9.8 Policy Review - Hardship Provision Rates and Charges

REPORT BY THE MANAGER PROPERTY AND REVENUE

TO 19 MAY 2021 ORDINARY MEETING GOV400088, A0340005

RECOMMENDATION

That Council:

- 1. receive the report by the Manager Property and Revenue on the Policy Review Hardship Provision Rates and Charges;
- 2. place the revised Hardship Provision Rates and Charges Policy on public exhibition for 28 days; and
- 3. adopt the revised Hardship Provision Rates and Charges Policy if no submissions are received.

Executive summary

The existing Policy Review - Hardship Provision Rates and Charges (the Policy) has been reviewed and proposed amendments are suggested as part of Council's ongoing policy review program.

Disclosure of Interest

Nil

Detailed report

The proposed changes to the Policy are consistent with the intent of the existing Policy and are primarily minor amendments to give clarity to, and reflect the scope of Council's current business operations and current business practices.

All proposed changes are shown as "track changes" on the copy of the Policy attached to this report.

Community Plan implications

Theme	Good Governance
Goal	An effective and efficient organisation
Strategy	Prudently manage risks association with all Council activities

Strategic implications

Council Strategies

Nil

Council Policies

By adopting the recommendation, Council is endorsing the Policy changes to be placed out on public exhibition for comment. Should any submissions be received a further report will be

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presented back to Council for consideration. If no submissions are received at the end of the exhibition period, the revised policy will be adopted and apply from that date.

Legislation

Local Government Act 1993 Local Government (General) Regulation 2005 Privacy and Personal Information Protection Act 1998 Privacy and Personal Information Protection Regulation 2019

Financial implications

Not Applicable

Associated Risks

Not Applicable

DIANE SAWYERS
MANAGER PROPERTY AND REVENUE

LEONIE JOHNSON CHIEF FINANCIAL OFFICER

27 April 2021

Attachments: 1. Current Hardship Provision - Rates and Charges Policy with track changes.

APPROVED FOR SUBMISSION:

BRAD CAM GENERAL MANAGER



POLICY Hardship Provision – Rates and Charges



ADOPTED 15/03/2017

COUNCIL MEETING MIN NO 49/47

DATE: 30/05/2047

 VERSION NO
 2.0

 REVIEW DATE
 MARCH 2021 MAY 2025

 FILE NUMBER
 GOV400047 A0340005

Objective

The objectives of this policy are to:

Provide assistance where possible, in accordance with the Local Government Act 1993 NSW (LGA) and the Local Government (General) Regulation 2005 NSW, to those ratepayers who are experiencing substantial financial difficulties in paying their rates and charges.

Provide an administrative process to determine hardship applications.

Legislative requirements

- Local Government Act 1993 NSW
- Local Government (General) Regulation 2005 NSW
- Valuation of Land Act 1916 NSW

Related policies and plans

- Privacy Management Plan
- Debt Recovery Policy

Policy

This Policy recognises that due to exceptional circumstances, ratepayers may at times encounter difficulty in paying rates and charges. The policy provides the framework to be followed in providing assistance to those ratepayers who are suffering substantial financial hardship. A ratepayer in substantial financial hardship is someone who is identified by themselves, the council or an independent financial counsellor as having the intention, but not the financial capacity to make the required payments within the timeframe set out in the rates and charges notice. Where a ratepayer falls within this definition, the council may apply its hardship provision – rates and charges policy.

1.1 The Local Government Act 1993 NSW (LGA) specifies a range of assistance measures that Council can provide to ratepayers who are experiencing substantial financial hardship, including those addressed in this policy - sections 567 and 601.

2. Eligibility

2.1 This Policy is available to the ratepayers of all land categorised as Residential or Farmland for rating purposes within the Mid-Western Regional Council local government area, subject to the "definitions" and "provisions" as disclosed in this Policy.

