

COUNCIL POLICY



Policy name	Debt Recovery Policy
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Abstract
The purpose of this policy is to provide a framework to facilitate the timely efficient and effective recovery of monies owed to Council.

Dates Enter dates as per following example:	Policy or amendment approved Policy or amendment takes effect Policy is due for review (up to 4 years)	16 Jun 2021 16 Jul 2021 16 Jun 2024
Endorsed by	Executive Leadership Team	
Approved by	Gunnedah Shire Council at its Ordinary Meeting held on 16 Jun 2021. Resolution Number: 3.06/21	
Policy Custodian	Manager Finance	
Relevant to	Ratepayers and debtors of Council	
Superseded Policies	Debt Recovery Policy adopted CR29.12/19 at its Ordinary Meeting held on 18 December 2019; Debt Recovery Policy adopted Minute No. 81 of Ordinary Meeting held on 17 October 2012; Debt Recovery – Rates, Charges and Other Debtors Policy adopted Minute No. 138.5 of Ordinary Meeting held on 17 December 2008; Rates – Rate Relief Due to Hardship Policy adopted Minute No. 155.2 of Ordinary Meeting held on 19 December 2001; and Rates – Processing Pensioner Rebate Applications Policy adopted Minute No. 406 of Ordinary Meeting held on 20 March 1996.	
Related documents	Council’s Instrument of Delegation to the General Manager Council’s Operational Plan Office of Local Government, Debt Management and Hardship Guidelines, November 2018	
Related legislation	The Local Government Act 1993 (NSW); The Local Government (General) Regulations 2005; The Trade Practices Act 1974 (s.60); and the Privacy and Personal Information Protection Act 1998 (NSW)	

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1. Purpose

The purpose of this policy is to provide a framework to facilitate the timely, efficient and effective recovery of monies owed to Council.

2. Scope

This policy applies to any person or organisation owing rates, charges, fees or other debts to Council.

3. Definitions

Term	Definition
Ratepayer	Includes the Crown in respect of rateable land owned by the Crown and means: (a) an owner in any case where the Local Government Act 1993, provides that a rate is to be paid to the council by the owner; and (b) a holder of a lease in any case where the Local Government Act 1993, provides that a rate is to be paid to the council by the holder of the lease.
Pensioner	An eligible pensioner as defined in Regulation 134 of the Local Government (General) Regulations 2005 (NSW).

4. Policy principles

Council acknowledges that it has a responsibility to ensure that the collection of monies owing to it is carried out in an efficient, effective and transparent manner. Council will commit to ensuring that all persons are treated fairly and consistently, and given due consideration and compassion to those who are suffering genuine financial hardship. All matters will be administered with integrity, confidentiality, fairness and respect.

5. Policy statement

Recovery action may commence when rates, charges, fees or other debts to Council remain outstanding beyond the due date.

5.1 Rates & Charges/Water and Sewer Usage Collection

If whole or part of the instalment or account remains unpaid for 14 days after the due date, Council will issue a reminder letter for the outstanding amount. The reminder letter will request payment within 14 days from the posting date of the letter.

If whole or part of the instalment or account remains unpaid for a further 14 days, the matter will be referred to Council's external debt recovery agent.

At any time throughout the process for recovery and prior to the escalation of legal debt recovery, Council may attempt to make personal contact via telephone, email, SMS and/or personal visit. This may be undertaken by Council and/or Council's agent.

In the event that fees and/or water and sewer consumption charges on water accounts remain overdue for a period in excess of twelve (12) months, Council may manage the water connection at the property in accordance with the provision of the Water Management (General) Regulation 2018.

5.2 Water and Sewer Usage Charges – removed.

5.2 Sundry Debts

No credit will be extended to any new customer without a completed and approved credit application.

If whole or part of a sundry debt remains unpaid after the due date, a second and third statement will be forwarded as a reminder.

If the customer account remains outstanding in excess of 60 days, further credit to the customer will be withdrawn until payment is made or a suitable payment arrangement has been agreed. Any customers who fail to comply may implicate future credit being reinstated.

If the customer account remains outstanding in excess of 90 days, the matter may be referred to Council's external debt recovery agent.

5.3 Legal Debt Recovery Action

Council officers will exhaust all reasonable avenues of recovery before initiating legal debt recovery action.

All debt recovery costs and fees associated with any course of action will be at the cost of the owner of the debt and will subsequently remain a charge on the property/account until paid.

Any ratepayer or sundry debtor that wishes to appeal against the legal costs that have been added to their assessment or account must state their appeal and the reasons for the appeal in writing to Council.

5.4 Sale of Land for Unpaid Rates

In accordance with section 713 of the Local Government Act 1993, if rates and/or charges remain unpaid for more than five (5) years, or one (1) years for vacant land, Council may begin proceedings to recover the outstanding amounts through a sale of land.

5.5 Interest

Interest will accrue on all outstanding amounts at the interest rate stipulated annually in the Fees and Charges section of Council's Operational Plan and in accordance with Section 566 of the Local Government Act 1993.

5.6 Periodical Payments

In accordance with the provisions of Section 564 of the Local Government Act 1993, customers who are unable to pay rates, charges, fees or other sundry debts to Council by the due date, either because of reasons beyond their control or because payment would cause hardship, may apply to enter into a payment arrangement with Council.

Council may, in accordance with section 564(2) of the Local Government Act 1993, write-off interest accrued on rates and charges if the agreement is complied with.

