

Draft Remission and Postponement of Rates Policy

Record No: R/20/8/47080
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Decision Recommendation Information

Purpose

- 1 The purpose of this report is for Council to endorse the draft Remission and Postponement of Rates Policy (the draft policy) for public consultation.

Executive Summary

- 2 The Remission and Postponement of Rates Policy specifies the circumstances where Council will consider remitting or postponing rates. A remission is where Council reduces the amount of rates to be paid and a postponement is where Council delays the payment of rates.
- 3 The purpose of the draft policy is to:
- provide financial assistance and support to ratepayers where it is fair and reasonable to do so
 - address rating anomalies
 - provide Council with the ability to act reasonably in administering its rating powers and policies
 - support broader Council outcomes and specific objectives as detailed in the policy.
- 4 The draft policy is included with this report as Attachment A.
- 5 The report also includes a summary of proposed changes as Attachment B.
- 6 The current policy (adopted in 2017) is included with this report as Attachment C.
- 7 In developing the draft policy, staff have taken into account feedback provided by Council over the last 18 months, including feedback provided as part of:
- Council workshops, where the current policy and approach to rating was explained in addition to feedback from Council's consideration of budgets for the Long Term Plan (LTP) 2031.
 - the review of the Revenue and Financing Policy and associated rating review
 - discussion about the 2020 report on rates affordability and consideration of tools Council may have for addressing any affordability issues in the future
 - flow-on impacts of the Covid-19 pandemic.
- 8 The draft policy has been reviewed to ensure that it is fit for purpose and is aligned with Council's LTP 2031 and other funding and financial policies.
- 9 Additional clauses added to the draft policy include:

Council

10 March 2021

- the ability to provide remissions for significant extraordinary circumstances (such as earthquakes, floods, pandemics) as determined by Council resolution
 - to cover remission of small balances which are uneconomical to collect
 - additional flexibility to remit rate penalties to encourage ratepayers to bring their accounts up to date.
- 10 A number of additional changes have also been made, with the substantive being:
- removing reference to the 50% remissions for community facilities owned by persons, general clubs, societies or associations which are already provided for under the Local Government Rating Act
 - expanding remission for community facilities owned by persons, general clubs, societies or associations to include facilities used for “community service” and “healthcare”
 - clarifying that community facilities will be excluded from receiving a remission if they receive “operational” funding from government or associated agencies (not capital funding).
 - including additional criteria in provisions for remission/postponement for extreme financial hardship to clarify the ratepayer’s circumstances.
- 11 In addition, staff have incorporated a number of other administrative changes into the draft policy to clarify objectives, reduce duplication, consolidate information and refer to Council’s Delegation Manual for decision-making authority.
- 12 If endorsed by Council, it is intended that the draft policy will be consulted on via a process which will be run concurrently with the consultation for the LTP 2031 from 12 March 2021 to 16 April 2021.

Recommendation

That the Council:

- a) **Receives the report titled “Draft Remission and Postponement of Rates Policy” dated 4 March 2021.**
- b) **Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.**
- c) **Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the Act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.**
- d) **Notes the summary of proposed changes (Attachment B).**
- e) **Endorses the draft Remission and Postponement of Rates Policy (Attachment A) for consultation.**
- f) **Agrees to release the draft Remission and Postponement of Rates Policy for public consultation in accordance with section 82 of the Local Government Act 2002 from 12 March 16 April 2021.**
- g) **Agrees to delegate authority to the chief executive to approve any final edits required in order to finalise the policy for consultation.**

Background

- 13 A review of Council’s Remission and Postponement of Rates Policy has been undertaken. The policy outlines several categories where Council may grant remission or postpone rates, and it gives detail on the conditions and criteria under which applications will be considered.
- 14 The draft policy has been reviewed to ensure that it is fit for purpose and is aligned with Council’s LTP 2031 and other funding and financial policies.
- 15 Additional clauses being added to the draft policy include:
 - the ability to provide remissions for significant extraordinary circumstances (such as earthquakes, floods, pandemics) as determined by Council resolution
 - to cover remission of small balances which are uneconomical to collect
 - additional flexibility to remit rate penalties to encourage ratepayers to bring their accounts up to date.

- 16 A number of changes have also been made to existing policy provisions, with the substantive changes being:
- removing reference to the 50% remissions for community facilities owned by persons, general clubs, societies or associations which are already provided for under the Local Government Rating Act 2002 (LGRA)
 - expanding remission for community facilities owned by persons, general clubs, societies or associations to include facilities used for “community service” and “healthcare”
 - clarifying that community facilities will be excluded from receiving a remission if they receive “operational” funding from government or associated agencies (not capital funding).
 - including additional criteria in provisions for remission/postponement for extreme financial hardship to clarify the ratepayer’s circumstances.

