

## ITEM 6

## POST EXHIBITION - DEBT RECOVERY AND HARDSHIP ASSISTANCE COUNCIL POLICY

Council's rolling Policy Review Program requires policies to be reviewed every three years. The Finance Division has reviewed and revised the Debt Recovery and Hardship Assistance Council Policy. The revised Policy was presented to Council for endorsement for public exhibition on 9 October 2023 and following exhibition is now recommended to Council for adoption.

**RECOMMENDATION**

Council adopt the revised Debt Recovery and Hardship Assistance Council Policy.

**REPORT AUTHORISATIONS**

Report of: Brian Jenkins, Chief Financial Officer

Authorised by: Renee Campbell, Director Corporate Services - Connected + Engaged City

**ATTACHMENTS**

- 1 Draft Debt Recovery and Hardship Assistance Council Policy

**BACKGROUND**

The Debt Recovery and Hardship Assistance Council Policy was recently reviewed in accordance with periodic review requirements under Council's Policy Framework and Council resolved to place an updated draft Policy on public exhibition.

**PROPOSAL**

The review of the Policy identified some areas of improvement through procedural change or as a result of understanding of the practices in more depth which resulted in the following amendments:

- It is proposed that accounts that are under a Financial Hardship Agreement and payments are maintained in line with the agreement, to waive the interest accrued during the period of the arrangement. This will further ease the burden on the ratepayers that have proven hardship and assist with the payment of outstanding debt.
- It is proposed to remove Sundry Debtor Statements and Tax Invoice/Statements and provide more personal interactions with phone calls, SMS and email follow ups for sundry debtor accounts, providing opportunity for debtors and Council staff to discuss payment options more frequently and build rapport.
- Hardship assistance is currently only open to ratepayers for their principal place of residence. During COVID-19, these provisions were widened to include business properties. It is proposed that the Policy be amended to include any owner/operator of a business property. This amendment supports owner operated businesses experiencing financial hardship by offering payment arrangements which allows them to continue their business operations as a primary income source.
- The current Policy allows Council to make a determination to grant an interest free moratorium for a period up to 90 days to groups/areas of ratepayers and sundry debtors that are affected by a natural disaster or significant event. This revision proposes to remove the 90 day restriction in the Policy and allow a specified period to be determined by Council.
- A new provision is included in the draft Policy to make reference on all Council rates and sundry debtor correspondence that ratepayers can contact the National Debt Helpline for assistance with a free financial counsellor. The National Debt Helpline website provides tools and information to assist our ratepayer/sundry debtors that will allow those that are not comfortable talking to Council staff other options to assist in managing the financial burden that they may be experiencing.
- Amend the title of clause 7 from 'Recovery Proceedings against Eligible Pensioners' to 'Pensioner Agreement to Defer Rates, Charges and Interest' to better reflect the option provided by the clause.

- It has been evident that some self-funded retiree ratepayers are having difficulty meeting their rate payments with regard to the current economic climate and the impact of revaluation of land. It is proposed consideration be given to opening the current Pensioner Agreement for Defer Rates, Charges and Interest scheme to self-funded retirees that hold a Commonwealth Seniors Health Card. Proposed eligibility criteria to enter the deferral scheme would include:
  - The applicant must hold a valid Commonwealth Seniors Health Card.
  - Reside within the Wollongong LGA for more than five years.
  - Confirm of eligibility each year.
  - Signed agreement.
- Increase the Debt Recovery and Hardship Assistance Committee to include a representative from the Customer Service Unit.

### CONSULTATION AND COMMUNICATION

Council at its meeting on 9 October 2023 resolved to place a draft amended Debt Recovery and Hardship Assistance Council Policy on public exhibition, inviting submissions from the public. Public submissions were invited between 19 October 2023 and 16 November 2023 with no submissions being received during the exhibition period.

### PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2032 Goal 4 'We are a connected and Engaged Community.

It specifically delivers on core business activities as detailed in the Financial Services Support Services Plan.

### CONCLUSION

No submissions were received during the exhibition period and the Policy is now returned to Council for adoption.



## DEBT RECOVERY AND HARDSHIP ASSISTANCE COUNCIL POLICY

ADOPTED BY COUNCIL: [COUNCIL MEETING DATE]

### PURPOSE

Council relies on Rates and Charges and fees to fund services and facilities for our community. This Policy sets out the approach that Council will take to recover unpaid monies and ensure the reasonable collection of debts.

