Date issued	Notes	By
1.0	04/04/2018	The <i>Rebates and Waivers Policy</i> , <i>Rebates on Western Land Leases Policy</i> and <i>Crown Land Waivers, Write-off and Debt Adjustment Policy</i> have been combined into a single document. Rebate eligibility for Categories 1 and 2 was also clarified.	Alison Pepper, Director Tenure & Business Programs
2.0	02/05/2019	Policy updated with minor amendments.	Alison Pepper, Director Tenure & Business Programs
3.0	22/02/2020	Policy updated to reflect machinery of government changes	Policy team

Contact

Crown Lands enquiries: 1300 886 235

Table of Rebates

Category	Rebate	Eligibility Criteria	Rebate period
Community groups & registered clubs			
Community Volunteer Service Groups (Category 1)	Statutory Minimum Rent	<p>Applicant must be an organisation or group whose primary purpose is to provide services or facilities which are of benefit to the welfare of the general community, is largely supported by volunteers, uses the holding primarily for the specified purpose, and:</p> <p>a) is a registered charity with <i>Australian Charities and Not-for-profits Commission</i>, or</p> <p>b) is incorporated under the <i>Associations Incorporation Act 2009</i>, or</p> <p>c) holds an authority under the <i>Charitable Fundraising Act 1991</i></p>	<p>Rebates will apply until the next redetermination of rent.</p> <p>A new application must be lodged at redetermination.</p>
Single Interest and Sporting Groups (Category 2)	50%	<p>Applicant must be an organisation or group whose primary purpose is to provide services or facilities for their members or users (rather than for the general community) and uses the holding primarily for the benefit of the sporting or other single interest group and:</p> <p>a) is a registered charity with <i>Australian Charities and Not-for-profits Commission</i>, or</p> <p>b) is incorporated under the <i>Associations Incorporation Act 2009</i>, or</p> <p>c) holds an authority under the <i>Charitable Fundraising Act 1991</i></p>	
Registered Clubs (Category 3a)	50%	<p>Applicants must be a registered club under the <i>Registered Clubs Act 1976</i> and the higher of annual gaming revenue (ie from poker machines) or annual gross revenue (exclusive) is less than \$0.5 million.</p>	
Registered Clubs (Category 3b)	20%	<p>Applicants must be a registered club under the <i>Registered Clubs Act 1976</i> and the higher of annual gaming revenue (ie from poker machines) or annual gross revenue (exclusive) is between \$0.5 million and \$1.0 million, inclusive.</p>	

Category	Rebate	Eligibility Criteria	Rebate period
Communication licences			
<i>The government has adopted IPART recommendations regarding rebates for specified user groups occupying communication sites located on Crown land. The eligibility and exclusions of these rebates are further defined in the Guideline—Crown Land Financial Concessions</i>			
Community groups	Statutory Minimum Rent	Account holder must be a special community interest group being run on a not-for-profit basis.	Subject to IPART reviews
Budget funded sector	80%	Account holder must be a State or Commonwealth Government emergency service body (agency or authority) that delivers essential services to the public, and typically cannot fully recover the value they create through user fees.	
Local service providers	60%	Account holder must be a commercial entity which solely or predominately services communities in a limited number of low and/or medium density locations. The business operations must be predominately in these areas and the rebate is only available to the sites located in the low and medium density locations.	
Telephony service providers	60%	Account holder must be a telephone service provider required to provide telephony services under government direction or legislative requirements in low density locations, specifically for small country automatic exchange sites (SCAX).	
Local Councils			
Facilities with minor infrastructure, providing services at no charge	Statutory Minimum Rent	A local council which has minor infrastructure on their holding and uses this to provide services without charge for the benefit of the general community. Examples include public jetties, natural swimming enclosures, pedestrian bridges, boat ramps.	Rebates will apply until the next redetermination of rent. A new application must be lodged at redetermination.
Facilities with major infrastructure, providing services at no charge	50%	A local council which has major infrastructure on their holding and uses this to provide services, without charge, for the benefit of the general community. Examples include Libraries, Youth Activity Centre and Community Centres.	