17 The key changes are discussed in more detail in the issues section below.

Issues

- 18 Discussions resulting from the Covid-19 pandemic and subsequent planning has highlighted Council’s desire for greater flexibility to implement rate remissions and postponements for significant extraordinary circumstances on a broader scale.
- 19 The current policy is generally written to provide for relief on a very small (individual) scale. It does not provide for relief for more than one rating unit, except where a natural disaster or other type of emergency affects the ability of one or more rating units to be used or occupied for an extended period of time. In such a case, Council can consider providing rate remission via a Council resolution which specifies the conditions and criteria.
- 20 Staff are proposing to replace this with a wider provision which allows Council to apply broad remissions **and** postponements in situations where significant extraordinary circumstances are identified and where the relief is not linked to the ability of the property to be occupied. The approach proposed is based on provisions recently introduced by Napier City Council.
- 21 This would require Council to specify the details of the relief that would be provided at the time that the significant extraordinary circumstance is identified, along with the conditions and criteria that would apply (such as type/location of property, application process, timeframe, amount/type of remission).
- 22 The policy has been drafted to allow Council to consider relief via either a rate remission (including of penalties) and/or rate postponement. The proposed amendment is included in the draft policy as section 1.9 for remission and section 2.2 for postponement.
- 23 While the proposed amendment will allow Council to respond to events that have a material impact on the District, there is a risk that Council could use the provision for less significant events. Sector best practice developed by the Society of Local Government Managers (SOLGM) recommends that policies should be specific and avoid circumstances where relief is provided for ‘one-offs’ or contain ambiguous criteria which could be an invitation for “special pleading”.
- 24 It is also important to note that remission policies reduce the amount of rates that Council will collect, which means Council is forgoing this income. If Council provides a rate remission to a

rating unit(s), then it will need to charge all other rating units more to ensure that the overall level of funding needed to provide services is maintained. In this way, remission policies shift the incidence of rates.

- 25 As such, it will be important for Council to carefully consider remissions and in particular, resolutions related to a remission for significant extraordinary circumstances given the flow-on impact that this may have across the whole community in that year or future years.

Other amendments:

- 26 The remaining provisions have also been reviewed and a number of other changes have been proposed including:
- expanding the criteria where rates penalties can be remitted to support additional proactive payment options and encourage ratepayers to pay their rates. This includes providing remission for temporary penalty holds, direct debit agreements, non-receipt as well as providing leniency to remit penalties in relation to extreme financial hardship, exceptional circumstances and significance extraordinary circumstances (section 1.1)
 - removing the rate penalty remission for missing payments given that payment by cheque is no longer accepted (section 1.1).
 - including a separate remission for remitting small balances (previously included in the remission for penalties and exceptional circumstances) (section 1.2)
 - removing reference to the 50% rate remission for community facilities owned by persons, general clubs, societies or associations as these are already provided for under Schedule 1 (Part 2) of the Local Government Rating Act 2002 (section 1.3.1)
 - including rating units used for the purpose of “community service” and “healthcare” in the rating remission for community facilities owned by persons, general clubs, societies or associations to reflect that these facilities also provide a benefit to the community as a whole (section 1.3.1)
 - clarifying that community facilities will be excluded from receiving a remission if they receive “operational” funding from government or associated agencies. This means that only organisations that receive operating funding will be excluded, but organisations receiving funding for capital items such as buildings or specific projects from grants or similar will be included (section 1.3.1)
 - removing reference to Chartered Clubs from the remission for small community organisations and sports association with liquor licenses as these are not covered by the policy (section 1.3.2)
 - removal of reference to minimum bins in the remission of rates for cancellation/reduction of recycling/rubbish bin collection given that ratepayers other than residential ratepayers are not required to have bins (section 1.6)
 - removal of specific criteria in the remission for the exceptional circumstances which are now covered elsewhere in the policy (section 1.7)

- additional criteria for remission/postponement in cases of extreme financial hardship to clarify that the ratepayer does not have an interest in other property or assets, has taken all steps necessary to claim any central government benefits or allowances and does not have the financial capacity to pay their rates (sections 1.8 and 2.1)
- remove reference to Community Development Area subcommittees in the grants in lieu provisions (section 1.10)
- clarifying objectives
- reducing duplication and consolidating related information together, particularly details of the supporting information required to be provided under each provision
- providing definitions of financial hardship and significant extraordinary circumstances
- consistent use of terminology
- referring to Council’s Delegation Manual to identify authority to approve remissions and postponements rather than including specific reference to staff roles (which can change) in the policy. The delegation manual also contains financial limits within which staff can operate which will effectively limit what financial amount of remission or postponement the various staff roles can approve.