Agreements will be considered following receipt of a completed Payment Arrangement Form. Arrangements will be considered provided the debt is paid:

- a) before the subsequent rate instalment is due, and where this cannot be achieved, or
- b) by the end of the current financial year provided that all subsequent rate instalments that may become due in that time frame are paid or are incorporated into the total repayment amount, or
- c) Over a period of up to two (2) years provided that subsequent rate instalments that may become due in that time frame are paid or are incorporated into the total repayment amount, or
- d) In the instance that these conditions cannot be met, and Council's Hardship policy is not available, matters may be referred to the General Manager for approval.

5.7 Default of Payment Arrangements

If a customer fails to meet the terms of an agreement without notice, the agreement shall become void immediately and the full amount of the outstanding debt, including accrued interest shall be due and payable. Recovery action shall be instigated immediately for the recovery of the amount due. This may jeopardise consideration of any future payment arrangement.

5.8 Relief and Assistance

Council recognises that due to exceptional circumstances, our customers may at times experience genuine hardship resulting in difficulty paying rates, charges, fees or other debts to Council. Please refer to Council's Hardship Policy for more information.

6. Accountability, roles and responsibilities

6.1 Delegation – General Manager

In accordance with the Instrument of Delegation to the General Manager.

6.2 Policy Custodian – Manager Finance

The Policy Custodian is the officer responsible for overseeing policy compliance and the policy review process.

6.3 Implementation responsibility: Co-Ordinator - Finance

The Co-Ordinator-Finance is responsible for all aspects of policy implementation, unless appropriately delegated to another officer. These responsibilities include being the primary contact point for advice on the policy and/or its implementation; establishing and maintaining Council's records in relation to the policy; proposing amendments to the policy custodian; and managing the consultation processes.

6.4 Debt Recovery Agent

The process of debt recovery requires a certain level of expertise and would in most cases, best be managed by a professional debt recovery agent. Where utilised, any such agent instructed to assist Council in their debt recovery processes will need to work in accordance with this Policy and Council's delegation structure.

7. Version control and change history

Date	Version	Approved by & resolution no.	Amendment
17 Oct 2012	V4.1	2012/081	Adopted Debt Recovery Policy.
06 Sep 2019	V5.01		Separating the Debt Recovery & Hardship policies
23 Sep 2019	V5.02		Wording amendments and addition of flowchart
18 Dec 2019	V5.02	29.12/19	Adopted by Council.
28 May 2021	V6.0	16 Jun 2021 Resolution 3.06/21	Wording amendment. 2 year arrangement period. Addition of GM discretion for payment arrangements.

Annexures

Annexure A – Payment Arrangement Form

Annexure B – Debt Recovery Process Flowchart

Payment Arrangement Form

LAST UPDATED 31 MAY 2021

Date:

APPLICANT DETAILS

Name(s):

Mailing Address:

Suburb: State: Postcode:

Telephone: Mobile:

Email:

PROPERTY DETAILS

I agree to pay the following accounts under a payment arrangement:

Rates Account/Property Address:

Water Account/Property Address:

Debtor Account No:

PAYMENT DETAILS

The calculated amounts for each account are to be deducted as per the following:

Rates Account: \$ Weekly Fortnightly Monthly

Water Account: \$ Weekly Fortnightly Monthly

Debtor Account: \$ Weekly Fortnightly Monthly

Date of first payment:

Period of Arrangement:

TERMS AND CONDITIONS

By signing this agreement, I/we acknowledge that interest is accruing daily on the outstanding balance in accordance with Council's Annual Fees and Charges. I/we understand that should I/we default on any agreed arrangement without notice to Council, that the full amount of the outstanding debt will become due and payable immediately and that Gunnedah Shire Council may take legal action to recover the debt. I/we also understand that the arrangement is for the period shown above only and anything after this date will require a new arrangement.

DECLARATION

Name (print):

Signature: Date:

Debt recovery process flowchart

	Debt recovery process	Council / delegated authority	Debtor
1	Rate and charges notice s562 1 August 31 days	<ul style="list-style-type: none"> Flexible payment options Financial hardship policy Debt recovery policy Debt communication 	<ul style="list-style-type: none"> Contact Council Ensure contact details are correct Payment of Council debt <ul style="list-style-type: none"> Fixed Flexible Apply for hardship arrangements
2	Rate and charges instalment notice s562 30 days		
3	Notification of outstanding debt 14 days	<ul style="list-style-type: none"> Confirm debtor contact details are correct Debt review Early dispute Resolution (EDR) Financial Counsellors 	<ul style="list-style-type: none"> As above Payment of council debt, via agreement
4	"Notice of Demand" Final reminder notification 14 days	<ul style="list-style-type: none"> As above Develop payment agreement s564 Defer payment requirements, s601 Write off interest, debt, s564, s567, s607, c/131 Refer for legal action if not paid Sale of land, s713 	<ul style="list-style-type: none"> As above
5	Statement of claim 28 days	<ul style="list-style-type: none"> Debt review File claim Process claim Report 	<ul style="list-style-type: none"> As above
6	Notice of motion default judgment		Quarterly payment by: <ul style="list-style-type: none"> 31 August 30 November 28 February 31 May
7	Recovery action Weeks, months, years		

Note: Red indicates action referred to the NSW Local Courts, whereby rates, charges and fees remain unpaid after a final reminder notification.