

## **POLICY**

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### **RATES**

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### **Rates Postponement Policy**

#### **Introduction**

Council may postpone the requirement to pay rates only where it has a rates postponement policy in place that authorises the postponement.

Section 102(3)(b) of the Local Government Act 2002 provides that the Council may adopt a Rates Postponement Policy. Section 110 outlines what a postponement policy should contain and section 110(2A) requires that any postponement policy must be reviewed at least once every 6 years.

Section 87 of the Local Government (Rating) Act 2002 provides that the Council must postpone the requirement to pay all or part of the rates on a rating unit if it has adopted a rates postponement policy, the ratepayer has applied in writing for a postponement, and the Council is satisfied that the conditions and criteria in the policy are met.

Sections 88-90 contain further provisions regarding rates postponement including the ability to add a fee to postponed rates, how postponed rates must be recorded and that postponed rates may be registered as a charge on property.

The Rates Postponement Policy comprises:

- Rates Postponement in cases of Financial Hardship (page 1)
- Rates Postponement on Land Affected by Natural Calamity (page 3)
- Rates Postponement on Land Affected by a Change in District Plan Zoning (page 5)

#### **Rates Postponement in Cases of Financial Hardship**

##### **1 Policy Context**

Occasionally circumstances arise where a ratepayer experiences serious financial hardship and is unable to pay their rates.

The priority for Council Credit Control staff is to work with ratepayers in this situation and agree on a payment plan to bring the rates up to date over an acceptable period,

If the hardship is temporary, rates postponement is a useful option in some circumstances to remove the immediate financial stress.

As rates postponement delays rather than extinguishes the obligation to pay, and over time reduces the owner's equity in the property, it is an option that is used sparingly.

##### **2 Policy Objective**

To provide Council the ability to postpone the payment of rates as a method of providing relief to ratepayers who are experiencing extreme financial hardship.

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### 3 Policy Statement

1. The Manager, Finance and Business Support has delegated authority to postpone rates on the grounds of extreme financial hardship on being satisfied after full inquiry that extreme financial hardship exists or would be caused by non-postponement of the whole or part of the rates.
2. When considering whether rates postponement will be granted, all of the ratepayer's personal circumstances will be relevant including the following factors:
  - Background to the ratepayer's situation, including illness and family circumstances;
  - The likely period before the ratepayer's position could be expected to improve;
  - The potential for the ratepayer's situation to deteriorate further.

A report from a budget advisor may be requested.

3. Application must be made in writing using the prescribed form.
4. Prior to approving an application for postponement of rates under this policy, the Council will require evidence that:
  - The applicant has had access to independent financial advice and understands the effects of rates postponement on their equity in the property,
  - All joint property owners agree to rates postponement,
  - Where there is a mortgage on the property, the mortgagee agrees to rates postponement.
5. Wherever possible, rates shall be postponed for a finite period, and a payment plan shall be set up to clear the debt within this time.
6. Other than in exceptional circumstances, rates postponement will only be considered for rating units that are used as the residence of the applicant.
7. If the postponement is for other than a residential rating unit, rates will be postponed for a finite period not exceeding 5 years.
8. Postponed rates will become payable on the earliest of the following dates:
  - a. When the ratepayer ceases to be the owner/occupier of the rating unit
  - b. When the ratepayer ceases to use the rating unit as his/her residence
  - c. At a date specified by the Council at the time the application is approved
  - d. In the event of a change in the ratepayer's circumstances, on written notice by the Council.
9. Where rates are postponed, the ratepayer will still be required to pay a minimum of \$500 towards the annual rates, in addition to any government rebate which may be available in respect of the property.
10. Rates postponement will apply from the beginning of the rating year in which the application is made although the Council may consider extending the postponement to include arrears from previous years.

