



## Rates Postponement Policy Governance Policy

Policy Owner	General 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.		
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### Objectives

The Council operates a Rates Postponement Policy 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.

### 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 comprehensive review of the Council's rates relief policies occurred in 2002/2003 as a result of the enactment of the Local Government (Rating) Act 2002 and the Local Government Act 2002. These came into effect from 1 July 2003.

These policies were reviewed for the 2009 Ten Year Plan (Long-term Council Community Plan) and again for the 2012-2022 Ten Year Plan. No review was undertaken for the 2015-2025 Long Term Plan.

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

## Policy statement

1. Appeals against decisions made by officials acting under delegated authority under this policy may be appealed to the Council's Judicial Committee at the discretion of the Chairperson of that Committee. In determining whether or not 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 remission or 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 remissions and postponements must be reported to the appropriate Committee of the Council by 31 August for the year ending the 30 June preceding.

## Extreme financial hardship

Only rating units used solely for residential purposes (as defined by the Council) will be eligible for consideration for rates postponement for extreme financial circumstances.

Only the person entered as the ratepayer, or their authorised agent, may make an application for rates postponement for extreme financial circumstances. The ratepayer must be living in the residence and is the current owner of, and have owned for not less than five years, the rating unit that is the subject of the application. The person entered on the Council's rating information database, as the "ratepayer" must not own any other rating units or investment properties (whether in the district or in another district).

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 Council will consider, on a case-by-case basis, all applications received that meet the criteria described in the first three paragraphs under this section.

When considering whether extreme financial circumstances exist, all of 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.

Where the Council decides to postpone rates the ratepayer must first make acceptable arrangements for payment of future rates, for example by setting up a system for regular payments.

Any postponed rates will be postponed

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

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. However, arrears penalty will cease to be assessed on postponed rates.

The policy will apply to arrears of rates only.

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.

Security for postponed rates will be by way of 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.

Decisions for postponement of rates arrears on residential properties will be delegated to officials as set out in the Council's delegations resolution pertaining to rates relief policy.

### **Ratepayers Aged 65 Years and Over**

Only rating units defined as residential and used for personal residential purposes by the applicant(s) as their sole or principal residence will be eligible for consideration of rates postponement under the criteria and conditions of this policy.

Current and all future rates may be postponed indefinitely if at least one ratepayer (or, if the ratepayer is a family trust, at least one named occupier) is 65 years of age or older. Arrears and penalties thereon may also be postponed provided those arrears relate to periods after the ratepayer reached 65 years of age.

Owners of units in retirement villages will be eligible provided that the Council is satisfied payment of postponed rates can be adequately secured.

The Council will add to the postponed rates all financial and administrative costs to ensure neutrality as between ratepayers who use the postponement option and those who pay as rates are assessed.

The Council will establish a reserve fund 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.

## Criteria and Conditions

### Eligibility

Any ratepayer aged 65 years or over is eligible for postponement provided that the rating unit is used by the ratepayer as their sole or principal residence. This includes, in the case of a family trust owned property, use by a named individual or couple. People occupying a unit in a retirement village under an occupation licence will be able to apply for postponement of the rates payable by the retirement village on their unit with the agreement of the owner of the retirement village.

### Risk

The Council must be satisfied, on reasonable assumptions, that the risk of any shortfall when postponed rates and accrued charges are ultimately paid is negligible. To determine this, an actuary has been engaged to develop a model that will forecast, on a case-by-case basis, expected equity, when repayment falls due. If that is likely to be less than 20%, the Council will offer partial postponement, set at a level expected to result in final equity of not less than 20%.

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

For prudential reasons, the Council will need to register a statutory land charge against the property to protect its right to recover postponed rates.

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

### **Insurance**

The property must be insured for its full value and evidence of this produced annually.

If insurance cannot be arranged because the property is uninsurable, only the land value can be used when calculating maximum postponement allowable under sub clause 4.

### **Rates Able to be Postponed**

All rates are eligible for postponement except for:

- (i) targeted rates for water supplied by volume
- (ii) lump sum options, which are rates, paid in advance.

## Conditions

Any 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.
- until a date specified by the Council.

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.

The financial cost will be the interest the Council will incur at the rate of the Council's cost of borrowing for funding rates postponed, plus a margin to cover other costs (these will include the Council's own in-house costs, a 1% p.a. levy on outstanding balances to cover external management and promotion costs, a reserve fund levy of 0.25% p.a., and a contribution to cover the cost of independent advice).

To protect the Council against any suggestion of undue influence, applicants will be asked to obtain advice from an appropriately qualified and trained independent person. A certificate confirming this will be required before postponement is granted.

The postponement 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.

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.