



Debt Recovery Policy



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Document Control

Policy	Debt Recovery Policy	Policy Number	TBA
Author/Reviewer	Executive Director Corporate & Community	Review Period and Date	Reviewed within 12 months of election/4 yearly - September

This policy shall be reviewed: -

- This policy shall be reviewed within 12 months of an election, and thereafter at four yearly intervals at least, to ensure it meets all statutory requirements and the needs of council. It may also be reviewed at other times as determined by council.
- This policy commences as from the last date of adoption by Council as listed in the document history and replaces all previous versions.
- Subject to the provisions of the Local Government Act and/or Regulation, this policy may be amended or cancelled by council at any time without prior notice or obligation to any person.

Document History

Date	Status	Version	Resolution	Description
28 June 2017	Draft	0.1		Presented to Hilltops Council for endorsement, public exhibition 28 days
28 June 2017	Draft	0.2	17/151	Endorsed - 28 day public exhibition
28 July 2017	Final	1.0	17/151	Adopted



1. INTRODUCTION

The purpose of this policy is to ensure effective control over debts owed to Council by maximizing the collection of outstanding rates and sundry income. Fulfilling the statutory requirements of the Local Government Act 1993 and associated Local Government Regulations with respect to the recovery of rates, charges and other debts. Also, to ensure consistency, fairness, integrity and confidentiality of all proceedings for both Council and the debtor.

2. POLICY OBJECTIVES

In managing Council's most significant cash inflow, it is essential that an effective and equitable debt management policy exists to recover all rates and charges revenue.

This policy outlines the principles and guidelines for managing the recovery of outstanding rates and charges, incorporating the following major elements:

- Aim to collect all rates and charges by the end of each rating year.
- Apply a fair and reasonable approach to recovering overdue rates and charges.
- Achieve and maintain an outstanding rates and charges ratio at or below industry standard.
- Apply provisions of the Act relating to the sale of land as and when required.

3. POLICY SCOPE

Authority for implementation of the Debt Recovery Policy is delegated by Council to the General Manager in accordance with the Local Government Act 1993.

The General Manager may delegate the debt recovery function to an authorised council officer. Other finance staff will assist in the day to day administration of the debt recovery process which is in accordance with relevant legislation and guidelines.

4. LEGISLATION and other REFERENCES

- Local Government Act 1993 (the Act)
- Local Government (General) Regulation 2005 (the Regulation)
- Privacy and Personal Information Protection Act 1998
- Local Courts Act, 1970
- Local Government Code of Accounting Practice and Financial Reporting - OLG
- Debt Collection Guideline for Collectors and Creditors - ACCC and ASIC
- Trade Practices Act 1974
- Division of Local Government circulars

Council employees shall refrain from personal activities that would conflict with proper execution and management of Council's Debt Recovery Policy, Council's Code of Conduct provides guidance for recognizing and disclosing any conflict of interest.

5. DEFINITIONS and TERMS

ACCC:	Australian Competition and Consumer Commission
ASIC:	Australian Securities and Investments Commission
OLG:	Office of Local Government
the Act:	Local Government Act 1993
the Regulation:	Local Government (General) Regulation 2005



6. TYPES of DEBT

This policy addresses debts for:

- rates and charges
- water access and usage charges
- kerb and gutter or footpaving charges
- private works charges
- sundry fees and charges.

Note that in addition to the original debt, Council may impose charges for **interest** and associated **legal expenses** in accordance with the Local Government Act.

Accounts are deemed to be **in arrears** if the invoice or instalment notice is not paid by the stipulated due date as disclosed on the invoice or notice.

7. POLICY STATEMENT

7.1 ETHICS AND CONFLICTS OF INTEREST

Officers shall refrain from personal activities that would conflict with proper execution and management of Council's Debt Recovery Policy. Council's Code of Conduct provides guidance for recognising and disclosing any conflicts of interest.

7.2 PRIVACY OBLIGATIONS

Personal information means information or opinion, whether it is true or not, about an individual that can reasonably allow the individual to be identified.

A debtor's personal information will be treated with respect and Council will comply with the *Privacy and Personal Information Protection Act 1998*, when collecting and disclosing information throughout the debt recovery process.

8. RECOVERY ACTION

8.1 RATES AND CHARGES

Recovery action will commence when rates/charges are not paid by the due date for each quarterly instalment unless arrangements have been entered into (in writing) to make periodical payments under Section 564 of the *Local Government Act 1993*.

8.2 WATER CONSUMPTION ACCOUNTS

Recovery action will commence when invoices issued are not paid by the due date unless arrangements have been entered into (in writing) to make periodical payments.