27 Other minor amendments to the **Making an application** section including:

- stating a consistent date for applications (31 March in the year prior to the commencement of the rating year) unless otherwise stated
- noting that in subsequent years, Council will need to confirm eligibility and that eligibility will generally be reviewed every three years as part of the review of the policy unless stated otherwise.

28 In developing the draft policy, staff did consider a number of other matters which were discussed with Council but which have not been included in the draft policy. These included:

- extending certain remission policies to cover tenants or lessees who have responsibility for paying rates but whom are not the property owner. This was not included on the basis that Council could not guarantee that the benefit of the remission would be received by the ratepayer and not the property owner. This is because rates are a charge on the property and therefore would rely on the property owner to pass the remission onto the tenant/lessee either through a direct payment or rent reduction.
- providing a specific remission for the wastewater rate for non-residential rating units that have multiple pan charges in circumstances where the property is not fully utilised for extended periods of time. This was not included on the basis that it would shift more of the burden of wastewater rates onto residential properties. Council was also concerned that it would create a situation of “one-off” remissions and that it would be difficult to get accurate and independent information regarding occupancy and the remission would be open to exploitation. Council expressed a preference for retaining a broader approach like that provided for in the significant extraordinary circumstances provision.

- providing a remission for low income households that would work in conjunction with the government rates rebate. This was not included for two main reasons. First, this type of remission would require an additional budget (approximately \$100,000) to fund applications and, given existing pressures on rates, Council could not fund this as well as the additional investment in infrastructure signalled in the LTP 2031. Secondly Council noted the comments made by the Productivity Commission¹ in their 2019 report which suggested that central government is best placed to tackle pressures on low-income households facing high housing costs. This is because central government holds detailed information on individual/household circumstances which is needed to determine equitable assistance and is also responsible for the taxation system which is used to fund any income support programmes (such as accommodation supplement, rates rebate, social housing, other benefits).

Factors to Consider

Legal and Statutory Requirements

- 29 If Council wishes to provide remissions or postponements to ratepayers, a policy of this nature is required under the Local Government (Rating) Act 2002 (LGRA) and the Local Government Act 2002 (LGA).
- 30 The LGRA states at s.85 that:
- (1) A local authority may remit all or part of the rates on a rating unit (including penalties for unpaid rates) if—
 - (a) the local authority has adopted a rates remission policy under s.109 of the Local Government Act 2002; and
 - (b) the local authority is satisfied that the conditions and criteria in the policy are met.
- 31 The LGRA states at s.86 that:
- (1) A local authority must postpone the requirement to pay all or part of the rates on a rating unit (including penalties for unpaid rates) if—
 - (a) the local authority has adopted a rates postponement policy under s.110 of the Local Government Act 2002; and
 - (b) the ratepayer has applied in writing for a postponement; and
 - (c) the local authority is satisfied that the conditions and criteria in the policy are met.
- 32 For this reason, it is essential that Council's Remission and Postponement of Rates Policy contains conditions and criteria for each remission and postponement category.
- 33 The policy is legally required to be reviewed at least once every six years in accordance with s.109(2A) of the LGA. This policy was last reviewed in 2017.
- 34 Council has a substantial amount of discretion to grant a remission or postponement of all or part of a ratepayer's rates under the LGRA. The draft policy complies with the requirements of

¹ Productivity Commission (2019) Local Government Funding and Financing

the Act. Council could choose to reconsider the categories of remission and postponement to exclude some categories.

- 35 If Council endorses the draft policy and releases it for public consultation, staff are proposing that the draft policy will be consulted on in accordance with s.82 and s.82A of the LGA. The LGA requires councils to follow the principles in s.82 whenever it conducts a consultation process.

Community Views

- 36 As Council did not receive any submissions on this policy when it was consulted on in 2017, it is difficult to determine what the existing community views are.
- 37 In reviewing the policy staff have considered the circumstances of ratepayers who have sought assistance with payment of rates, and, in particular remission of rates penalties. While this does not represent direct community input, it does reflect general feedback that staff have had from ratepayers over the past three years.
- 38 In addition, a number of other councils throughout the country have developed specific Covid-19 remission and postponement provisions. Given that the pandemic continues to have an economic impact across the country and in parts of Southland, it is timely for Council to also consider whether it requires greater flexibility to be able remit or postpone rates for different circumstances.
- 39 If Council endorses the draft policy and releases it for public consultation at its meeting on 10 March 2021, staff are proposing that the draft policy will be consulted on in accordance with s.82 of the LGA, as discussed above.
- 40 Council will make the draft policy and summary of proposed changes publicly available (in accordance with s.82A of the LGA), and encourage people to give feedback on Council's 'make it stick' platform, by:
- placing an advertisement in the Ensign and Southland Express
 - promoting the consultation on Council's facebook page
 - having the draft policy accessible on Council's website and at all of its offices and libraries
 - encouraging community boards to make a submission.

