

INDEPENDENT RATE RELIEF TRIBUNAL

F&BS | 63/19/1 | #7874250

RECOMMENDATION:

That Council adopts the Independent Rate Relief Tribunal Policy.

EXECUTIVE SUMMARY:

The Independent Rate Relief Tribunal (IRRT) Policy is an established framework to support an independent Tribunal of appointed parties who make recommendations to Council regarding appropriate assistance to Residential and Not for Profit Community Groups who are unable to meet their rates and charges debts due to serious financial hardship.

Under this policy, eligible ratepayers receive assistance in the form of interest waivers as a result of recommendations made by the Tribunal.

There are no proposed changes to the policy.

OPTIONS:

Option 1 (Recommended):

That Council adopts the Independent Rate Relief Tribunal Policy.

Option 2:

That Council does not adopt the Independent Rate Relief Tribunal Policy and proposes amendments to the policy.

CONSIDERATIONS:

Statutory:

In formulating the Independent Rate Relief Tribunal Policy, Council has complied with Section 125 of the *Local Government Regulation 2012*.

ATTACHMENTS:

Attachment 1: Independent Rate Relief Tribunal Policy (#635826)



Steven Cooper
Executive Manager Revenue & Business Support



Lisa Whitton
Chief Financial Officer

Attachment 1: Independent Rate Relief Tribunal Policy (#635826)

CAIRNS REGIONAL COUNCIL



General Policy

INDEPENDENT RATE RELIEF TRIBUNAL

Intent To establish a policy framework to support an independent tribunal of appointed parties who will make recommendations to the Chief Executive Officer regarding the most appropriate assistance to be offered to residential ratepayers and Not for Profit Community and Sporting Groups who are unable to meet their rates and charges commitments due to serious financial hardship beyond their control.

Scope This policy is to apply to those ratepayers who are experiencing serious financial hardship and as a result are unable to pay their rates and charges. The policy will only apply to Not for Profit Community and Sporting Groups and residential properties where the property is the ratepayer's principal place of residence and no commercial benefit is derived from the property.

PROVISIONS:

ROLE

The role of the Tribunal is to recommend to the Chief Executive Officer the most appropriate form of assistance that Council should provide to Ratepayers who make application to the Tribunal and whom the Tribunal consider are experiencing serious financial hardship

COMPOSITION OF THE TRIBUNAL

The Independent Rate Relief Tribunal consists of a minimum of two (2) voluntary members and two (2) current Councillors. Voluntary appointees may come from a number of backgrounds.

When a vacancy arises on the Tribunal, Council may at its discretion, appoint Tribunal members as nominated by various interest groups, Councillors, or other Tribunal members. Appointment of new tribunal members will be through the Chief Executive Officer approving a recommendation from the Tribunal. The Council will reaffirm tribunal membership each year.

It is envisaged that the nominees would not be salaried or waged employees of the Council. This would help to ensure that a level of independence from the Council Administration is realised by the Tribunal and to prevent what may be seen as a conflict of interest for the employee.

The Tribunal chair will be appointed by the Chief Executive Officer each year from the two (2) Councillors appointed to the tribunal. A quorum would consist of the Chair and any two (2) of the other members. In the event of a split decision the Chair will carry the vote.

Should the Chairperson not be present at the meeting, then the meeting shall elect a Chair from the Councillors present at that meeting.

Secretarial and support services suitable to the Tribunal's needs shall be provided from within the Finance and Business Services Directorate, however no other staff will have access to the applications put before the Tribunal.

RELATIONSHIP TO COUNCIL ADMINISTRATION

The Tribunal shall meet on an "as required basis". Due to the sensitive nature of a person's financial affairs the Tribunal's hearings are not to be open to the public or to any other party, including other Councillors. Other than the tribunal members, attendance at the Tribunal Meetings is restricted to the tribunal secretary, a representative from the Revenue Collections Unit, and the applicant if they have requested to present their case to the Tribunal personally. The Tribunal should endeavor to schedule appointments in order to avoid any embarrassment to the ratepayer. The hearings will also be conducted in a 'without prejudice' manner.

The Tribunal will act independently from the Council as an advisory committee. The Chief Executive Officer has delegated authority to approve the Tribunals' recommendations.

All recommendations made by the Tribunal will be accompanied by a statement showing total relief granted in the current financial year versus funds allocated in the budget to be used for this purpose.