8.3 SUNDRY DEBTORS

Recovery action will commence when invoices issued are not paid by the due date unless arrangements have been entered into (in writing) to make periodical payments.

8.4 AGREEMENTS FOR PERIODICAL PAYMENT

Mutually suitable arrangements may be entered into with ratepayers requesting extensions to pay outstanding amounts.



All requests for **extensions or payment arrangements** are to be made in writing, preferably by completing Council's Application to Pay by Regular Instalment form. Payments can be made either weekly, fortnightly, monthly or by other agreed arrangements.

All arrangements to pay outstanding water accounts must be made with the **owner of the property**. No arrangement for payment may be made with a tenant of the property, unless they are the designated rate-paying lessee.

The payment of debts by arrangements shall not remove the right of Council to recover current and future charges.

If the arrangement is **in arrears** for a period of more than 14 days, and the debtor has not contacted Council to acknowledge and advise of circumstances that have caused the default in arrangements, Council will contact the debtor in writing advising that legal action may now commence as a result of the default.

Where possible all **private works** should be prepaid to avoid creation of a debtor.

9. ASSOCIATED MATTERS

9.1 ACCRUED INTEREST

Interest accrues on a daily basis in accordance with Section 566 of the Local Government Act 1993 on rates and charges that remain unpaid after they become due and payable.

The rate of interest is that set by the Council annually which must not exceed the statutory rate specified by the Minister for Local Government by notice published in the Government Gazette. The rate of interest is included in the Fees and Charges Schedule of Council's annual Operational Plan.

9.2 LEGAL AND OUT-OF-POCKET EXPENSES

All legal expenses incurred by Council in the recovery of outstanding debts may be charged against the debtor in accordance with the Local Courts Act 1970.

Section 605 of the Local Government Act 1993, allows Council to add to the amount of a rate or charge any reasonable out-of-pocket expenses incurred in tracing the person liable to pay the rate or charge.

9.3 SALE OF LAND

Council may proceed to sell land in accordance with Division 5 of Part 2 of Chapter 17 of the Local Government Act, 1993 as follows:

- Where any rate or charge is overdue and has remained unpaid for more the five (5) years from the date on which it became payable, or:
- Where any rate or charge is overdue in respect of vacant land and the amount overdue exceeds the Valuer-General's current valuation of the property.

The General Manager shall prepare an **annual report** for Council's consideration listing all assessments to which the above two sections apply. The report will provide a detailed history of the circumstances of each case together with a recommendation in relation to the possible sale of the land to recover the overdue rates and charges.

9.4 RESTRICTION OR DISCONNECTION OF WATER SUPPLY

Where a Final Notice is not complied with within the stipulated time, the water supply may be either:

- restricted by the fitting of a **restriction device** so as to make available only a nominal supply to the consumer if the property is occupied (unless by a non-responsible tenant), or:
- **disconnected** if the property is deemed to be vacant.



When a restrictive washer has been fitted to a meter, or alternatively the supply has been disconnected, a card will be left at the premises notifying the occupant and advising that the water supply will be restored on payment of all arrears owing, in addition to a reconnection fee.

The supply will not be restored until the total amount outstanding is paid, or other arrangements made to the satisfaction of Council.

9.5 WRITING OFF DEBTS AND INTEREST

Debts to Council including accrued interest may only be written off or reduced by a resolution of Council, or under delegated authority.

The types of debts which may be written off or reduced include:

- rates and charges, under clause 131 of the Regulation.
- accrued interest, under section 567 of the Act,
- pensioners' rates and charges, under section 582 of the Act,
- sundry fees and charges, under section 610E of the Act (after due public notice)

Under Section 610E of the Local Government Act, delegated authority to write off or reduce fees is only available in the following circumstances

- for demonstrated financial hardship, or
- for public benefit (eg. charitable projects), or
- as recompense for poor customer services or other error on the part of Council,
- because of the circumstances of a particular case, where full fee payment would be unreasonable or inequitable.

The General Manager shall report any such write-offs to the next Council meeting.

In accordance with Clause 20 of the Financial Management Regulation, a resolution or order writing off a debt must:

- specify the debtor's name;
- identify the account concerned; and
- specify the amount written off,

or must refer to a record kept by the Council in which those particulars are recorded.

9.6 ASSOCIATED DOCUMENTS

The following documentation is to be read in conjunction with this policy.

- Debt Recovery Procedure

10. RATES, FEES and CHARGES

Council's Rate Schedule, and Fees and Charges Schedule, are included in the annual Operational Plan.

There is no charge for submitting a Hardship application or Request for Payment Arrangement.

11. NON-COMPLIANCE

- Breaches of this policy by debtors may result in immediate legal action for debt recovery.
- Non-compliance with this policy by staff may result in disciplinary action.