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11. At the start of any rating year, where a rates postponement arrangement is in place, the Council will send an annual statement showing:
  - The total amount of postponed rates outstanding
  - The interest rate charged for the year
  - Accrued interest
  - Any fees charged during the year
12. Where rates are postponed the Council will require annual confirmation that the dwelling on the property has appropriate insurance cover.
13. Penalty charges (pursuant to s.57 & 58 of the Local Government (Rating) Act 2002 will not be added to postponed rates.
14. The amount of any rates postponed including postponement fees where applicable will be secured by a Statutory Land Charge on the Certificate of Title of the Rating Unit.
15. Pursuant to Section 88 of the Local Government (Rating) Act 2002, a postponement fee will be charged on the amount of rates postponed. The amount of the fee will be calculated on the outstanding daily balance applying between the date each instalment is due and the date that the rates are paid using a rate equal to the overdraft interest rate charged by the Council's bankers at the commencement of each financial year.
16. The administrative cost of setting up the postponement including any costs of registering and releasing the charge on the Certificate of Title will be met by the applicant at the time the application is approved or added to the amount postponed.
17. The amount of rates postponed will be reported annually to the Audit & Risk Committee.

The following delegations apply:

Manager, Finance and Business Support – authority to approve remissions that meet the requirements of this policy.

#### Rates Postponement on Land Affected by Natural Calamity

##### 1 Policy Context

Occasionally events occur, such as a natural disaster outside human control, where damage occurs to property that was unforeseen at the start of the rating year.

In a significant event, such as the Canterbury Earthquakes of 2010 and 2011, the Government may step in and pass new legislation that enables the Council to provide rates relief. In other circumstances, having a generic rates postponement policy in place where specific detail may be added by Council resolution will ensure that the Council is able to respond quickly to offer rates postponement should it wish to do so.

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### 2 Policy Objective

To give the Council discretion to postpone rates where a rating unit has been detrimentally affected by a natural calamity where the Council believes that hardship exists or would be caused by non-postponement of the whole or part of the rates.

### 3 Policy Statement

1. Applications must be made in writing and signed by the owner(s) of the rating unit.
2. Full details must be provided of the nature of the event that caused the damage and the degree of damage to the land. If the damage is temporary and the land is expected to return to its former use in the future, an estimate of the time it will take for the land to recover to a useable state and the steps that the owner will take to achieve this should be provided. The Council may ask for a report from a Registered Engineer or other similarly qualified expert.
3. When considering whether to approve postponement of rates the Council will have regard to the severity of the event, the degree of damage to the subject land and other land in the district and other financial assistance available. Consideration will also be given to the financial circumstances of the applicant and the effect of postponement on the remaining rating base.
4. Wherever possible, rates shall be postponed for a finite period, and a payment plan shall be set up to clear the debt within a nominated time.
5. Postponed rates will become payable on the earliest of the following dates:
  - a) When in the opinion of the Council the land is restored to a useable state, or
  - b) When the applicant ceases to be the owner/occupier of the rating unit, or
  - c) When the applicant ceases to use the rating unit as his/her residence, or
  - d) At a date specified by the Council at the time the application is approved, or
  - e) In the event of a change in the ratepayer's circumstances, on written notice by the Council.
6. The Council may require a minimum payment towards the annual rates.
7. Rates postponement will apply from the beginning of the rating year in which the application is made.
8. Penalty charges will not be added to postponed rates during the period of postponement.
9. The amount of any rates postponed including postponement fees where applicable will be secured by a Statutory Land Charge on the Certificate of Title of the Rating Unit.
10. Pursuant to Section 88 of the Local Government (Rating) Act 2002, a postponement fee may be charged on the amount of rates postponed between the date that the rates instalments were due for payment and the date that the postponed rates are paid. Any fee will be at a rate to be fixed by the Council at the commencement of each financial year.

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11. The administrative cost of setting up the postponement including any costs of registering the postponement on the title will be met by the applicant or added to the amount postponed.
12. The amount of rates postponed will be reported annually to the Audit & Risk Committee.

#### **Rates Postponement on Land Subject to a District Plan Zone Change**

##### **1. Policy Context**

Where business and residential areas expand and develop into previously rural land, the value of land can increase at a rate greater than other surrounding rural land due to its potential for residential or business development.

Part X of the Rating Powers Act 1988 had provision for the postponement of rates on farmland. This provision was not transferred into the Local Government (Rating) Act, however Councils may still achieve a similar result through a rates postponement policy.

A feature of the Waimakariri District is the number of lifestyle units in the rural zones. It is acknowledged that the encroachment of residential and business zones into the rural zone has an impact on uses other than farmland used for primary production.

##### **2. Policy Objective**

To provide temporary rates relief to land impacted by an increase in rating valuation due to the extension of residential or business zones into the rural zone where the Council is satisfied that the rating valuation of the land is in some measure attributable to the potential use to which the land may be put for residential or business purposes.

