



Rates Postponement Policy Governance Policy

Policy Owner	Group Manager Corporate Services		
Adopted by	Thames-Coromandel District Council		
Description of policy	This policy sets out conditions under which Council will accept applications for postponement of rates in the district.		
ECM doc set number			
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Purpose

In accordance with section 87 of the Local Government (Rating) Act 2002 (LGRA) a local authority may postpone all or part of the rates on a rating unit if:

- a. the local authority has adopted a rates postponement policy under section 110 of the Local Government Act 2002, and
- b. the local authority is satisfied that the conditions and criteria in the policy are met.

Objective

The objective of the Rates Postponement Policy is to alleviate hardship for individual ratepayers in the District who may struggle to pay their rates, while ensuring that the potential revenue is not lost entirely by creating statutory land charges on property to recover the postponed value of rates once the property is sold. Specific objectives are described at the beginning of each policy statement.

Background

Under section 102(5) (a) and (b) of the Local Government Act 2002 Council may adopt a Rates Remission Policy and a Rates Postponement Policy. The following sections of the Act detail what is required for each of these policies.

- Section 108 - Policy on Remission and Postponement of Rates on Maori Freehold Land;
- Section 109 - Rates Remission Policy;
- Section 110 - Rates Postponement Policy.

A separate policy on the Postponement and Remission of Rates on Māori Freehold Land provides for postponement of rates on Māori Freehold Land.

Principles

The relevant principles central to the implementation of this policy are:

1. Appeals against decisions made by officials acting under delegated authority under this policy may be appealed to the Council's Audit and Risk Committee at the discretion of the Chairperson of that Committee. In determining whether to hear an appeal, the Chairperson must consider that:
 - there is some doubt in the judgement exercised by the official; or,
 - there is some doubt as to interpretation of the policy; or,
 - there appears to be a serious issue of equity and fairness involved.
2. All applications for rates postponement must be made prior to the commencement of the rating year (1 July) unless otherwise specified. Applications received during a rating year will be applicable from the commencement of the following rating year. Applications will not be backdated.
3. All postponements must be reported to the appropriate Committee of the Council by 31 August for the year ending the 30 June preceding.

General

The determination of eligibility and approval of any postponement is at the absolute discretion of Council. If Council is satisfied that the relevant criteria in the policy are met, it will give the applicant ratepayer notice of the postponed rates.

Applications made for a postponement will be considered on their own merits on a case-by-case basis.

For rates to be remitted or postponed the Council may require evidence each year, by way of a statutory declaration. The Council reserves the right to seek further information if it deems it necessary.

No application will be backdated beyond the current rating year.

Any previous decisions of the Council do not create a precedent. Approval of a postponement does not set a precedent that application of the usual rates unfairly disadvantages other ratepayers.

Policy Statements

The following policy statements are applicable to both the Extreme Financial Hardship and the Over 65 Years and Older policies. The Council will consider all applications on a case-by-case basis.

All rates are eligible for postponement except for;

- targeted rates for water supplied by volume; and
- lump sum options, which are rates, paid in advance.

The Council will charge an annual fee on postponed rates for the period between the due date and the date they are paid. This fee is designed to cover the Council's administrative and financial costs and may vary from year to year. Arrears penalties will cease to be assessed on postponed rates.

The annual fee will be;

- the interest Council will incur on the postponed rates charged at Council's average weighted cost of borrowing; and
- a margin to cover Council's own administration costs; and
- a 1 percent levy on outstanding balances; and
- a reserve fund levy of 0.25 percent.

Council has a Rates Postponement Reserve established under the Council Created Financial Reserves Policy out of which to meet any shortfall between the net realisation on sale of a property and the amount outstanding for postponed rates and accrued charges, at the time of sale. This will ensure, that neither the ratepayer(s) nor the ratepayer(s') estate will be liable for any shortfall.

The Council must be satisfied that the risk of any shortfall when postponed rates and accrued charges are ultimately paid is negligible. An actuarial model is used to forecast expected equity when repayment falls due. If forecast expected equity is likely to be less than 20 percent, the Council will offer partial postponement, set at a level expected to result in final equity of not less than 20 percent.

The postponed rates or any part thereof may be paid at any time. The applicant may elect to postpone the payment of a lesser sum than that which they would be entitled to have postponed pursuant to this policy.

The property subject to the postponement must be insured for its full replacement cost. If insurance cannot be arranged because the property is uninsurable, only the land value can be used when calculating maximum postponement.

If the property in respect of which postponement is sought is subject to a mortgage, then the applicant will be required to obtain the mortgagee's consent before the council will agree to postpone rates.

Postponed rates will be registered as a statutory land charge on the rating unit title. This means that the Council will have first call on the proceeds of any revenue from the sale or lease of the rating unit. The cost of the statutory land change will be included in the rates postponement.

1 Extreme financial hardship

Objective

The objective of this policy is to assist ratepayers experiencing extreme financial hardship which affect their ability to pay rates arrears and who wish to defer the payment of rates arrears using the equity in their rating unit.

Policy statement

Rating units in arrears and used solely for residential purposes (as defined by the Council) are eligible for consideration for rates postponement in circumstances of extreme financial hardship.

