



Policy Owner: Director Corporate Services

Direction: Our Civic Leadership

1. STATEMENT OF INTENT

- 1.1 Outline the principles and guidelines that apply to the recovery and management of overdue Rates and Domestic Waste Management Charges and other non-rates debts.
- 1.2 Ensure effective control over debts owed to Council.
- 1.3 Ensure compliance with the relevant parts of the NSW *Local Government Act 1993*, Local Government Regulations and other applicable legislation;
- 1.4 Ensure a fair and equitable approach to recovering overdue Rates and Domestic Waste Management Charges and other non-rates debts. Recovery action must be mindful of those suffering genuine financial hardship.

2. ELIGIBILITY

- 2.1 The Policy applies to all councillors, staff and agents of Council and to any other entity involved in Council debt recovery.

3. DEFINITIONS

- 3.1 The *Local Government Act - Section 562* of the Act governs payment of rates and annual charges, *Section 569* of the Act governs liability of the occupier of land and *Section 713* of the Act governs the sale of land for overdue rates. Any other act specifically referred to herein will be given its full title.
- 3.2 *Civil Claims Act* - governs that notwithstanding any proceedings against any person for an offence against this Act (whether resulting in a conviction or otherwise) that person shall remain liable to all civil proceedings in like manner as if the proceedings for the offence had not been taken.
- 3.3 Statement of Liquidated Claim - is a claim made for an amount that has been agreed on by the parties or a claim which can be precisely determined by

- operation of law or by the terms and conditions of the agreement made by the parties. Liquidated claim is also termed as liquidated demand.
- 3.4 Notices of Demand - is a demand letter is a formal notice demanding that the person to whom the letter is addressed perform an alleged legal obligation such as rectifying some identified problem, paying a sum of money or acting on a contractual commitment. Most demand letters will include a deadline for action.
- 3.5 Summonses - is a call by an authority to appear, come, or do something.
- 3.6 Writs of Execution - is a court order to a sheriff to enforce a judgment by levying on real or personal property of a judgment debtor to obtain funds to satisfy (pay the winning plaintiff) the judgment amount.
- 3.7 Garnishee order - is a court order that allows you to recover the judgment debt from the other party's bank account, the other party's wages or someone else who owes money to the other party.
- 3.8 Warrant of Apprehension - is a warrant issued by the Court when a defendant has failed to appear in court on the date stipulated on either the summons or the bail agreement.
- 3.9 Mercantile Agent - is a commercial agent such as a factor or broker, who in the ordinary course of his business has authority to sell goods, to consign goods for sale, to buy goods or to raise money on the security of goods on behalf of his principal.
- 3.10 Eligible Pensioners - for the purpose of determining pensioner concessions is a defined in *clause 134 Local Government (General) Regulation 2005*.
- 3.11 Notices under *Section 569 of the Local Government Act 1993* - a council may serve on an occupier of land a notice of the amount of any rate or charge unpaid in respect of the land or of the amount of any judgment given against a person for any rate or charge unpaid in respect of the land.

4. PROVISIONS

4.1 Rates and Charges

- 4.1.1 Recovery action will be commenced if current rates are not paid by the due date unless arrangements have been made for payment by instalments either pursuant to *Section 562 Local Government Act 1993* or by mutual agreement with Council's Debt Management Officer when payment of rates would cause hardship.