FUNDING OF RECOMMENDED DECISIONS

The Council shall make a specific budget allocation annually from which the relief or other assistance recommended by the Tribunal, and subsequently approved by the Chief Executive Officer, will be funded. The Tribunal will be expected to operate within the budgetary limits allocated by Council.

GUIDELINES TO BE USED BY THE TRIBUNAL

A ratepayer may apply to the Tribunal for assistance with payment of their rates, charges and/or interest, or for payment terms outside of the Debt Recovery Policy. The ratepayer must be able to show that the payment of the full amount owed in the time required would entail "serious hardship" because of:

- Any loss the ratepayer has suffered,
- The circumstances of the ratepayer; and/or
- The circumstances of dependents of a deceased ratepayer who would have been liable to rates had the deceased ratepayer lived.

Preference will be given to applicants:

- To whom other avenues of assistance are not available; and/or
- Who have not been able to make other satisfactory arrangements for liquidation of their rates debt; or
- Those on long-term low incomes.

ADDITIONAL GUIDELINES

(a) Applicable to Owner Occupied single unit dwellings

- Where relevant, the financial standing of other family members residing in the property may be taken into account.
- In the case of pensioners, it is important to consider eligibility for Council and State Government remissions, as these are the standard forms of financial assistance to eligible pensioners. For further assistance by the Tribunal the applicant must be able to demonstrate that they are suffering serious financial hardship.

(b) Applicable to Not for Profit Community and Sporting Groups

In the case of Not for Profit Groups, it is important to consider eligibility for Council and State Government grants, as there may be financial assistance available to eligible Groups. For further assistance by the Tribunal the applicant must be able to demonstrate that they are suffering serious financial hardship.

(c) Applicable to both (a) and (b) categories

- In determining whether there is a capacity to pay out of current income the Tribunal may disregard above-average expenditures.
- The Tribunal will also consider whether the ratepayer could meet the rate liability by rescheduling commitments or by selling non-essential assets such as (but not limited to): non-residential caravans; holiday homes; luxury cars; boats; substantial life assurance or annuity entitlements; shares; or other investments. The Tribunal will not necessarily accept valuations at face value, though professional valuations will not be required.
- Even in those cases where serious hardship is established, relief may be denied if the ratepayer has deliberately placed themselves in that position, or if the hardship can be expected to abate within a short term.
- In cases of doubt, the Tribunal may defer its recommendation (e.g., where there is an unresolved valuation objection or the assessment is disputed on some other grounds). Recovery action will be deferred until the tribunal has considered the application.
- Questions relating to claimed inequities in rating law or practice are not to be considered by the Tribunal.

- In considering applications the Tribunal will at all times comply with the rules of natural justice.
- Upon request Council's Revenue Collections Unit, via the Tribunal chair, will provide reasons for the Tribunal recommendation and subsequent decisions to an applicant. The Tribunal Chair may also provide these explanations upon their own initiative to applicants.
- It is **outside** of the scope of the Tribunal to consider assistance for **Commercial/Industrial properties, vacant land or multi-unit dwellings.**

FORM OF ASSISTANCE THAT CAN BE PROVIDED

Within the limitations of the specific assistance detailed in table A the Tribunal can consider structuring the assistance as one or more of the following:

- Repayment plans that are outside of the current Debt Recovery Policy.
- Interest costs either as a direct reimbursement for interest already charged or for interest that may accrue between the Tribunal's decision and satisfactory completion of an agreed repayment plan;
- Court costs or other related legal expenses already charged to the ratepayer for recovery of outstanding rates and charges.
- Actual financial assistance to a ratepayer to meet either rates and/or service charges levied;
- Assistance to ratepayers in meeting other charges that are attached to the land (e.g. unpaid noxious weed charges or some outstanding costs which the Council is entitled to attach to the land).

(Note: Where the Chief Executive Officer agrees to full or partial relief from interest charges for some period in the future, the costs of the interest foregone will be considered as part of the assistance funded by the Council from the allocated budget in that year.)

PROCESSES FOR AN APPLICATION

It is important to keep the process simple, low key and accessible to people/organisations that at the very least are experiencing financial difficulties. Eligible ratepayers are requested to complete and lodge applications on the prescribed form.

Upon receipt of an applicant's confidential financial information the Revenue Collections Unit will do limited cross checking of the data and prepare a summary of the ratepayer's current situation, payment history, other property known to be owned and any other relevant information within the Council's knowledge.