### POLICY INTENT

The main objectives of this Policy are:

- 1 Recover monies owing in a timely and effective manner to finance Council's operations and ensure effective cash flow management.
- 2 Provide for a process that is ethical, transparent, compliant with legal obligations, open and accountable.
- 3 To improve control over debts owed to Council, including overdue rates, fees, charges and interest and to establish a debt recovery approach for the efficient collection of receivables and management of outstanding debts, including alternative payment arrangements and deferrals.
- 4 To establish guidelines for recognising and assessing hardship applications by applying the principles of fairness, integrity, appropriate confidentiality and compliance to the relevant statutory requirements.
- 5 The key guidelines that will be utilised are:
  - a Council aims to collect all monies owed.
  - b Council will individually assess cases of financial hardship based on evidence.
  - c Council will not reduce rates or annual charges but will consider alternative available approaches.
  - d Council will consider arrangements for periodical payment outside the statutory due dates in cases of hardship, extenuating circumstances or other payment schemes implemented by Council.

### WOLLONGONG 2032 OBJECTIVES

Council's resources are managed effectively to ensure long term financial sustainability.

### POLICY

#### 1 Recovery of Overdue Rates and Annual Charges

- Rates and Charges include all amounts charged in accordance with Section 546 of the Local Government Act, 1993 ("the LG Act").
- Rate notices must be issued prior to 31 July each year.
- Instalment notices must be issued to ratepayers paying by instalment one month prior to the instalment due dates, being 31 August, 30 November, 28 February and 31 May.
- Council rates and annual charges are due to be paid in full before 31 August, or by quarterly instalments due 31 August, 30 November, 28 February and 31 May each year, or on specific dates determined through an agreement approved by delegated Council officers.

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- Interest on overdue rates and annual charges will be charged daily in accordance with Council's Revenue Policy after the due date.
- Where payment is overdue and an appropriate payment arrangement has not been agreed, the following recovery actions will be followed:
  - Reminder Notice.
  - Letter of Demand from Council's Solicitor.
  - Where available and appropriate, additional channels of communication can be used to remind ratepayers of outstanding debts. This may include options such as SMS reminders, telephone calls and email communication.
- If those processes are not successful in securing payment, legal recovery action will commence. Legal recovery process may include the following:
  - Pre Statement of Claim phone call
  - Statement of Claim
  - Field Calls/Skip Tracing
  - Pre-Judgment notification letter
  - Judgment
  - Garnishee
  - Examination Notices/Summons
  - Writ of property
  - Bankruptcy
  - Late stage/intervention process
- Where legal recovery is unsuccessful, Council may use collection techniques outside of standard legal recovery where warranted on a case by case basis.
- Council retains the discretion to apply the provision of the LG Act relating to sale of land for unpaid rates, charges and interest as stated in Sections 713-726. Section 713 provides that Council, where rates and charges have been unpaid for more than five years, may sell the land to recover those outstanding amounts. Vacant land can be sold with only one year's rates and charges if it meets specific conditions in the LG Act 1993.
  - Council will only sell a ratepayers principal place of living after consideration and resolution of Council and only as a last resort.
  - Whilst the LG Act states Council can buy such land at public auction, any staff directly involved in the sale of land process will not be permitted to bid on behalf of Council at auction. This requirement will be reinforced via separate agreement with relevant staff.
  - Council will endeavour to achieve a fair market price through public auction after appropriate advertising.
  - The reserve price will be set at no less than 80% of the independent valuation attained through the sale of land process.
  - If the land fails to sell at Public auction, under the LG Act the General Manager or delegated officer is empowered to negotiate to sell the land by private treaty but the amount accepted for sale should be not lower than the highest (non-owner) bid at auction, or at best value where a bid is not offered through the auction.
  - Property will not be sold to employees by private treaty outside of auction.

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- In the case of corporate ratepayers, Council may commence legal recovery proceedings in the Federal Court of Australia.
- Where an account has incurred legal action and all debts subject to that claim have been paid in full, Council will set aside judgment.
- Legal Costs and expenses incurred in debt recovery actions will be charged against the property (including costs of tracing a person in accordance with section 605 of the LG Act).