Category	Rebate	Eligibility Criteria	Rebate period
Community services provided at subsidised cost to the public	50%	A local council which uses Crown land for community purposes where no greater than a token fee is charged, yearly running costs far exceed any revenue from the facility and where the payment of full rent would adversely impact on their ability to provide services. Examples include Community Preschools, Museum Art Gallery, Community Centre, Aged Care Facilities, and Tourist Information Centre.	
Other Rebates			
Eligible Pensioner	50%	<p>Applicant must be an eligible pensioner within the meaning given to that term in the <i>Local Government Act 1993</i> and hold a valid pensioner concession or veterans affairs card.</p> <p>Eligible pensioner rebates only apply to rent. They do not apply to enclosure permits, the administration component of domestic waterfront rents or to reduce rents below statutory minimum (with the exception of domestic waterfront licences).</p> <p>If a tenure is held by more than one person, a proportioned rebate applies to those person/s who are an eligible pensioner.</p> <p>An eligible person is defined as a person:</p> <ol style="list-style-type: none"> who is a member of a class of persons prescribed by <i>clause 134</i> of the <i>Local Government (General) Regulation 2005</i>, and who occupies that dwelling as his or her sole or principal place of living. 	<p>Holders of a Pensioner Concession Card issued for the aged pension are not required to reapply unless the name/details of the account changes. Rebates for all other eligible pensioners will apply until the lesser of the term of the concession or when the rent is next determined.</p>
Rural Western Lands Leases - Rehabilitation - temporary basis - permanent basis	Temporary: \$0.30/Ha Permanent: \$0.40/Ha	Account holder must be carrying out managed rehabilitation on rural land.	Rebates will apply for the duration of the rehabilitation agreement approved by the department.

Table of Waivers

Category	Rate/amount	Eligibility	Waiver period
Rent waivers			
Enclosure Permits	Rent is waived to concessional rent + Consumer Price Index (CPI)	All enclosure permit holders are eligible with the waiver applying automatically on an ongoing basis.	Ongoing
Enclosure permits subject to a conservation agreement	Rent is waived to \$50.00 per annum	Where Crown land within an enclosure permit is subject to a conservation agreement, a waiver will be automatically applied to reduce rent to \$50.00 per annum.	Ongoing
Enclosure permits with a related road closure application	Whole of rent is waived	Enclosure permit holders who have lodged a road closure application prior to 10/6/2006 are eligible for a waiver of the whole amount of the rent for the Enclosure Permit related to the road closure application.	Ongoing
("1A") Short term licence rent: community/ environmental purposes or protection	Whole of rent is waived	Where a short term licence is granted for the purposes of community or environmental benefit (for example, weeding or bushland care)	Duration of short term licence
Application fee waivers			
Domestic water front (DWF) Application Fees	Application fee is waived in whole.	Application fee is waived for existing licence holders where separate licence agreements are granted over shared structures. The waiver is applied to remaining holders in recognition that the application fee was previously paid.	One-off application fee
("1A") Short term licence: community/ environmental purposes or protection	Application fee is waived in whole.	Where a short term licence is granted for the purposes of community or environmental benefit (for example, weeding of bushland)	One-off application fee
Administrative waivers			
Terminated accounts with immaterial values	Variable, case by case	Terminated accounts with immaterial unpaid amounts are automatically waived where no other amounts are payable on related accounts.	One-off
Account adjustment	Variable, case by case	An adjustment made where incorrect charges have been applied due to system, data, staff or processing discrepancy.	Variable, case by case

Category	Rate/amount	Eligibility	Waiver period
Fee increase waiver	Variable, fee specific	When a fee has increased and within two weeks of the effective date of this increase, a payment is received by the department equal to the prior fee. A waiver will be considered to reduce the fee charged to the prior amount.	One-off
Phase-in Waivers			
Phase-in waiver for tenure holders in the Western Division	Variable, case by case.	Tenure holders who are paying less than Statutory Minimum Rent for 2017/18 financial year where rent calculated in accordance with the regulations is less than the Statutory Minimum Rent, partial waivers are applied to implement a four-year phase in to Statutory Minimum Rent.	4 years from commencement of the Act
Single interest and sporting groups (category 2) and registered clubs (category 3a, category 3b)	Variable, case by case	Where an organisation or group has been granted a Category 2, Category 3a or Category 3b rebate and an increase in rent (net of rebate) would exceed 50% of the current rent (net of rebate) a phase in waiver may apply.	Over the lesser of 5 years or when the rent is due to be re-determined.
Commercial	Variable, case by case	In exceptional circumstances a waiver may be granted to commercial lease holders to phase in payment of full rent until their activities are fully operational.	Over the lesser of 5 years or when the rent is due to be re-determined.
Other waivers			
Public interest or direct community benefit	Variable, case by case	Where the activities of a group or organisation have a vested public interest or a direct community benefit and the payment of rent or application fees would adversely impact on their ability to operate or take up the tenure.	Variable, case by case
Environmental benefit on Crown land	Variable, case by case	Where the tenure is managed for the primary purposes of environmental protection, conservation and/or remediation.	Variable, case by case
Protection of Aboriginal cultural heritage values	Variable, case by case	Where an Aboriginal organisation is undertaking activities to protect or foster Aboriginal cultural heritage values and the payment of rent or application fees would adversely impact on their ability to operate or take up the tenure.	Variable, case by case
Take up or maintain a tenure	Variable, case by case	In exceptional circumstances to encourage the take-up or continuation of a tenure where the activities will provide long-term benefits to the local	Variable, case by case

Category	Rate/amount	Eligibility	Waiver period
		or regional economy or the management of the Crown estate, that would not have otherwise been undertaken.	