

Hardship Concessions Policy 2021/22

Local Government Act 2009

1. POLICY STATEMENT

Council has an ability to provide concessions when payment of the rates or charges will cause hardship to the landowner. Those concessions will be made in accordance with this policy.

2. PRINCIPLES

The payment of rates and charges may cause hardship to:

- the whole or a sizable portion of the community because of a disaster – for example, a cyclone or flood; or
- a particular landowner because of that landowner's circumstances.

The granting of concessions has the potential to adversely impact upon the Council's services and burden other ratepayers.

The Council will deal with applications for concessions under this policy on the grounds of hardship in a way that is:

- compassionate;
- equitable;
- transparent;
- responsive to the landowner's capacity to pay;
- financially responsible, having regard to the demand for the Council's services and the obligation upon Council to maintain its financial sustainability; and
- otherwise in accordance with the requirements of applicable legislation.

3. SCOPE

This policy applies to the granting of concessions on the grounds that payment of the rates or charges will cause hardship to certain landowners.

4. RESPONSIBILITY

The Chief Executive Officer and the General Manager Finance are responsible for ensuring that this policy is understood and adhered to by all staff involved in the recovery of rates and charges.

5. KEY CONCEPTS & DEFINITIONS

Any term used in this policy that is defined in the *Local Government Act 2009* or *Local Government Regulation 2012* has that definition. The term 'hardship' is not specifically defined in this legislation and will be interpreted according to its ordinary and plain meaning.

Explanatory Note:**What is Hardship?**

Hardship may arise in a variety of situations, including in – a situation where payment of rates and charges by a landowner will cause the landowner an appreciable detriment of some form, whether that be financial, personal or otherwise.

Each situation affecting a landowner needs to be assessed on a case by case basis, and consider a range of matters affecting the landowner including but not limited to:

- Loss of employment of the landowner or family member;
- Family breakdown, including domestic violence;
- Physical and mental health issues, including illness, physical incapacity, hospitalization, or mental illness of the landowner or landowner’s family member;
- A Disaster within the Townsville Local Government Area affecting the landowner or their dependants
- A death in the family of the landowner; or
- Other factors resulting in unforeseen change in the landowner’s capacity to meet their payment obligations, whether through a reduction in income or through an increase in non-discretionary expenditure.

What is a Disaster? – has the same meaning as “disaster” under the *Disaster Management Act 2003*

Explanatory note: This means a serious disruption to the community caused by a cyclone, flood, storm, bushfire, earthquake, public health emergency including a pandemic, or other event within the meaning of the term “disaster” in that Act.

6. POLICY**6.1 CLASSES OF HARDSHIP CONCESSIONS**

The Council resolves to provide concessions under this policy to landowners in the following classes:

Class 1 - Hardship Arising Because Property Directly Affected by a Disaster

- Eligibility
All landowners within Townsville Local Government Area
- Concession Criteria
 - (a) Landowner’s property located within the Townsville Local Government Area has been substantially and directly impacted by a disaster; and
 - (b) Landowner provides sufficient information to demonstrate that it will suffer Hardship if required to pay rates and charges when due.
- Assessment material
The Chief Executive Officer is to assess the provision of Concessions to Class 1 Landowners using any information that he or she believes to be relevant.
- Types of Concessions provided
 - a 3-month (interest-free) deferral of the due date (and discount date) for the rates or charges; and/or
 - an interest -free payment plan for the overdue rates or charges under which the overdue rates and charges and any accruing rates and charges will be paid within 12 months of the date of the agreement

The Council intends that the provision of Class 1 Landowner concessions will be a comprehensive response to a disaster and applications for additional concessions will be considered only when the applicant establishes that the disaster impacted upon them in a unique and exceptionally severe way.

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Class 2 - Hardship Arising Because of Circumstances Outside Landowner's Control.