The high level process following receipt of an application by Council is as follows:

- The tribunal secretary is to acknowledge receipt of application
- A representative from the Revenue Collections Unit is to review the application and detail a brief history and any other relevant details for presentation to the Tribunal;
- Applications are reviewed by the Tribunal members prior to the meeting;
- Tribunal Secretary is to arrange an interview with applicant if requested by the applicant or the Tribunal
- The tribunal meets to consider the applications and make recommendations
- Tribunal Secretary and Revenue Collections officer are to present the Tribunal's recommendations in a report to the Chief Executive Officer for approval; and

Council is to be advised of the Tribunal's outcomes via the Monthly Outstanding Debt Report if at any stage a ratepayer's application does not meet with the Tribunal policy, the ratepayer will be notified accordingly with the application forwarded to the Tribunal for its noting and information.

Where an application is outside of the guidelines but is of an exceptional nature the application should be presented to the Tribunal for consideration. If the application is deemed to be worthy of assistance but is outside of the tribunal's guidelines a recommendation for the Chief Executive Officer to grant assistance may be made but should include full reasons for the recommendation and the reason the application does not meet the guidelines. Care should be taken not to include any identifying personal or confidential information in the recommendation to protect the applicant's privacy.

If the Tribunal decides not to have a ratepayer present in order to expedite a run of straight forward applications care would need to be taken that the applicants are afforded their rights as to natural justice. The attendance of an applicant at a hearing by the Tribunal should be in a non-threatening atmosphere while providing the Tribunal the opportunity to discuss individual options, forms of assistance or other matters at large.

The applicant should not be present when other applications are being considered or discussed. Such exchanges of information will help in further refining and targeting Council policies on rates and charges within and across the community.

A Tribunal recommendation may include immediate relief and/or a review of the applicant's situation after a set period of time (say **6-12** months hence) to ensure that applicants are assisted until their position has fully recovered.

Following the Chief Executive Officer's decision, the ratepayer should be notified of that decision as soon as possible.

PROCESS IF RATEPAYERS DO NOT ACCEPT OR COMPLY WITH TRIBUNAL DECISIONS

- If a ratepayer does not respond to the Tribunal's offer the Revenue Collections Unit will continue with normal recovery action with a report to the next meeting of the Tribunal.
- If a ratepayer fails to completely comply with the Tribunal's offer the Revenue Collections Unit will report to the next meeting of the Tribunal, with their recommendation, for guidance as to the action to be taken in each case.



This policy is to remain in force until otherwise determined by Council.

Director Responsible for Review:

Chief Financial Officer

ORIGINALLY ADOPTED: 21/06/2002

CURRENT ADOPTION: 29/07/2022

DUE FOR REVISION: 29/07/2026

REVOKED/SUPERSEDED:

**Ken Gouldthorp
Chief Executive Officer**

Table A

The Tribunal can recommend the following ranges of assistance for the listed categories of ratepayers:

Categories of ratepayers	Assistance that can be recommended
Residential ratepayers i) With six (6) months or more in arrears, OR ii) Who have suffered a recent adverse incident leaving them unable to meet these basic needs, OR iii) Ratepayers experiencing serious hardship where the payment of the rates and charges would leave the ratepayer unable to meet reasonable needs for food, clothing, medicine, accommodation, education for children and other basic requirements	- The ratepayers may be eligible for assistance with interest, rates and charges, and/or payment terms outside the scope of the normal Debt Recovery Policy.
Pensioners and Self-Funded Retirees i) Endeavouring to meet their rate account by regular instalments, OR ii) Part owner of the property they reside in and because of extreme hardship are unable to pay rates and/or do not qualify for full pensioner remission, OR iii) In serious financial hardship	- The ratepayer may be eligible for assistance with interest, rates and charges, and / or payment terms outside the scope of the normal Debt Recovery Policy. - Review the circumstances of applicants and make recommendations as to whether certain pensioners, otherwise ineligible due to policy reasons, should be entitled to assistance as though they were a Council pensioner. - The Tribunal may recommend the deferral of payment of the rates and charges for the lifetime of a pensioner experiencing hardship under Section 125 of <u>Local Government Regulation 2012</u> with the rates and charges to remain a charge on the land.
Not for Profit Community and Sporting Groups i) That are endeavoring to meet their rate debt by regular instalments, OR ii) That are in serious financial hardship	- May be eligible for assistance with interest, rates and charges, and/or payment terms outside the scope of the normal Debt Recovery Policy.