### 2 Recovery of Outstanding Sundry Debts (other than Rates and Charges)

- Council will issue an Invoice.
- Where payment is overdue and an appropriate payment arrangement has not been agreed, the following recovery actions will be followed:
  - Reminder Letter
  - Where available and appropriate, additional channels of communication can be used to inform debtors of outstanding debts. This may include options such as SMS reminders, telephone calls and email communication.
  - Where available, suspension of credit and/or service.
- A Late Payment Fee will be charged in accordance with Council's Revenue Policy.
- If those processes are not successful, legal recovery action will commence. Legal recovery process may include the following:
  - Letter of Demand from Council's Solicitor
  - Tribunal orders for property leases (eg, Tourist Parks)
  - Statement of Claim
  - Field Calls/Skip Tracing
  - Judgment
  - Garnishee
  - Examination Notices/Summons
  - Writ on property
  - Bankruptcy
- Legal Costs and expenses incurred in debt recovery actions will be charged against the Sundry Debtor.

### 3 Hardship Assistance

- Council recognises that ratepayers and debtors may experience financial hardship in some circumstances in paying rates, annual charges and fees. A ratepayer may be eligible for consideration for hardship assistance in the payment of overdue rates, annual charges, interest and fees where:
  - The person is unable to pay rates, charges, fees or accrued interest when due and payable for reasons beyond the persons control; or
  - Payment, when due, would cause the person hardship.
- The LG Act permits Council to exercise the following assistance to ratepayers and debtors:
  - Periodical payment arrangements for overdue rates and charges under Section 564.

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- Writing off or reducing interest accrued on rates and/or charges under Sections 564 and 567.
- Waiving, reducing or deferring the payment of the increase in the amount of rate payable because of hardship resulting from a general revaluation of land in the local government area under Section 601.
- Waiving or reducing rates, charges and interest of eligible pensioners under Section 575 and 582.
- Applications under Section 601 of the LG Act because of hardship resulting from a general revaluation of land must be made during the first year a new land value is used for rating purposes. Where an application is made in the first year, an application can also be made in subsequent years of the valuation base date. While Council has the discretion to waive, reduce or defer, Council will only offer a revised payment schedule and interest free periods up to three years to ease the financial stress on the ratepayer.
- While Council has the discretion to waive or reduce rates, charges and interest of eligible pensioners, Council will only offer a revised payment schedule and defer any legal action to ease the financial stress on the pensioner ratepayer.
- To be eligible for consideration of hardship, a ratepayer must complete the Application for Hardship Form and return it promptly to Council with reasonable proof of financial hardship including details of assets, income, liabilities, expenses and such other information required for the Debt Recovery and Hardship Assistance Committee to make an informed decision.
- Each individual case will be considered on its merits. The criteria for assessment will include, but not be limited to, the following:
  - The amount of any rate increase when compared to the average rate increase for the rate category.
  - The amount of rates levied compared to the average rate of the rate category.
  - Income from all sources.
  - Assets owned.
  - Living expenses.
  - Reason for financial hardship.
  - Length of occupancy.
  - Principal place of living, or Owner/Operator of a business property.
- The assistance provided will be determined under the legal requirements of the LG Act. A Debt Recovery and Hardship Assistance Committee will review the application and recommend to the General Manager any offer of assistance having regard to the circumstances of the applicant.
- The General Manager can approve or not approve the Committee's recommendation.
- The ratepayer will be informed of a decision in writing and, if not satisfied with the outcome, can request the General Manager to reconsider its decision within 30 days.
- After the General Manager reconsiders the application and makes a decision, the ratepayer has no further right to appeal.
- Council can make a determination to grant an interest free moratorium for a specified period where a group/area of ratepayers and sundry debtors affected by a natural disaster or significant event. Applications for approval for this moratorium must be in writing.
- Council to make reference on correspondence to the ratepayer/debtor of the National Debt Helpline, where the applicant can make contact to free financial counselling services within NSW.