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- 4.1.2 Recovery action will be commenced, prior to 31st August, for the recovery of outstanding rates from previous rating years and the ratepayer has not entered into a mutual agreement with Council's Debt Management Officer to reduce the liability.
 - 4.1.3 Recovery action may include personal visits, letters, telephone calls, Reminder Notices or Notices of Demand, Summonses, Writs, Garnishee Orders, *Section 569 Local Government Act 1993* Notices, Warrant of Apprehension, notices to wind up a company and in extreme circumstances, the sale of land for overdue rates under *Section 713 Local Government Act 1993*.
 - 4.1.4 Ratepayers who because of hardship wish to enter into a mutual agreement with Council to pay rates by instalments, other than *Section 562 of the Local Government Act 1993*, shall supply to Council's Debt Management Officer such information as required.
 - 4.1.5 When a ratepayer who has made arrangements to pay rates in instalment by mutual agreement with Council's Debt Management Officer does not meet their full obligations under the agreement, the agreement is terminated and legal action shall be immediately instituted for the recovery of any outstanding rates.
 - 4.1.6 Any agreement entered into with a ratepayer for the payment of outstanding rates other than pursuant to Section 562 of the Act, shall endeavour to ensure that all rates outstanding are fully paid by 31st May of the rating in which the agreement is entered into, and an agreement for payment of outstanding rates shall not extend beyond two years during which time all later levied rates shall be liquidated.
 - 4.1.7 Eligible pensioners will be required to pay the amounts of rates remaining following any statutory reduction in rates granted under the Act. Such amounts remaining may be paid by instalments pursuant to Section 562 of the Act or by part payments provided that the required amount is paid prior to end of year close-off. Council's Debt Management Officer will take into account the limited income of eligible pensioners and may enter into a mutual agreement with them for the payment of rates by arrangement but within the rating year in which the rates were levied.

4.2 Actions

- 4.2.1 Action will be commenced after all instalment due dates, and can be taken in either bulk or on an individual assessment basis.

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- 4.2.2 An overdue rate notice will be sent to any ratepayer who does not pay their instalment by the relevant due date and whose account has a balance of more than \$20.00 overdue. This notice will allow seven (7) to ten (10) days for payment and will advise that if payment is not made further action may be taken by Council.
 - 4.2.3 A further letter from Council giving seven (7) days for payment of the account will be issued if payment has not been received. This letter will also advise of that if payment is not received within the required time further action involving costs may be taken by Council.
 - 4.2.4 Following this, if the account is for more than \$600.00 or there are two (2) instalments outstanding, whether an individual assessment or multiple assessments in common ownership, the account will be referred to Councils Mercantile Agent/s (Agent). They will then forward a letter giving fourteen (14) days for payment of the account.
 - 4.2.5 If the account is still outstanding after the fourteen days a Statement of Liquidated Claim (SLC) will be issued on Councils behalf by the Agent. Service of the SLC is then effected by the Agent.
 - 4.2.6 If payment is not made within thirty (28) days of service of the SLC, Judgement will then be entered for the debt.
 - 4.2.7 Following the entering of Judgement, Council is then able to take further action as prescribed by the Civil Claims Act or the Local Government Act as required. This may include such things as, but not limited to, notice under *section 569 of the Local Government Act 1993*, Writs of Execution, Garnishees, Action to Wind up the Company etc.
 - 4.2.8 If a property has rates outstanding for more than five (5) years Council may take action under *Sec 713 of the Local Government Act* to Sell the property to recover the outstanding amount.

4.3 Sundry Debtors Accounts Receivable

- 4.3.1 Monthly statements are to be forwarded to Sundry Debtors. Amounts outstanding for more than fourteen days are to be regarded as overdue. The only exception to this are for the Council Parking Stations which will be regarded as overdue when they are outstanding for more than 30 days.
- 4.3.2 Where amounts are outstanding for more than thirty days, credit may be stopped, and the matter will be referred for action to recover the debt.

- 4.3.3 Where applicable recovery action is to be taken where amounts are overdue for more than sixty days.
- 4.3.4 The Relationship Manager or responsible Business Owner will be required to review the overdue account with the Debt Management Officer, before any legal recovery and any additional costs are incurred. Every effort should be made to contact the debtor prior to legal proceedings.
- 4.3.5 Where it is determined, to the satisfaction of the Relationship Manager or responsible Business Owner and the Debt Management Officer that a debt is irrecoverable or uneconomical to recover, the debt will be recommended to be written-off. Any debts will be written-off in accordance with the delegated authority determined by Council. Debts written-off under delegated authority, will be reported to Council.