The ratepayer (or authorised agent) must make an application to council in writing which is to be accompanied by a statutory declaration attesting to details of financial circumstances.

The ratepayer must;

- be living in the residence; and
- be the current owner of, and have owned for not less than five years, the rating unit that is the subject of the application; and
- not own any other rating units or investment properties (whether in the district or in another district); and
- first make acceptable arrangements for payment of future rates, by entering into a regular payment agreement with Council; and
- received independent advice from an appropriately qualified source; and
- provide evidence annually to Council that the property is insured for its full replacement cost.

When considering whether extreme financial circumstances exist, the ratepayer's personal circumstances will be relevant including the following factors: age, physical or mental disability, injury, illness and family circumstances.

Before approving an application the Council must be satisfied that the ratepayer is unlikely to have sufficient funds left over, after the payment of rates arrears, for normal health care, proper provision for maintenance of his/her home and chattels at an adequate standard as well as making provision for normal day-to-day living expenses.

Any postponed rates will be postponed until the;

- death of the ratepayer; or
- ratepayer ceases to be the owner or occupier of the rating unit; or
- ratepayer ceases to use the property as his/her residence; or
- date specified by the Council.

Delegation

Decisions for postponement of rates arrears under the extreme financial hardship policy are delegated to the Corporate Services Group Manager or the following delegate;

Delegate	Limit (per rating unit per year)
Finance Manager	> \$5,000
Rates Manager	\$5,000
Credit Controller	\$3,000

The application of a statutory land charge to the rating unit is delegated to the Chief Executive.

2 Ratepayers Aged 65 Years and Over

Objective

The objective of this policy is to provide assistance to elderly home owners on fixed incomes with meeting their rates obligations.

Policy statement

The ratepayer (or authorised agent) must make an application to council in writing.

Ratepayers aged 65 years and over are eligible for the postponement of current and all future residential rating units used for personal residential purposes provided that the rating unit is used by the ratepayer as their sole or principal residence. This includes a family trust owned property use by a named individual or couple.

Arrears and penalties may also be postponed provided those arrears relate to periods after the ratepayer reached 65 years of age.

People aged 65 years and over occupying a unit in a retirement village under an occupation licence can apply for the postponement of rates payable by the retirement village on their unit with the agreement of the owner of the retirement village and provided Council is satisfied payment of postponed rates are adequately secured.

Postponed rates under this policy will be postponed;

- until the death of the ratepayer(s) or named individual or couple, (in this case the Council will allow up to 12 months for payment so that there is ample time available to settle the estate or, in the case of a trust owned property, make arrangements for repayment); or
- until the ratepayer(s) or named individual or couple ceases to be the owner or occupier of the rating unit (if the ratepayer sells the property in order to purchase another within the Council's district, the Council will consider transferring the outstanding balance, or as much as is needed, to facilitate the purchase, provided it is satisfied that there is adequate security in the new property for eventual repayment); or
- if the ratepayer(s) or named individual or couple continue to own the rating unit, but are placed in residential care, the Council will consider them to still be occupying the residence for the purpose of determining when postponement ceases and rates are to be paid in full; or
- until a date specified by the Council.

Where a ratepayer wishes to postpone both this Council's rates, and those set and assessed by the Waikato Regional Council, Council will consult with the Waikato Regional Council to ensure that the combined councils' rates do not exceed the equity provisions.

Delegation

Decisions for postponement of rates under the 65 Years and Over policy are delegated to the Corporate Services Group Manager or the following delegates;

Delegate	Limit (per rating unit per year)
Finance Manager	> \$5,000
Rates Manager	\$5,000
Credit Controller	\$3,000

The application of a statutory land charge to the rating unit is delegated to the Chief Executive.

Implementation

This policy will be implemented by the Rates Team and the Finance Manager.

Measurement and review

This policy will be reviewed every six years in alignment with Council's long term plan or sooner if required.

Definitions

The following definitions apply in the context of this policy.

Term	Definition
Accrued charges	Means the annual fee on postponed rates for the period between the due date and the date they are paid.
Actuarial model	Means an insurance model used to calculate the expected equity held in the property when repayment is due.
Authorised agent	Means a person who has been expressly authorised to act on someones behalf. This is usually a lawyer acting on behalf of a ratepayer when making an application for rates postponement.
Equity	Defined in the economic sense as distributing economic prosperity fairly among the members of society.
Fairness	Just or unbiased
Postponed rates	Means rates for which the requirement to pay is delayed until a certain time, or until certain events occur. The requirement to pay is not cancelled, but delayed.
Ratepayer(s)	Defined as per section 10, 11 and 92 of the Local Government (Rating) Act 2002.
Rates	Means a charge levied on property owners or lease-holders at local government level to contribute to the funding of local government services (includes rates levied by the Thames-Coromandel District Council and the Waikato Regional Council).
Rating unit	Means a rating unit for the purposes of the Rating Valuations Act 1998.
Statutory land charge	Means a claim that is registered on the rating unit title to ensure that Council has first call on the proceeds of any revenue from the sale or lease of the rating unit.

Relevant Legislation and policies

- Local Government Act 2002
- Local Government (Rating) Act 2002
- Rates Remission Policy
- Rates Postponement and Remission of Rates on Maori Freehold Land Policy