To preserve uniformity and equitable relativity with a comparable rating unit elsewhere in a rural zone in that part of the District where the rating valuations do not contain any "potential value".

##### **3. Policy Statement**

1. The Council will allow postponement of rates on land in the residential and business zones where it is satisfied that due to a recent change in zoning, the rating valuation of the land is in some measure attributable to the potential use to which the land may be put for residential, commercial or industrial development.
2. To qualify for postponement under this policy, the rating unit must be situated in an area that has been rezoned. In addition, the ratepayer must have been the property owner prior to the zone change being initiated.
3. Rating units for which a subdivision consent has been approved or lodged and under consideration by the Council shall not be eligible for rates postponement under this policy.

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4. On written application from the ratepayer of any rating unit that has received an amended rating valuation in accordance with s.4.2.1 (c) of the Rating Valuation Rules 2008 due to a change in zoning, the Council may request its Valuation Service Provider to issue a special “rates postponement value” for that rating unit.
5. The rates postponement value will be determined so as to:
  - a) Exclude any potential value that, at the date of the valuation, the land may have for residential, commercial or industrial development; and
  - b) Preserve uniformity and equitable relativity with comparable parcels of land, the valuations of which do not contain any such potential value.
  - c) The rates postponement value will reflect the proximity of the rating unit to the town and will therefore be higher than a more remote rural property.
6. Rates postponement values allocated under this policy are final and there is no right of objection against the level of valuation. (The owner still has the right to object to the rating valuation of the property in terms of the Rating Valuations Act 1988).
7. Where a rates postponement value has been determined, the payment of rates will be deemed to have been postponed to the extent specified in clause (8) of this policy.
8. The amount of rates postponed in any year shall be an amount equal to the difference between the amount of the rates for that period calculated according to the rateable value of the property and the amount of the rates that would be payable for that period if the rates postponement value of the property were its rateable value.
9. Notice of the amount of rates postponed shall be entered in the rating records and will be notified with the rates assessment issued in respect of that rating unit.
10. Subject to the rates postponement value remaining in force, postponed rates will be remitted at the expiration of 5 years from the commencement of the rating period in respect of which they were made and levied, unless the postponed rates become payable in accordance with clause 11 of this policy.
11. All rates that have been postponed under this policy and have not been remitted become due and payable immediately on:
  - a) The rateable value of the rating unit ceasing to be to some extent attributable to the potential use to which the land may be put for residential, commercial or industrial development; or
  - b) An application being lodged for a subdivision consent or a change in use of the land; or
  - c) The interest of the person who was the ratepayer at the date on which the rates postponement value was entered on the rating roll becoming vested in some person other than –
    - i) The ratepayer’s spouse or de facto partner or former spouse or de facto partner; or
    - ii) The executor or administrator of the ratepayer’s estate; or

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- iii) Where the ratepayer was the proprietor of the interest as a trustee, a new trustee under the trust.
- 12. Where part of the land ceases to qualify for rates postponement, and the balance of the rating unit still meets the criteria of this policy, the Council will require that a part only of the postponed rates will be required to be paid. The part of the postponed rates to be paid will be in proportion to the value of the land that no longer qualifies for rates postponement.
- 13. Rates postponement will apply from the beginning of the rating year following the period in which the rates postponement application is approved and will not be backdated to the current or prior years. However, in the event that an application is approved prior to 20 August, rates postponement may apply from the beginning of the financial year in which the application is approved.
- 14. Penalty charges will not apply to the amount of rates that has been postponed during the period of postponement.
- 15. Postponed rates will be registered as a statutory land charge on the title of the rating unit.
- 16. The administrative cost of setting up the postponement including any costs of registering the postponement on the title will be met by the applicant.

The following Delegations apply:

Customer Services Manager – to approve postponements which meet the requirements of this policy.

Manager, Finance and Business Support – to hear and make a final decision on any appeal on an application for postponement that has been declined.

#### **Links to legislation, other policies and community outcomes**

The Local Government Act 2002  
The Local Government (Rating) Act 2002  
Waimakariri District Council Rating Policies

#### **Adopted by and date**

Adopted by Council on 19th June 2018 through the 2018-2028 Long Term Plan.

#### **Review**

Next review at 2024 Long Term Plan.