4.4 **Actions**

- 4.4.1 Action will be commenced after the outstanding debt has been overdue in excess of Council's standard trading terms for the account category, and can be taken in either bulk or on an individual account basis.
- 4.4.2 The Revenue Officer will send a reminder letter to any customer who does not pay their account in accordance with Council's trading terms and is overdue for more than seven (7) days. This letter will allow seven (7) to ten (10) days for payment and will advise that if payment is not made further action may be taken by Council.
- 4.4.3 The manager of the relevant department where the debt originated from will be advised and will be required to authorise any legal recovery proceedings.
- 4.4.4 Where ever possible, the preferred course of debt recovery action is to negotiate an alternative payment arrangement. If the agreed payment arrangement is dishonoured, legal recovery action may commence without further notice.
- 4.4.5 If the account is for more than \$1,000.00, whether an individual account or multiple accounts in common name, the account will be referred to Councils Mercantile Agent/s (Agent). They will then forward a letter giving fourteen (14) days for payment of the account.
- 4.4.6 If the account is still outstanding after the fourteen days a Statement of Liquidated Claim (SLC) will be issued on Councils behalf by the Agent. Service of the SLC is then effected by the Agent.

4.4.7 If payment is not made within thirty (30) days of service of the SLC, Judgement will then be entered for the debt.

4.4.8 Following the entering of Judgement, Council is then able to take further action as prescribed by the Civil Claims Act or the Local Government Act as required. This may include such things as, but not limited to, Writs of Execution, Garnishees, Action to Wind up the Company etc.

4.5 **Register Debts**

4.5.1 A register generated tax invoice prepared by the Relationship Manager or responsible Business Owner is sent to the customer immediately after application or service delivery.

4.5.2 Where amounts are outstanding for more than thirty days, credit may be stopped, and the matter will be referred for action to recover the debt.

4.5.3 Where applicable recovery action is to be taken where amounts are overdue for more than sixty days.

4.5.4 The Relationship Manager or responsible Business Owner will be required to review the overdue account with the Debt Management Officer, before any legal recovery and any additional costs are incurred. Every effort should be made to contact the debtor prior to legal proceedings.

4.5.5 Where it is determined, to the satisfaction of the Relationship Manager or responsible Business Owner and the Debt Management Officer that a debt is irrecoverable or uneconomical to recover, the debt will be recommended to be written-off. Any debts will be written-off in accordance with the delegated authority determined by Council. Debts written-off under delegated authority, will be reported to Council.

4.6 **Actions**

4.6.1 Action will be commenced after the outstanding debt has been overdue in excess of Council's standard trading terms for the account category, and can be taken in either bulk or on an individual account basis.

4.6.2 The Relationship Manager or responsible Business Owner will send a reminder letter to any customer who does not pay their account in accordance with Council's trading terms and is overdue for more than seven (7) days. This letter will allow seven (7) to ten (10) days for payment and will advise that if payment is not made further action involving costs maybe be taken by Council.

- 4.6.3 The Relationship Managers or responsible Business Owners are required to regularly meet with the Debt Management Officer and review all outstanding register debts. These meetings will be organised by the Debt Management Officer at a time that is suitable for both them and the Relationship Managers or responsible Business Owners. There needs to be agreement that the debt is economically recoverable before commencement of any legal recovery proceedings.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Council's Manager Revenue Services is responsible for receiving, processing and responding to all matters associated with Council rates and sundry debtors, including all legal recovery proceedings.
- 5.2 The Relationship Managers or responsible Business Owners are responsible for receiving, processing and responding to all matters associated with Council's register debts.
- 5.3 The Relationship Managers or responsible Business Owners and the Debt Management Officer are responsible reviewing and recommending legal recovery of all register debts.
- 5.4 Any engagement with a debt recovery agent or consultant will be carried out by the Debt Management Officer. The Debt Management Officer can request assistance as to history of the debt from the responsible Business Owners but essentially once a debt recovery agent or consultant has been engaged with the debt will be managed by Council's Debt Management Officer.
- 5.5 The General Manager is authorised to write off debts for amounts as per Delegation of authority.

6. RELATED POLICIES/DOCUMENTS/LEGISLATION

The Policy should be read in conjunction with the following Council policies and documents:

- Debt Management Policy
- Financial Management Policy
- Financial Hardship Policy
- Delegation of Authority Manual
- Revenue Policy

The Policy should be read in conjunction with the following documents/legislation:

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- Local Government Act 1993
 - Local Government (General) Regulation 2005
 - Civil Claims Act

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1	25 June 2018	Council	214	2020/21