- 41 It is proposed that this consultation process be run parallel to the LTP consultation.

- 42 The consultation process proposed will allow Council to consider community views regarding this policy.

Costs and Funding

- 43 To put the draft policy out for consultation and to undertake the steps required to progress a draft policy through to adoption, there will be costs associated with staff time and advertising.

- 44 For the 2020/2021 financial year, the value of remitted rates was around \$483,000 (including GST) across 527 rateable properties. This represents 0.84% of the total rates struck for the year (\$57.3 million incl GST) on 2.8% of the total number of rateable properties (19,122). There has

been little change in these figures since 2017. No postponement of rates have been requested for a number of years.

- 45 The changes indicated to the policy, other than the significant extraordinary circumstances are unlikely to substantially change the total annual remitted rates.
- 46 If Council was to activate a remission or postponement for special extraordinary circumstances, it would need to consider how the resulting cash shortfall will be met and then budget in future years any repayment of this cash shortfall.

Policy Implications

- 47 The draft policy does not need to be included in the LTP 2031 and will not be included in the LTP consultation document. Consultation will occur through a separate parallel process.
- 48 If the draft policy is supported, Council will be able to respond to significant extraordinary circumstances (such as a flood, pandemic, earthquake) when they occur by considering remitting/postponing rates on affected properties.
- 49 The draft policy also provides greater scope for penalty remission to encourage/incentivise full payment of rates.

Analysis

Options Considered

- 50 There are three options for consideration in this report:
- Option 1 – that Council endorse the draft policy for consultation in accordance with s.82 of the LGA
 - Option 2 – that Council make further amendments to the draft policy and then release the revised policy for consultation in accordance with s.82 of the LGA
 - Option 3 – that Council retain the existing policy with no change

Analysis of Options

Option 1 –that Council endorse the draft policy for consultation in accordance with s.82 of the LGA

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none">• the draft policy has been updated• the proposed remission for significant extraordinary circumstances will allow Council greater flexibility to be able to respond to significant events on a broader scale and for a wider set of circumstances	<ul style="list-style-type: none">• may not reflect Council views on the policy.

<ul style="list-style-type: none"> • the changes to the policy clarify objectives, reduce duplication and consolidate information • the draft policy provides more flexibility to encourage ratepayers to bring their accounts up to date 	
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Option 2 – that Council make further amendments to the draft policy and then release the revised policy for consultation in accordance with s.82 of the LGA

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> • would give further clarity on Council’s views regarding the policy 	<ul style="list-style-type: none"> • may put pressure on timeframes to be able to amend the policy in time to consult alongside the LTP 2031 • Council must ensure that the requirements of the LGA and LGRA are met

Option 3 – that Council retain the existing policy with no change

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> • would achieve legislative compliance • would not require any consultation to be undertaken 	<ul style="list-style-type: none"> • parts of the policy would be out of date (e.g. staff roles/delegations) • duplication between provisions in the policy would remain (e.g. penalty remission) • Council would be limited in its ability to provide remissions and postponements in response to significant extraordinary circumstances with any relief most likely limited to a very small scale or set of circumstances • would provide fewer mechanisms to encourage ratepayers to bring their accounts up to date

Assessment of Significance

- 51 It has been identified that this matter is not significant in relation to Council’s Significance and Engagement Policy and the LGA.
- 52 The decision to adopt the draft policy for consultation is not considered significant because it does not exclude any of the existing categories of remission/postponement. Further, the financial

impact of this issue is likely to be minor as is the number of ratepayers likely to be affected except in the circumstances of special extraordinary circumstances.

- 53 The significance of any decision/resolution to activate a remission or postponement for special extraordinary circumstances (which may have a significant financial impact depending on the circumstances) would be specifically considered at the time of the decision/resolution. As such, including provision for a special extraordinary circumstance remission/postponement within the policy in of itself is not considered to be a significant change. Accordingly, it is considered appropriate to give effect to the requirements s.82 for this consultation process rather than the Special Consultative Procedure (SCP).

Recommended Option

- 54 It is recommended that Council proceed with option 1 and endorse the draft policy for consultation in accordance with s.82 of the LGA.

Next Steps

- 55 If Council endorses the draft policy, staff will undertake a consultation process in accordance with s.82 of the LGA from 12 March 2021 to 16 April 2021 alongside the LTP 2031.

Attachments

- A Draft Remission and Postponement of Rates Policy - for consultation
- B Summary of proposed changes to Draft Remission and Postponement of Rates Policy - for consultation
- C Current Remission and Postponement of Rates Policy (Adopted 2017)