

9.6 Hardship Provision Policy - Review for COVID-19 Relief

REPORT BY THE CHIEF FINANCIAL OFFICER
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, RAT700035

RECOMMENDATION

That Council:

1. **receive the report by the Chief Financial Officer on the Hardship Provision Policy - Review for COVID-19 Relief;**
2. **place the revised Hardship Provision Policy on public exhibition for 28 days;**
3. **adopt the revised Hardship Provision Policy if no submissions are received; and**
4. **authorise the General Manager to approve fee reductions under the Hardship category of Covid-19 Relief, within the restrictions imposed by the Hardship Provision Policy.**

Executive summary

This report provides for a new category in the Hardship Provision Policy to cover hardship caused by economic impacts on users of Councils facilities from Public Health Order lockdowns associated with COVID-19.

Disclosure of Interest

Nil.

Detailed report

Council's Finance department have conducted a review of the Hardship Provision Policy in order to apply some flexibility around the partial waiver of fees, where appropriate, for facility use that is impacted by Covid-19 lockdowns.

The policy review proposes to add a category of Hardship: LGA, Section 610E: Waiver or reduction of fees under Covid-19 Hardship, and includes Definitions, Eligibility criteria and Provisions.

Community Plan implications

| Theme | Looking After Our Community |
|--------------|---|
| Goal | Meet the diverse needs of the community and create a sense of belonging |
| Strategy | Provide equitable access to a range of places and spaces for all in the community |

Strategic implications

Council Strategies

2021/22 Operational Plan – Fees and Charges.

Council Policies

- Privacy Management Plan.
- Debt Management and Recovery Policy.

Legislation

LOCAL GOVERNMENT ACT 1993 - SECT 610E.

Council may waive or reduce fees:

- (1) A council may waive payment of, or reduce, a fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced.
- (2) However, a council must not determine a category of cases under this section until it has given public notice of the proposed category in the same way as it is required to give public notice of the amount of a proposed fee under section 610F(2) or (3).

Financial implications

This report recommends the ability to reduce fees where a hardship provision under Covid-19 lockdowns is met. Revenue loss associated with these partial waivers is not anticipated to have a material impact on the 2021/22 Operational Plan or future years.

Associated Risks

If delegation for partial fee waivers based on hardship is not provided to the general Manager under this policy change, there is a risk that undue stress may apply to users with regular hire agreements or other facility uses with time delays around reporting to Council, particularly with the Caretaker period coming into action on the 4 November.

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

30 September 2021

Attachments: 1. POLICY - REVISION - Hardship Provision_v2.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



POLICY

Hardship Provisions – Rates and Charges

*A prosperous
and progressive
community.*

| | | |
|-----------------------------------|-------------|-----------|
| EXHIBITION | VERSION NO | 2.2 |
| COUNCIL MEETING MIN NO 144/21 | REVIEW DATE | MAY 2023 |
| DATE: 49 MAY 2021 13 OCTOBER 2021 | FILE NUMBER | RAT700035 |

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 Management and 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 **Rates and Charges Relief** - 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.

~~POLICY: HARDSHIP PROVISIONS HARDSHIP PROVISION – RATES AND CHARGES | 2.2, ERROR! REFERENCE SOURCE NOT FOUND, 19 MAY 2021~~

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2.2 Covid Relief - This Policy is available to users of the relevant community facilities and services within the Mid-Western Regional Council local government area through periods of Public Health Order lockdown, 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 The property for which the ratepayer/s is requesting assistance is the only property in which the ratepayer/s has an interest.
- 4.5 The property must be the ratepayer/s principal place of residence.
- 4.6 The property must be land categorised as either Residential or Farmland for rating purposes.
- 4.7 The residential component of mixed developments will only be considered for the hardship provision assistance.
- 4.8 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.
- 4.9 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

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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.

4.10 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.

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.

LGA, Section 610E: Waiver or reduction of fees under Covid Hardship Category

6.1 A council may waive payment of, or reduce, a fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced. This Category also covers non-commercial leases and licenses for community facilities.

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6.2 Provisions:

6.3 The applicant must have a:

- a) ~~fee/s currently payable;~~
- b) ~~sundry debtor listing for regular fee amounts;~~
- c) ~~amount owing for community facility leases and licences; or~~
- d) ~~have paid or prepaid a fee, license or lease relevant to a facility use during the period of lockdown~~

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~~that is material in nature (more than \$200 cumulative value).~~

~~6.4 The applicants use of the facilities must be impacted by the Covid-19 Public Health lockdowns, and the applicant must be able to describe a nexus between the Council fee charged and impact of the lockdown.~~

~~6.5 Fee waivers will be capped at 50% reduction or a cumulative maximum of \$2,500 (whichever is the lesser). This cap amount is a maximum and the amount of reduction/partial waiver will be at Councils discretion and dependant on:~~

- a) ~~impact of the fee;~~
- b) ~~use of the facility/service; and~~
- c) ~~ability of the user to pursue alternate options.~~

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~~6.6 Interest on outstanding fees and accounts may be waived in full, provided that the applicant has contacted Council to address the outstanding debtor account within a period of 90 days (from due date). Interest waivers are additional and not counted within the fee waiver cap.~~

~~6.7 Delegation for waivers and fee reductions is granted to the General Manager. The General Manager may sub-delegate this authority as appropriate.~~

~~6.8 This category is relevant only to fees, licenses or leases applicable from 1 August 2021, that meet all above provisions.~~

Procedure

7.1 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.

7.2 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.

7.3 Further information, supporting documentation or an interview with the ~~ratepayer/applicant~~ may be requested, if considered necessary, to fully understand the issues causing hardship.

7.4 All Hardship Provision ~~–Rates and Charges~~ applicants will be advised in writing of Council's decision within 30 days of receipt of the application.

7.5 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.

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7.6 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~~ ~~Policy~~.

7.7 All data collected through the Hardship Provision ~~—Rates and Charges~~ process will be dealt with by way of Council's Privacy Management Plan.

7.8 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.