Report No:	RCN12-06-05
File No:	
Date:	11 June 2012
Decision Required	

REPORT SUMMARY

Report to: Full Council
Meeting Date: 21 June 2012
Report Author Lindsay McKenzie
Subject: **Rates Postponement – Zoning Impacts**

EXECUTIVE SUMMARY

Submissions to the Tasman District Council Draft Long Term Plan 2012-2022 expressed concern about 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 sought relief from the increased rates that resulted from an increase in their property values that in turn followed the lifting of the deferred zoning in that area. Council considered a proposal to introduce a rates postponement policy at its 24 May 21012 meeting. It was decided to try and address the issue using the provisions of the Resource Management Act (RMA) to reintroduce the deferment. The Environment and Planning Manager has reported on the options separately on this agenda (RCN12-06-05) and concludes that an RMA solution is impractical and inappropriate.

This report has been prepared in the knowledge of that conclusion. Its purpose is to enable Council to reactivate the proposal to develop a rates postponement policy should it so choose. One approach to such a policy is set out in Appendix 1.

RECOMMENDATION

It is recommended that Council requests staff to bring forward a draft Rates Postponement Policy to deal with the rating impacts from Council initiated rezoning of land.

DRAFT RESOLUTION

THAT the Tasman District Council receives the report RCB12-06-05; and

Requests staff to bring forward to a Council workshop before 1 August 2012, a draft proposal on a Rates Postponement Policy to deal with the rating impacts of Council initiated rezoning of land.

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1. Purpose

1.1 The propose of this report is to enable Council to reconsider the option of introducing a policy on rates postponement in circumstances where property valuations following a zoning change initiated by Council have an adverse effect on the incidence of rates and where the ratepayers affected are substantially disadvantaged.

2. Background

2.1 A number of submitters affected by the Richmond West rezoning used the Long Term Plan submission process to ask Council to consider some form of rates relief. These landowners have experienced a significant increase in their property values as a result of the Council-initiated rezoning. Many of them are not ready to sell and wish to remain living on their properties in the short to medium term. It should be noted that the lifting of the deferred zoning was requested by some of the landowners affected.

2.2 At its meeting on 24 May 2012 Council considered a report and recommendation to introduce a policy on rates postponement in such circumstances. (Report RCN12-05-10). In the event, Council resolved to request advice on the merits of using the provisions of the Resource Management Act to reverse the deferment process and its effects. It was also seen as prudent to await the outcome of appeals against property values before considering a policy response.

2.3 As it transpires, the advice is that the RMA does not offer a practical solution to the Richmond West rezoning issue. It is impractical to undo the lifting of a deferred zoning. The TRMP already provides the opportunity to manage the lifting of deferred zoning in the future. If Council does want to address the rating consequences of the rezoning in this case, then a policy on rates postponement is the best practical option. Care will be needed to ensure that any policy that is agreed can be applied fairly across the district.

2.4 It is common for Councils to have policies on rates remission or postponement where residential properties exist in area of land subject to zoning changes.

3. Discussion and Matters to be Considered

3.1 Council has an obligation to consider the effects of its policy making and rating decisions on ratepayers. Rates, being a form of property tax, need to be fair, equitable and efficient. The incidence of rating needs to be consistent with the Council's Revenue and Financing Policies. There will be times when rates may cause some negative effects on groups of ratepayers or the community.

3.2 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. 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.

3.3 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 i.e. 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.

3.4 It is noted 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.

4. Financial/Budgetary Considerations

4.1 Postponed rates affect Council's cash flow negatively and it may be necessary to borrow funds to cover the income deferred. As a result, a minor change to Council's Liability Management Policy is needed if a policy is adopted. That change has been included in an amendment proposed to be incorporated into the Long Term Plan that is scheduled for adoption on 27 June 2012. Such a change can be made by resolution of Council without the need for consultation as the Liability Management Policy is one policy that does not have to be included in the Long Term Plan consultation process. Having a policy that enables borrowing in these circumstances does not create an obligation to do so. Postponed rates are an asset in the Council's accounts.

5. Options

5.1 The options and their pros and cons were previously covered in Report RCN12-05-10. Council has the option of postponing rates on “residential properties”[1] within affected areas or on all properties. Postponing “residential” property rates is the more common approach among Councils.

6. Significance

6.1 This decision is not considered significant in accordance with Council’s policy on significance. However any proposed policy needs to be adopted using the Special Consultative Procedure in the Local Government Act. Unless a separate consultation and decision making process is undertaken, any policy could not take effect until July 2013 at the earliest – after the 2013/14 Annual Plan is adopted.

7. Recommendations

7.1 It is recommended that Council requests staff to bring forward a draft Rates Postponement Policy to deal with the rating impacts from Council initiated rezoning of land.

7.2 If that recommendation is supported the recommended process would be to bring a discussion paper to a Council workshop before putting a formal proposal onto an open agenda. It would be sensible to run any proposal for a rates remission or postponement policy for natural disasters together with this issue.

8. Draft Resolution

THAT the Tasman District Council receives the report RCB12-06-05; and

Requests staff to bring forward to a Council workshop before 1 August 2012, a draft proposal on a Rates Postponement Policy to deal with the rating impacts of Council initiated rezoning of land.

Appendices
Appendix 1 - Draft Policy Format for Future Consideration

[1] as classified by Quotable Value

Appendix 1 - Draft Policy Format for Future Consideration

Residential Land Subject to Zone Changes

Objective
To ensure that owners of residential rating units that are rezoned are not unduly penalised by an increase rates as a result of the zone change.

Conditions and Criteria
To qualify for postponement under this part of the Policy, the rating unit must:

- be situated within the area of land that has been rezoned.
- be listed as a “residential” property for rating purposes.

In addition the ratepayer must:

- have been the property owner prior to the zone change being initiated
- reside permanently in the rating unit
- not have actively sought rezoning
- not have realised a financial benefit from the zone change.

Postponement of rates will apply to the change in land value only of the property as a result of zoning changes.

Any postponed rates will be postponed until:

- the death of ratepayer(s); or
- the ratepayer(s) ceases to be the owner or occupier of the rating unit; or
- the ratepayer(s) ceases to use the property as his/her residence; or
- a date determined by the Council in any particular case.

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 under this Policy by paying the postponed rates or any part thereof.

Postponed rates will be registered as a Statutory Land Charge on the rating unit’s title.

Council will add to the postponed rates all financial and administrative costs to ensure equity with other rate payers. The financial cost will be the interest Council will incur at the rate of Council’s cost of borrowing for funding rates postponed.

Application
The application for rate postponement must be made to the Council prior to 31st October of the rating year in question. New applications received during a rating year will be applicable from the commencement of the following year. Applications will not be backdated. If an application is approved the Council will direct its valuation service provider to inspect the rating unit and prepare a valuation that will treat the rating unit as if it were a comparable rating unit elsewhere in

the district. Ratepayers should note that the valuation service provider's decision is final as there are no statutory rights of objection or appeal, for valuations of this type. The extent of any postponement will be based on valuations supplied by its valuation service provider.

Delegations and other administrative matters outside the Policy
It will be necessary to support any policy with some guidance about how staff are to administer any policy, at what level decisions will be taken and the like. The Corporate Services Manger has previously reported on these.

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?

Other possible criteria for postponement

- 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?
- 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 application process.

Other issues

- The level at which the postponement decision is taken - for example Council or delegated
- 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?