Report No:	RCN12-05-10
File No:	R106
Date:	14 May 2012
Decision Required	

REPORT SUMMARY

Report to: Full Council
Meeting Date: 24 May 2012
Report Author Murray Staite, Corporate Services Manager
Subject: **Rates Postponement Policy**

EXECUTIVE SUMMARY

This report addresses the options available to Council in responding to submissions to the Draft Long Term Plan 2012-2022 relating to the effects of Council initiated rezoning of land on rateable values and the incidence of rates. Some property owners affected by the Richmond West rezoning have sought relief from increased rates that have resulted from an increase in their property values brought about by lifting the deferred zoning in that area.

Council has an obligation to consider the effects of its policy making and rating decisions on ratepayers. While rating incidence changes that result from market forces are beyond the control of Council, situations where a Council decision has the effect complained of here, need to be considered.

It is recommended that Council consider whether to request staff to bring forward a proposal to introduce a policy that would allow Council to postpone or defer rates payable, where, in response to a Council initiated plan change, rateable values and rates payable increase to an extent that Council considers to be unreasonable.

A threshold for relief might be when, in Council's view, its obligations under the laws affecting revenue and financing decision making and funding impacts may not be met. It is not proposed that rates be remitted but rather that they are postponed.

Some preliminary discussion about the circumstances under which such relief may be granted would assist staff to report back. This report covers some of those matters.

DRAFT RESOLUTION

THAT the Council receives Report RCN12-05-10 and agrees not to introduce a rates remission policy to deal with rezoning of land to higher value uses; and

THAT the Council directs staff to bring forward a draft Rates Postponement Policy to deal with the rating impacts from Council initiated rezoning of land.

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1. PURPOSE

1.1 This paper reports on submissions to the Draft Long Term Plan (LTP) 2012-2022 in relation to the effects of Council-initiated rezoning of land on the incidence of rating and the options available to Council.

2. BACKGROUND/DISCUSSION

2.1 A number of submitters affected by the Richmond West rezoning package have asked the Council to consider some form of rates relief. The landowners have experienced a significant increase in their property values as a result of the Council-initiated rezoning but are not ready to sell and wish to remain living there in the short term. As some rates are calculated according to capital value they are expected to face an increase in their rating liability.

2.2 It should be noted that in this instance the lifting of the deferred zoning was requested by some of the landowners concerned.

3. DISCUSSION

3.1 Rates, being a form of property tax, need to be fair, equitable, efficient and consistent with the Council's overall goals. There are circumstances under which rates on property may cause some negative effects on groups of ratepayers or the community.

3.2 It is important to bear in mind that the increase in property values that may occur due to a Council-initiated rezoning is not entirely a negative outcome. When property values increase, the landowners can realise windfall gains upon the sale of such properties.

3.3 The rise in property value by itself does not improve the cash flow for the property owners, and the consequential rates rise may affect the wellbeing of those who are on fixed incomes.

Decision making

3.4 Section 77 of the Local Government Act 2002 (the Act) requires councils, in the course of the decision-making process, to identify all reasonably practicable options for achieving the objective of a decision.

4. OPTIONS

4.1 Council could provide rates relief as requested by the submitters via two mechanisms, a rates remission policy or via a rates postponement policy.

4.2 If Council was to provide some rate relief via a remission or postponement policy it could only be implemented via the special consultative procedure outlined in the Act. Unless a separate consultation was to take place any such policy could not take effect until July 2013 at the earliest.

4.3 In considering both mechanisms Council would need to consider any possible cross subsidisation between ratepayers and to ensure that Councils financial position is preserved

Option 1 – Rates Remission

4.4 When the Council remits rates, be they penalties or rates assessed, they are cancelled and no longer payable. Council could, if it wished remit a portion of rates for those affected by Council-initiated rezoning.

Pros

a) Ensures that ratepayers are not adversely affected by Council-initiated changes to rezoning.

Cons

a) While the ratepayer benefits from a reduction in rates, the ratepayer also benefits by the increased value of the land when the land is finally sold.

b) The remission in rates comes as a cost to other ratepayers and is ultimately a subsidy from one section of the community to another.

4.5 Low income ratepayers also have access to the government rate rebate scheme

4.6 Due to the requirement to provide a rate subsidy from ratepayers to those receiving the remission and the increased rating impact that such a subsidy would require this matter is not considered in any more detail**.**

Option 2 – Rates Postponement

4.7 Postponed rates have the due date for collection delayed until, as defined by the policy or statute, there are changed circumstances or a deadline passes when they become payable. Postponed rates may have a fee attached, effectively an interest rate to compensate the Council for a delay in its cashflow.

4.8 In the case of a Council-initiated zone change the portion of the rates to be postponed would only be the portion of rates that increased as a direct result of the Council-initiated zone change. This portion to be postponed would need to be determined by a registered valuer appointed by the Council but paid for by the applicant.

4.9 If rates are postponed the existing security for rates would be supplemented by the addition of a statutory charge against the land. This charge means the land cannot be sold without the Council being notified and ensures that anyone searching the title will be aware that rates are postponed.

4.10 Some councils have a rates postponement policy to deal with those situations where land is under urban development pressure and where land values are increasing in advance of development.[1] Such a policy allows existing uses to continue despite the "up-zoning" of land to higher value uses without any immediate rating implication. If the property is sold then a rates postponement policy allows the Council to recapture rates according to whatever formula is established in the policy.