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### 4 Periodical Payment Arrangements

- Council may enter into a Payment Arrangement with any ratepayer in accordance with Section 564 of the LG Act.
- Council may grant requests for extensions of time to pay an overdue rate instalment in full provided the extension will not be greater than 30 days after the due date of the rate instalment.
- Council can accept over the telephone payment arrangements for weekly, fortnightly or monthly payments (whether overdue or not).
- Once legal proceedings have commenced against a debtor, only delegated Council officers can determine any payment agreement which must be formalised in writing, subject to the debtor entering into a direct debit arrangement with Council and the debtor agreeing to pay Council's up-to-date legal costs relating to the proceedings. If a debtor objects to the direct debit arrangement, the debtor must provide reasons for their objection in writing and propose an alternative payment method. Council will consider the alternative payment method and will advise the debtor whether it is accepted or rejected.
- Delegated person(s) may approve in writing a periodical payment arrangement for those that are within a 12 month timeframe with a maximum of two arrangements, any periodical payment arrangements greater than 12 months need to be approved by the Debt Recovery and Hardship Assistance Committee.
- Council may collect the following information during the arrangement process, with this information capable of being used for any debt recovery process:
  - Contact Numbers (Mobile, Work, Home)
  - Employment details
  - Email address

### 5 Default of Payment Arrangement

- Where a debtor is in default of a payment arrangement (that is, the debtor fails to meet the payments within the timetable agreed), a default letter will be sent to the ratepayer. The default letter will allow the debtor seven days to pay or re-negotiate the payment arrangement.
- Where the debtor fails to comply with the terms of the default letter, Council will commence or reinstate legal proceedings to recover the debt.
- Council will not enter into any further payment arrangements where a ratepayer is in default of a payment arrangement twice within a 12 month period.
- A debtor aggrieved by the above clause may appeal in writing to the Debt Recovery and Hardship Assistance Committee. The Committee must consider the appeal within 30 days of it being received by Council and notify the debtor of its decision.

### 6 Writing Off Outstanding Debt, Accrued Interest and Costs

- The General Manager is authorised to write off amounts due to Council through Council resolution.
- Council applies interest rates to the maximum allowable under Section 566 of the LG Act. However, Council may write off the accrued interest and costs on rates and charges payable by a person(s) under Section 567 of the LG Act and the Local Government (General) Regulation 2005 where:
  - The person(s) was unable to pay when the amount became due for reasons beyond the person(s) control; or



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- The person(s) is unable to pay accrued interest for reasons beyond the person(s) control; or
- The person(s) is under a current financial hardship arrangement and has maintained the payment arrangement, interest will be waived during the period of the arrangement; or
- Payment of accrued interest would cause the person(s) hardship.
- Upon notification of a ratepayer(s) death, Council will grant a 12 month interest free period to allow for probate or Letters of Administration to be processed. After the 12 month period ends or the property is transferred, whichever comes first, interest accrues at the prescribed rate.
- Council will apply a reduced interest rate equivalent to the IPART discounted interest rate to those eligible ratepayers who have entered into a formal Pensioner Agreement to Defer Rates, Charges and Interest.

### 7 Pensioner/Self-Funded Retiree Agreement to Defer Rates, Charges and Interest

- Council recognises the large number of pensioner/self-funded retiree ratepayers in the community and recognises the difficulties some eligible pensioner ratepayers have meeting their rates payments.
- Council has the discretion to accrue rates, charges and applicable interest against a pensioner's property. Written agreement is required from all owners. Where the eligible pensioner is willing to enter into agreement, Council will:
  - Provide a copy of the Pensioner Agreement Application to Defer Rates, Charges and Interest. The ratepayer must complete the application form in order to prevent legal action and it is in the best interest of the ratepayer to make small payments where possible.
  - Provide annual rates, instalment and reminder notices showing all outstanding rates, charges and interest.
  - Not commence recovery processes until there is a change in ownership of the property, all eligible ratepayers leave the property (except where the pensioner/s is in a care facility on a temporary basis being less than 12 months), or one or more become ineligible for a pensioner concession. Should any of these events occur, rates, charges and interest will become due and payable.
  - Where a pensioner does not enter into such agreement, Council will advise the pensioner of their right to negotiate a periodical payment arrangement. Where there is no periodical payment arrangement or agreement of deferral recovery action, Council may commence legal action.
  - Due to the constraints set out in accordance in Section 712 of LG Act, Council will communicate with the ratepayer before a debt is 20 years old prior to commencing legal recovery proceedings to secure the debt on the property beyond that point. The costs associated with the legal process will be recovered against the property.
- Council will offer the deferral scheme to any self-funded retiree who holds the Commonwealth Seniors Health Card. A written agreement is required from all owners of the property, Council will require:
  - To be provided with a copy of the Deferred Agreement application, the ratepayer must complete the form and Council's officer is to sight the Commonwealth Seniors Health Card. It is in the best interest of the ratepayer to make small payments where possible.
  - The ratepayer(s) should have resided at the property for more than five years.
  - Council will contact the ratepayer in June each year to confirm that eligibility is still valid.
  - Council to provide annual rates, instalment and reminder notices to show all outstanding rates, charges and interest, with all other actions relevant from pensioner deferral scheme.