- Eligibility
 - (a) a natural person resident in Townsville Local Government Area
 - (b) concession relates to the person's principal place of residence in Townsville, and
 - (c) the landowner's capacity to pay rates and charges on that property when due has been substantially compromised by circumstances outside the landowner's control that have arisen from a disaster or emergency situation (i.e. not over time).
- Concession Criteria
 - (a) Landowner provides sufficient information to demonstrate that they will suffer Hardship if required to pay rates and charges when due.
- Assessment material

The Chief Executive Officer is to assess the provision of Concessions to Class 2 Landowners using any information that he or she believes to be relevant. To assist in that assessment the Chief Executive Officer may require the provision of a statutory declaration detailing:

 - a) the event that impacted upon the landowner's ability to pay the rates and charges
 - b) the landowner's estimated income and expenditure from all sources for the year in which the application is made and the previous financial year;
 - c) The current balances of any bank accounts and investment accounts held by or for the landowner;
 - d) the landowner's assets - whether the asset is owned by the landowner or a by a company in which the landowner has a controlling interest - including the estimated value of each asset. For clarity, "assets" includes:
 - all real property;
 - all other assets such as share-holdings, vehicles, boats, livestock etc.
 - and estimated value; including information on the listing of any property for sale
 - e) the landowner's financial circumstances, including details about amount of funds held in accounts and a description of all loans including balances owing and an explanation about the extent to which any loan payment is overdue (Note that account numbers must not be provided or requested);
 - f) Details of any refusal of loan or credit applications that have been sought to assist in paying the landowner's debts;
 - g) Details of superannuation fund balances and if an early release has been sought to assist in paying the debts; and
 - h) Any other information that the landowner believes to be relevant to the application.
- Types of Concessions provided
 - a 3-month (interest-free) deferral of the due date (and discount date) for the rates or charges; and/or
 - an interest free payment plan for the overdue rates or charges under which the overdue rates and charges and any accruing rates and charges will be paid within 12 months of the date of the agreement.

The Chief Executive Officer is delegated authority to assess applications and grant concessions to Class 1 and 2 landowners.

6.2 INDIVIDUAL HARDSHIP APPLICATIONS

Nothing in this policy prevents any landowner making an application for an individual hardship concession under section 120(1)(c) of the *Local Government Regulation 2012*.

Landowners applying for a concession on the grounds of individual hardship must do so by providing the Council with a statutory declaration detailing:

- a) Estimated income and expenditure from all sources for the year in which the application is made and the previous financial year;

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- b) The current balances of bank accounts and, if applicable, investment accounts;
- c) the landowner's assets - whether owned by the landowner or a by a company in which the landowner has a controlling interest - including the estimated value of each asset. For clarity, "assets" includes:
 - o all real property;
 - o all other assets such as share-holdings, vehicles, boats, livestock etc.
 - o and estimated value; including information on the listing of any property for sale
- d) the landowner's financial circumstances, including details about amount of funds held in accounts and a description of all loans including balances owing and an explanation about the extent to which any loan payment is overdue (Note that account numbers must NOT be provided);
- e) Details of any refusal of loan or credit applications that have been sought to assist in paying the landowner's debts;
- f) Details of superannuation fund balances and if an early release has been sought to assist in paying the debts; and
- g) Any other information that the landowner believes to be relevant to the application.

The Council may request additional information or may agree to accept an application that does not contain all of the listed information.

The Council will determine individual hardship concession applications.

Types of Concessions provided:

- a 3-month (interest-free) deferral of the due date (and discount date) for the rates or charges; and/or
- an interest-free payment plan for the overdue rates or charges under which the overdue rates and charges and any accruing rates and charges will be paid within 12 months of the date of the agreement
- a rebate of all or part of the rates or charges;
- an agreement to accept a transfer of unencumbered land in full or part payment of the rates or charges.

6.3 PAYMENT PLANS AND INTEREST

Payment plans under this policy will be interest free for a maximum period of 12 months from the date the plan is approved by Council. Interest accrued prior to this date will not be reversed. Interest will accrue again from the date of any default in making a payment under the plan.

Council's usual debt recovery action will be suspended while a payment plan is in place and being followed.

6.4 FURTHER APPLICATION FOR CONCESSIONS

After applying for a concession under this policy, a landowner is not eligible to make another application for one year unless the applicant:

- a) has been granted a concession and complied with the terms of the concession; or
- b) demonstrates in the fresh application that he or she has made significant progress in reducing the value of arrears (*generally a one-third reduction in the debt will be regarded as a significant reduction*); or
- c) demonstrates that he or she has exhausted all other avenues to alleviate the situation – for example by seeking additional finance and financial advice and making real efforts to sell the property and other assets.

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7. LEGAL PARAMETERS

Local Government Act 2009

Local Government Regulations 2012

8. ASSOCIATED DOCUMENTS

Revenue Policy

Revenue Statement

Pensioner Rates Concession Policy

Debtor Management Administrative Directive

Payment Plan application Form

Rates Relief application Form

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