4.11 It is likely that any such policy would be time-bound or at least be linked to the sale of the land.

Pros

a) Ensures that ratepayers are not adversely affected by Council initiated changes to rezoning
b) Links the payment of the additional rates with the increased cash from the windfall gain

[1] Rates postponement policies have also been used in situations where retired people (or those over a specified age) face financial hardship when living in the family home which is now too large for their present purposes. The Rates Rebate Scheme is now an alternative option for these situations.

Cons

a) Risk of reduced cash flow. Postponement of rates reduces Council's cashflow which must be made up from other sources. In the case of rates postponement this cashflow deficit is usually debt funded[2]. Council therefore needs to ensure that the rates postponement policy does not cause a breach of the debt limits contained within the liability management policy. Another method albeit for dollars in excess of 5 million is securitisation[3] where the debt remains with the Council but is effectively transferred to a third party who for a fee provides Council with the missing cashflow.

b) Council needs to be mindful that the rates postponed may over time exceed the value of the property. It is important that before entering into a postponement that this risk is quantified and that any policy allows for a cap on the amount postponed or the cancellation of the postponement should the equity in the property reduce by a prescribed amount.

c) Introducing a rates postponement policy carries administrative costs to both Council and the applicants. Councils who have such policies charge an application fee and interest to avoid subsidisation by other ratepayers. While that is appropriate the monitoring and record-keeping costs for all properties with postponements could in time be considerable and may ultimately be difficult to pass on to the ratepayer benefiting from the scheme thereby costing other ratepayers of the district

d) Rates postponement policy could be seen to extend the period of transition from existing use to the new land use anticipated in the rezoning.

4.12 It is important to note that in the view of the Office of the Auditor General, while the concept of a rate postponement policy is straightforward the design of the policy itself will require Council to consider complex legal, ethical and financial issues[4].

Postponement Policy Document

4.13 If Council was to consider a rate postponement policy the matters contained in Appendix 1 would need to be considered further as part of that policy development.

[2] Report: Residential Rates Postponement. November 2006. Office of the Auditor General 4.4
[3] Report: Residential Rates Postponement. November 2006. Office of the Auditor General 4.23
[4] Report: Residential Rates Postponement. November 2006. Office of the Auditor General. Page 4 para 4

Council Policy

4.14 Revenue and Finance Policy **–** This option does not contradict Council's Revenue and Finance Policy contained within the 2009-2019 Long Term Council Community Plan (LTCCP) nor the 2012-2022 Long Term Plan.

4.15 Liability Management Policy – The use of loan funding to support the Council's cashflow is arguably not in accordance with Council's Liability Management Policy. While loan funding can be used for short term working capital purposes it is likely that a loan to support rate postponement would not qualify. Should this option be chosen it is likely that the liability management policy will require amendment.

Option 3 – Status Quo

4.16 This option means that Council would not put in place a policy to remit or postpone rates for those properties affected by Council-implemented zone changes.

Pros

a) No exposure to financial risk

b) Certainty of cash flow

Cons

a) Council could potentially be open to comment that it has not taken all steps to deal reasonably with ratepayers

Council Policy

4.17 Revenue and Finance Policy – This option does not contradict Council's Revenue and Finance Policy contained within the 2009-2019 LTCCP nor the Draft LTP 2012-2022

5. SIGNIFICANCE

5.1 This decision in accordance with Council's policy on significance and is not considered significant. Any proposed policy would need to go through a Special Consultative procedure.

6. RECOMMENDATIONS

6.1 That Council declines to put in place a rate remission policy and provides direction to staff as to whether it wishes to consider a rate postponement policy.

7. Draft Resolutions

7.1 THAT the Council receives Report RCN12-05-10 and agrees not to introduce a rates remission policy to deal with rezoning of land to higher value uses; and

7.2 THAT the Council directs staff to bring forward a draft Rates Postponement Policy to deal with the rating impacts from Council initiated rezoning of land.

Appendices

Appendix 1 - Matters for further consideration as part of Policy development

Appendix 1
Matters for further consideration as part of Policy development

Fees and charges

- Should the Council charge interest and if so at what rate?
- How often should the rate be reviewed?
- How often should the interest be calculated?
- What administration fees should the Council charge and how will these be set?

Will the Council charge:

- a set-up fee?
- a fee for registering the notification of charge on the land title?
- an annual administration fee?
- a fee to cover bad debts?
- a fee for releasing the notification of charge on the land title?

Criteria for postponement

- Should proponents of plan change proposals be eligible?
- Should rates postponement be available to owners of holiday houses?
- Will retirement village units qualify to have rates postponed?
- Will postponement be available to ratepayers who have mortgages over their properties? If so, what is the council's policy on the ratepayer informing the mortgagee?
- Will the Council require ratepayers to have been resident in the district or at their property for a certain length of time before they are eligible for rates postponement?
- Will the postponement only apply to those that owned the property when the Council initiated the rezoning
- Should there be a threshold for considering requests for postponement. For example, 10 times the percentage increase in total rates income in the year in which the application is made?
- The level at which the postponement decision is taken. For example Council or delegated.
- The application process.

Other issues

- Are there any rates that cannot be postponed?
  Should ratepayers who move from their properties into retirement villages or rest homes, without selling the property that rates have been postponed against, be required to pay their postponed rates?
- Does the ratepayer or the Council bear the risk of the value of postponed rates exceeding the value of the property that they are postponed against?
- Will ratepayers who postpone their rates have an automatic right to continued postponement in the event that the policy changes?
- Should properties require insurance before entering any postponement scheme?