



****LATE REPORT****

Business Papers 2023

MID-WESTERN REGIONAL COUNCIL

Item 9.10 Hardship relief - waiver of fees for rebuilding lost or damaged buildings from bushfire

ORDINARY MEETING
WEDNESDAY 15 NOVEMBER 2023

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Item 9: Corporate Services

9.10 Hardship relief - waiver of fees for rebuilding lost or damaged buildings from bushfire

REPORT BY THE DIRECTOR CORPORATE SERVICES
TO 15 NOVEMBER 2023 ORDINARY MEETING
GOV400103, GOV400067

RECOMMENDATION

That Council:

1. receive the report by the Director Corporate Services on the Hardship relief - waiver of fees for rebuilding lost or damaged buildings from bushfire;
 2. waive the following fees and charges associated with the lodgement of applications for the rebuilding of destroyed and damaged buildings as a direct result of bushfires:
 - a) Development Application;
 - b) Construction Certificate;
 - c) Registration of a Construction Certificate with Council that is issued by a Private Certifier;
 - d) Complying Development Certificate;
 - e) Council appointed as a Principal Certifier undertaking inspections;
 - f) Final Occupation Certificate;
 - g) All plumbing and drainage inspections;
 - h) Section 68 Application under the Local Government Act 1993;
 - i) Section 138 Application and inspections under the Roads Act 1993;
 - j) All archiving and associated administration fees (record search, document management);
 - k) Bushfire Attack Level Certificates;
 - l) Advertising and Neighbour Notification fees; and
 - m) Approval to operate an onsite sewage management system application and inspection fee.
 3. amend the General Managers delegation at 3.3, in order to allow for the waiver of fees above, to:

To determine and write-off rates, fees, charges and other debts up to and including \$5,000 per annum per debt; and
 4. amend the Hardship Provision Policy to provide a framework for the waiver of the above fees, as attached to this report;
 5. place the amended Hardship Provision Policy on public exhibition for a period of 28 days; and
 6. if no submissions are received, endorse the Hardship Provision Policy.
-

Executive summary

Council has received a request to waive DA fees for a resident that is rebuilding their home which was lost in the Alpha Road Bushfire on 6th March 2023. Previously, Council had a temporary program in place for the same provision which was funded from Commonwealth Disaster Recover Funding. It is recommended to set up a Council funded fee waiver program through the Hardship Provision Policy.

Disclosure of Interest

Nil

Detailed report

In order to create a fair and equitable provision for the waiver of DA fees in response to bushfire disasters, an amendment to the Hardship Provision Policy is recommended which will require exhibition for a period of 28 days. Should the recommendation be endorsed, the General Manager will have the framework to waive the fees for the resident that has requested hardship assistance in the confidential attachment: *Letter Request for Financial Assistance*. The total DA fees that would be waived in this instance is \$4616.39.

Additionally, the applicant has also requested access to potable water to fill the rainwater tank. The applicant does not meet the criteria for accessing the community grants program, and it is not recommended to include Council providing in-kind assistance to fill the applicant's tank with potable water as there is not an existing operational service that could easily be accessed to provide this assistance as in-kind. It is considered to be not financially efficient (with administration overheads) to provide this assistance, as the purchase of potable water through a local supplier is available for an estimated \$300 for 15,000L.

Community Plan implications

Theme	Good Government
Goal	Strong civic leadership
Strategy	Provide accountable and transparent decision-making for the community

Strategic implications

Council Strategies

Not Applicable

Council Policies

Hardship Provision Policy – amendments to the policy are recommended as an attachment to this report. The proposed amendment would add a section titled *LGA, Section 610E: Waiver or reduction of fees under bushfire hardship category*.

Legislation

LOCAL GOVERNMENT ACT 1993 - SECT 610E

Council may waive or reduce fees

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).

610F Public notice of fees

- 1) A council must not determine the amount of a fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.
- 2) Public notice of the amount of a proposed fee must be given (in accordance with the regulations) in the draft operational plan for the year in which the fee is to be made.
- 3) However, if, after the date on which the operational plan commences--
 - (a) a new service is provided, or the nature or extent of an existing service is changed, or
 - (b) the regulations in accordance with which the fee is determined are amended, the council must give public notice (in accordance with section 705) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.
- 4) This section does not apply to a fee determined by a council for an application made in a filming proposal, if that fee is consistent with a scale or structure of fees set out in an applicable filming protocol.

Financial implications

Currently, the hardship provision program proposed would have an anticipated minor impact to operating DA revenue fees. It is not proposed to process a budget variation at this point, but should the program result in large fee waivers (from a major bushfire within the LGA), then a budget variation will be requested through the Quarterly Budget Review or a separate report to Council.

Note that the waiver of fees under this program will be capped at \$5,000, in line with the increased General Manager delegation in the recommendation.

Associated Risks

There is a risk that the financial impact of this program could fluctuate, and if a large bushfire event occurred the financial impact may be somewhat material, however should that be the case, there would be additional implications for the region that would need to be addressed through a separate report to Council.

LEONIE VAN OOSTERUM
DIRECTOR CORPORATE SERVICES

10 November 2023

Attachments: 1. Draft Hardship Provision Policy with tracked changes.
2. Letter requesting financial assistance. (Confidential)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



POLICY Hardship Provisions

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ADOPTED	VERSION NO	3.0
COUNCIL MEETING MIN NO: 303/21	REVIEW DATE	OCTOBER 2025
DATE: 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.

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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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LGA, Section 610E: Waiver or reduction of fees under Bushfire Relief 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 as a direct result of bushfire. Fees that will be considered for waiver include the following only, and will be capped at an amount no more than \$5,000:

- a) Development Application;
- b) Construction Certificate;
- c) Registration of a Construction Certificate with Council that is issued by a Private Certifier;
- d) Complying Development Certificate;
- e) Council appointed as a Principal Certifier undertaking inspections;
- f) Final Occupation Certificate;
- g) All plumbing and drainage inspections;
- h) Section 68 Application under the Local Government Act 1993;
- i) Section 138 Application and inspections under the Roads Act 1993;
- j) All archiving and associated administration fees (record search, document management);
- k) Bushfire Attack Level Certificates;
- l) Advertising and Neighbour Notification fees; and
- m) Approval to operate an onsite sewage management system application and inspection fee.

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

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;

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

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 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 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 applicant may be requested, if considered necessary, to fully understand the issues causing hardship.

7.4 All Hardship Provision 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.

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 Policy.

7.7 All data collected through the Hardship Provision 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.

LATE CONFIDENTIAL ATTACHMENTS

Report 9.10 Attachment 2 Letter requesting financial assistance3

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