- 3. Definitions
- 3.1 Ratepayer the person liable for payment of the rates of the property for which hardship is being claimed.
- 3.2 Residential or Farmland categorisation for rating purposes— all land categorised as Residential or Farmland for rating purposes in accordance with s515 and s516 LGA.
- 3.3 Principal place of residence the property that the ratepayer occupies as their sole or dominant residence.
- 3.4 Property ownership qualifying period the applicant, having been the ratepayer on the property for which the application is being made for a period of not less than 1 year.
- 3.5 Mixed developments those properties which are subject to a Mixed Development Apportionment Factor (MDAF) furnished to Council by the Valuer General and are rated in accordance with the MDFA as part Residential and part Business. The part of the property that is subject to an MDFA and rated as Residential only, is to be considered in the calculation of the increase.
- 3.6 Rates payable calculation test the increase in the general rates levied as a result of a General Revaluation must be, at the minimum, 25% above the previous year's rate levy, including any permissible rate increase adopted by Council in accordance with s506 & s508a LGA.
- LGA, Section 567(c): Writing off of accrued interests
- 4.1 Accrued interest on overdue rates and charges may be written off where payment of the accrued interest would cause the ratepayer financial hardship.
- 4.2 Provisions.
- 4.3 The applicant/s must be the ratepayer/s of the property.
- 4.4 Hardship provision relief will not be considered if the ratepayer/s has been convicted of fraud within the past 10 years.
- 4.5 <u>4</u> The property for which the ratepayer/s is requesting assistance is the only property in which the ratepayer/s has an interest.
- 4.6-5 The property must be the ratepayer/s principal place of residence.
- 4.76 The property must be land categorised as either Residential or Farmland for rating purposes.
- 4.8-7 The residential component of mixed developments will only be considered for the hardship provision assistance.

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- 4.9-8 The ratepayer/s must enter into a payment agreement in accordance with s564(1) LGA, facilitated by Council's Debt Recovery Policy, for settlement of the overdue rates and charges.
- 4.10-9 Interest on overdue rates and charges will be written off, provided that the ratepayer/s honours the payment agreement entered into in accordance with s 564(1) LGA relating to the payment of the overdue amounts. If the payment agreement is not adhered to, the accrued interest on the overdue rates and charges will not be written off.
- 4.11-10 Only one successful application will be granted within the current ratepayer's ownership period.

LGA, Section 601: Hardship Resulting from certain Valuation Charges

5.1 A ratepayer who suffers substantial financial hardship as the consequence of the making and levying of a rate on the most recent valuation may apply to council for deferral of payment of the calculated amount as stipulated in the provisions, below. The rate will not be waived or reduced.

5.2 Provisions:

- 5.3 Assistance is only available in relation to general purpose rates. No assistance is provided for any other charges or special rates levied on the property.
- 5.4 Assistance is only available in the first year that the new valuations are used to levy the general purpose rate, i.e. only to 30 June of the financial year in which the general purpose rate was levied.
- 5.5 The application must be made within 3 months of the posting date of the Rates and Charges Notice in the first year of the use of the General Revaluation for rating purposes.
- 5.6 The applicant/s must be the ratepayer/s of the property and satisfy the property ownership qualifying period.
- 5.7 Hardship Provision relief will not be considered if the ratepayer/s has been convicted of fraud within the past 10 years.
- 5.8 The property must be the ratepayer/s principal place of residence.
- 5.9 The property must be land categorised as either Residential or Farmland for rating purposes.
- 5.10 The residential component of mixed developments will only be considered for the hardship provision assistance.
- 5.11 Applications for assistance must meet the 'rates payable calculation test'.
- 5.12 The ratepayer/s must enter into a payment agreement in accordance with s564(1) LGA, facilitated by Council's Debt Recovery Policy, for settlement of the deferred amount.

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5.13 Interest on outstanding deferred amounts will not accrue, provided that the ratepayer/s honours the payment agreement entered into in accordance with s 564(1) LGA relating to the payment of the deferred amount. If the payment agreement is not adhered to, interest, in accordance with s566 LGA, will apply from the date of the default.

Procedure

- 6.1 Applications for Hardship Provision Rates and Charges must be made on the Hardship Assistance application form available from Council's website or from any of Council's offices.
- 6.2 All Hardship Provision Rates and Charges applications will be determined in accordance with Council delegations and where considered necessary, will be discussed only in a meeting of Council which is closed to the public.
- 6.3 Further information, supporting documentation or an interview with the ratepayer/s may be requested, if considered necessary, to fully understand the issues causing hardship.
- 6.4 All Hardship Provision Rates and Charges applicants will be advised in writing of Council's decision within 30 days of receipt of the application.
- 6.5 Any applicant dissatisfied with Council's decision may request that the application be reconsidered. Such requests must be made within 7 days of being advised that the initial application was unsuccessful.
- 6.6 All applicants have the obligation of informing Council within 21 days of any change in circumstances that may affect ultimate eligibility under the Hardship Provision Rates & Charges.
- 6.7 All data collected through the Hardship Provision Rates and Charges process will be dealt with by way of Council's Privacy Management Plan.
- 6.8 Sections 564(2), 567(a) and 567(b) LGA allow Council to write off or reduce interest accrued on rates and charges if a person complies with an agreement as to periodical payment or if the person was unable to pay the rates and charges by the due date for reasons beyond that person's control. These sections do not refer to financial hardship and are therefore covered in Council's *Debt Recovery* Policy.

Variations

Council reserves the right to vary the terms and conditions of this policy, subject to a report to Council.