

Whangarei District Council Meeting

Supplementary Agenda

Date: Thursday, 30 April, 2020

Time: 9:00 am

Location: Virtual Meeting Room

Elected Members: Her Worship the Mayor Sheryl Mai
(Chairperson)

Cr Gavin Benney

Cr Vince Cocurullo

Cr Nicholas Connop

Cr Ken Couper

Cr Tricia Cutforth

Cr Shelley Deeming

Cr Jayne Golightly

Cr Phil Halse

Cr Greg Innes

Cr Greg Martin

Cr Anna Murphy

Cr Carol Peters

Cr Simon Reid

For any queries regarding this meeting please contact
the Whangarei District Council on (09) 430-4200.

6. Decision Reports

6.14 *Rates Relief 2019-2020 Fourth Instalment*

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6.14 Rates Relief: 2019-2020 Fourth Instalment

Meeting: Whangarei District Council
Date of meeting: 30 April 2020
Reporting officer: Alan Adcock (General Manager – Corporate / CFO)

1 Purpose

To provide rates relief to ratepayers having difficulty paying the fourth instalment by the due date.

2 Recommendations

That the Council:

1. Revokes the following resolution made at the Council meeting on 27 June 2019:

Instalment	Due date for payment	Date penalty will be added
Four	20 May 2020	25 May 2020

2. Resolves the due date for the fourth instalment of the 2019-2020 rates to be 20 June 2020.
3. Resolves to add penalties on unpaid rates for the fourth instalment of the 2019-2020 rates on 24 June 2020.

3 Background

COVID-19 has had dramatic and wide-ranging impacts on the global economy. In New Zealand, despite our relatively successful national response to the virus and its containment, the effects on our national and local economy will be profound. The epidemic is expected to continue to place unprecedented pressure on communities.

Council has acted swiftly to develop an Economic Recovery Package to provide short term relief from some of the stress and financial hardship faced by businesses and households and is working at pace to develop a broader Response Strategy with a medium to long term focus.

However, in the short term, some ratepayers are having difficulty paying the fourth instalment by the due date.

4 Discussion

The due date and penalty date are specified in the Rates Information section of the 2019-2020 Annual Plan which was adopted by Council on 27 June 2019. Following this, the 2019-2020 rates, due dates and penalty regime were resolved on the same date.

Council is required to add penalties on the date in its annual plan and rates resolution unless it resolves to do otherwise.

Changing the due date will provide additional time to ratepayers to pay the fourth instalment.

Financial impacts to Council will arise through the timing of cashflow receipts. While it is difficult to assess how many ratepayers will take advantage of the payment extension, we hold adequate liquid assets to cover the delayed receipts.

However, as this will increase our net debt, there will be a direct financial cost that is expected to range between \$30k to \$60k, depending on the uptake.

Further options for ratepayers

There may be situations where this one-month deferral still does not provide enough cashflow relief for complete payment of the outstanding amount.

In this case, ratepayers are encouraged to take advantage of our long-standing practice to establish a payment plan backed by a direct debit that will clear the outstanding amount over a mutually agreed timeframe. In these instances, any penalties can be remitted under Policy 17/103 (attached).

Direct debit programs can be tailored to meet individual circumstances; for example, we can match weekly, fortnightly or monthly payment cycles, or an agreed date each month to allow for any other cash receipts the ratepayer expects.

While staff proactively contact ratepayers who are in arrears, we also welcome direct contact initiated by any ratepayer before the due date for penalties.

Other relief provided

The initiative outlined in this item supplements a number of things Council has already introduced including:

- A ten-point economic recovery package
- A proposed inflation only rates rise (a reduction from the original 5.2% planned)
- significant bids for government partnership funding,
- a \$3M recovery package for businesses and community groups,
- strong cashflow assistance for the suppliers who rely on council work,
- rent relief for our tenants, and

We will continue to monitor the environment to ensure we are offering direct support where it is appropriate for Council to take a lead role, assist our residents and ratepayers to take advantage of support offered by Central Government while providing an ongoing coordination role with community groups involved in COVID19 responses.

A copy of an infographic that will be used to promote our rates relief options is included as Attachment 2.

Implementation issues – legal compliance

The setting of rates and penalties is a highly prescriptive process governed by provisions in the Local Government (Rating) Act and the Local Government Act (LGA).

This proposal is inconsistent with section 24 of the Local Government (Rating) Act 2002 (Rating Act) which requires that the due dates be set in the resolution setting the rates, as well as section 57 of the Rating Act which allows penalties to be authorised on a date not later than when the local authority sets the rates for the financial year.

However, as on the face of it, the proposal does not prejudice any ratepayer, it can be seen as an appropriate and prudent response to the current situation, and can be affected in accordance with due process by:

1. Revoking any previous resolutions (or parts of them) used to set the penalties for 2019/20;
2. Passing a new resolution setting a new penalty date;
3. Determine whether any resulting inconsistencies with the Funding Impact Statement are significant and if so consider s80 of the LGA

Section 80 of the LGA states:

S80 Identification of inconsistent decisions

- (1) If a decision of a local authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy adopted by the local making the decision, clearly identify—
 - (a) the inconsistency; and
 - (b) the reasons for the inconsistency; and
 - (c) any intention of the local authority to amend the policy or plan to accommodate the decision.
- (2) Subsection (1) does not derogate from any other provision of this Act or of any other enactment

The two inconsistencies evident are the original resolutions and the table in the Funding Impact Statement overleaf):

2019-2020 Rates Resolution 27 June 2019

Extract from Council minutes 27 June 2019 – Rates Resolution 27 June 2019

Resolution 2 - Due dates, discount allowed and penalties:

- “2. Resolves to agree the due dates, discount allowed and penalties as set out as follows:

a. Discount for full payment of annual rates

Council agrees to apply a policy for early payment of rates under Section 55 of the Local Government (Rating) Act 2002. Where the total year's land rates (excluding roading scheme rates) and any arrears are paid in full by the due date of the first instalment 20 August 2019 a discount of two percent (2%) will apply. The discount

does not apply to arrears.

b. Penalty and due dates for rates paid in instalments

Due dates and penalty dates for land rates

Council agrees the following due dates and to add penalties to land rates not paid by the due date under Section 57 of the Local Government (Rating) Act 2002. A penalty of ten percent (10%) will be added to the amount of each instalment which remains unpaid after the due date for payment, in accordance with the table below:

Instalment	Due date for payment	Date penalty will be added
One	20 August 2019	23 August 2019
Two	20 November 2019	25 November 2019
Three	20 February 2020	25 February 2020
Four	20 May 2020	25 May 2020.”

Excerpt from Funding Impact Statement (p103 of the 2019/20 Annual Plan):

Due dates for rates

Due dates and penalty dates for land rates paid by instalments

A 10% penalty will be added to the amount of each instalment which remains unpaid after the due date for payment as shown in the following table:

	Due date	Late payment penalty	Date penalty applied
Instalment one	20 August 2019	Penalty 10%	23 August 2019
Instalment two	20 November 2019	Penalty 10%	25 November 2019
Instalment three	20 February 2020	Penalty 10%	25 February 2020
Instalment four	20 May 2020	Penalty 10%	25 May 2020

The instalment and penalty dates were set before the COVID19 pandemic emerged, and due to its impact are no longer deemed to be appropriate for the payment of Instalment 4.

Relevant aspects of the previous resolutions that should be revoked are included in the Recommendations for this item,

As this Funding Impact Statement is only applicable for the 2019/20 financial year no further policy changes will be required to resolve the inconsistency.

5 Significance and engagement

The decisions or matters of this agenda do not trigger the significance criteria outlined in Council's Significance and Engagement Policy, and the public will be informed via agenda publication on the website and the wider publication of Council's COVID19 relief packages.

6 Attachments

1. Policy 17/103 – Remission of penalties
2. Rates Relief Infographic

Policy 17/103

Remission of Penalties

Objectives of the Policy

Penalties are added where rates have not been received by the due date. Further penalties are added where previous years' arrears remain unpaid three months after the end of the rating year.

The objective of this policy is to enable Council to act fairly and reasonably in relation to penalties applied when rates have not been received by the due date.

Criteria and Conditions

Penalties on rates may be remitted when the ratepayer has applied for rates remission under this policy and provided information in the prescribed form on how the relevant criteria are satisfied and has completed relevant statutory declarations as may be required by Council and one or more of the following criteria are met:

1. Where the ratepayer meets the payment conditions agreed with Council to resolve rates arrears.
2. Where the ratepayer has an otherwise good payment history and has not received a penalty remission within the past and current financial year.
3. Where there are extenuating circumstances, such as significant family disruption, illness or accident.
4. Where the ratepayer pays rates by direct debit and future rates and rates arrears are addressed in an agreed timeframe.
5. If the ratepayer stops adhering to the agreed payment conditions, the remission of penalties can be cancelled, with relevant penalties being reinstated and becoming due and owing (except where relevant limitation periods preclude recovery).
6. The remission will apply to the period in which the application is approved and may not necessarily be backdated to previous years.
7. The ratepayer has applied for rates remission under this policy and provided information in the prescribed form on how the relevant criteria are satisfied and has completed relevant statutory declarations as may be required by Council.

Delegations

Decisions on remission of penalties under this policy will be delegated to officers as set out in Council's delegation manual.



COVID-19 *Rates Relief*

Has your household or business been hard hit by Covid-19? If you are having trouble meeting your latest rates bill please give us a call on 09 430 4200 or 0800 932 463 or email us at mailroom@wdc.govt.nz to talk through your options:



Payment plans for people struggling to pay rates, fees and charges



More time to pay – we can delay your payment due date until 30 June 2020



Waiving of late payment penalties



Advice for where to go for further financial help

These rates relief measures are part of our 10-point Whangarei Economic Recovery Response, find out more about our response to Covid-19 at www.wdc.govt.nz

RESOLUTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following parts of proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

1.	The making available of information would be likely to unreasonably prejudice the commercial position of persons who are the subject of the information. {Section 7(2)(c)}
2.	To enable the council (the committee) to carry on without prejudice or disadvantage commercial negotiations. {(Section 7(2)(i))}.
3.	To protect the privacy of natural persons. {Section 7(2)(a)}.
4.	Publicity prior to successful prosecution of the individuals named would be contrary to the laws of natural justice and may constitute contempt of court. {Section 48(1)(b)}.
5.	To protect information which is the subject to an obligation of confidence, the publication of such information would be likely to prejudice the supply of information from the same source and it is in the public interest that such information should continue to be supplied. {Section7(2)(c)(i)}.
6.	In order to maintain legal professional privilege. {Section 2(g)}.
7.	To enable the council to carry on without prejudice or disadvantage, negotiations {Section 7(2)(i)}.

Resolution to allow members of the public to remain

If the council/committee wishes members of the public to remain during discussion of confidential items the following additional recommendation will need to be passed:

Move/Second

"That _____ be permitted to remain at this meeting, after the public has been excluded, because of his/her/their knowledge of Item _____.

This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because _____.

Note:

Every resolution to exclude the public shall be put at a time when the meeting is open to the public.