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### 8 Debt Recovery/Hardship Committee

- The Committee will consist of a minimum of four Council officers and be represented from the following divisions:
  - Finance
  - General Counsel
  - Community Cultural and Economic Development and/or Library and Community Services
  - Customer Services
- The Committee will:
  - Determine the dollar amount in which Council will commence legal proceedings for recovery of debt annually.
  - Consider applications for waiving of interest and costs.
  - Consider hardship applications and make recommendations to the General Manager.
  - Consider applications from those ratepayers who have defaulted on two payment arrangements within a 12 month period.
  - Be consulted on changes to debt recovery processes and procedures.

### LEGISLATIVE REQUIREMENTS

Local Government Act 1993

### REVIEW

This Policy will be reviewed a minimum of once every term of Council, or more frequently as required

### REPORTING

Council will lodge through the Online Court Registry

- Statement of Claims
- Judgement
- Notice of discontinuance (Update customers credit rating file)

External Party(s) are used for legal recovery where Council is unable to process through the online court registry. Council will review the actions that have taken place and roll forward into the next steps of the process.

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### ROLES AND RESPONSIBILITIES

Name	Responsibilities
Team Leader – Billing & Recovery	<ul style="list-style-type: none"> <li>Billing – rates, instalments, reminders</li> <li>Provision for doubtful debts/write offs</li> <li>Billing &amp; Recovery information management</li> <li>Interest processing and management</li> </ul>
Revenue Officer/Revenue Clerk	<ul style="list-style-type: none"> <li>Sundry debtor maintenance</li> <li>Return mail management</li> <li>Payment arrangement</li> <li>Status management</li> <li>Phone recovery</li> <li>Legal recovery</li> <li>Receipt allocation and monitoring</li> <li>Adjustments/credit notes</li> <li>Reconciliations</li> <li>Credit facility management</li> </ul>
Rates Manager	<ul style="list-style-type: none"> <li>Review and approve provision for doubtful debts and write offs</li> <li>Review recommendations of the Debt Recovery and Hardship Committee prior to Chief Financial Officer</li> </ul>
Debt Recovery and Hardship Committee	<ul style="list-style-type: none"> <li>Assess applications to committee</li> <li>Provide recommendation to the General Manager</li> <li>Determine legal threshold</li> </ul>
Chief Financial Officer	<ul style="list-style-type: none"> <li>Approve recommendations of the Debt Recovery and Hardship Committee prior to General Manager sign off</li> </ul>
General Manager	<ul style="list-style-type: none"> <li>Approve recommendations of the Debt Recovery and Hardship Committee</li> <li>Approve write offs of up to \$10,000</li> </ul>
Councillors	<ul style="list-style-type: none"> <li>Approve write offs over \$10,000</li> </ul>

### RELATED STRATEGIES, POLICIES AND PROCEDURES

- Council Rating and Revenue Manual (2007) Office of Local Government
- Debt Management and Hardship Guidelines (2018) Office of Local Government
- Management Policy – Sundry Debt Management
- Management Policy – Rates Processing
- Revenue Policy, Fees and Charges
- Management Policy - Customer Feedback Handling
- Council Policy – Customer Service
- ACCC – Debt Collection guideline: for collectors and creditors

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COUNCIL POLICY

APPROVAL AND REVIEW	
Responsible Division	Finance
Date adopted by Council	[To be inserted by Governance]
Date/s of previous adoptions	24/02/2020; 3/04/2017; 22/06/2015
Date of next review	[Not more than four years from adoption]