



Debt Recovery Policy

Resolution Number	Created/Modified by	Adopted by Council	Review Period
2015/020	Chief Financial Officer	11/02/2015	10/02/2016
2017/320	Manager Revenue & Customer Relations	08/11/2017	01/11/2021
2021/038	Manager Revenue & Customer Relations	10/03/2021	09/03/2025
2022/013	Manager Revenue & Customer Relations	09/02/2022	08/02/2026

INTRODUCTION

The purpose of this policy is to ensure effective control over debts owed to Council by maximizing the collection of outstanding rates, charges and sundry income.

POLICY OBJECTIVES

The objective of this policy is to ensure money owed to Council is recovered in a timely, efficient and effective, manner in order to finance Council's operations and ensure effective cash flow management. This policy outlines the principles and guidelines for managing the recovery of outstanding rates, charges and sundry debtors, incorporating the following major elements:

- Efficient and effective collection of rates, charges and outstanding debt.
- Contemporary and flexible options to collect money from ratepayers.
- Fair and equitable treatment of ratepayers, including those facing hardship.
- How to identify and work with ratepayers in hardship when collecting money.
- Reduced use of expensive court processes to recover debts.
- Improved sustainability of Council, including performance in managing outstanding rates and charges.
- Compliance with legislative requirements including the Local Government Act and privacy laws.

POLICY SCOPE

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

POLICY STATEMENT

This policy provides a framework for the efficient and effective collection of outstanding debts and fulfils statutory requirements in relation to the recovery of rates, charges and other debts.

Council encourages all ratepayers to meet their rate commitments as they fall due. Where ratepayers are experiencing financial difficulties in meeting their rate commitment, they are requested to make early contact with Council Officers with a view to making suitable arrangements.

Council Officers will work with ratepayers experiencing financial difficulties to assist them in exploring options and making mutual acceptable arrangements for the payment of their outstanding rates and charges.

Council recognises that ratepayers may experience financial hardship in some circumstances in paying rates and annual charges. If any ratepayer is suffering financial hardship they may apply to Council for special consideration under Council's Hardship Policy.

RELEVANT LEGISLATION & GUIDELINES

This document has been drafted with due consideration to the following:

Local Government Act, 1993

Valuation of Land Act 1916

Local Government (General) Regulation 2021

Local Courts (Civil Claims Act 1970

Government Information (Public Access) Act 2009

Privacy and Personal Information Protection Act 1998

Privacy and Personal Information Protection Regulation 2019

Office of Local Government Debt Management and Hardship Guidelines, 2018

Office of Local Government Council Rating & Revenue Raising Manual, 2007

Council's Hardship Policy

Council's Fees & Charges

Council's Pensioner Rates & Charges Reduction Policy, 2021

Council's Water & Sewer Policy, 2011

Council's Liquid Trade Waste Policy, 2018

Policy Definitions

Debtor	The person liable for payment of debt
Act	Local Government Act 1993
Regulations	Local Government (General) Regulation 2021
Tenant	A person who occupies land or property rented from a landlord
Water Account	Quarterly account for water, sewer, trade waste consumption or access charges
Ratepayer	The person liable for payment of the rates and charges due and payable on any given property
Council	Narromine Shire Council

GENERAL

Debt recovery processes are to commence as soon as practicable for all accounts deemed to be in arrears within the below time frames with Council:

- Rates and Annual Charges – Recovery action will commence when rate and 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 Act.
- Water accounts - Recovery action will commence when accounts are not paid by the due date unless arrangements have been entered into (in writing) to make periodical payments.
- Sundry Debtor accounts – Recovery action will commence when invoices issued are not paid within ninety (90) days of the date of the invoice unless arrangements have been entered into (in writing) to make periodical payments.

1. RATES AND ANNUAL CHARGES

Rates and Charges include all amounts charged by way of a Rates Notice in accordance with section 546 of the Act.

Instalment notices must be issued one month prior to the instalment due dates (31 August, 30 November, 28 February and 31 May each year) in accordance with section 562 of the Act.

It is Council's practice to extend the payment date to the first working day after the due date if the instalment falls due on a weekend or public holiday.

2. WATER ACCOUNTS

Council issues quarterly notices for water charges trade waste, sewerage consumption and access charges (where applicable).

DEBT RECOVERY PROCEDURES

Recovery proceedings will commence within fourteen (14) days after the due date of the rate instalment or water account has passed and where these account remains partly or fully unpaid.

Reminder and Final Notice

Reminder Notice will be issued to each ratepayer who has an instalment or water account of \$300.00 or more outstanding and have not entered into a payment arrangement with Council.

If the "Reminder Notice" does not result in payment in full or suitable arrangements are not made within fourteen (14) days from the date of the reminder notice. a "Final Notice" for outstanding amounts exceeding \$500.00 will be issued.

If the "Final Notice" does not result in payment in full or suitable arrangements are not made within fourteen (14) days the ratepayer will be referred for Early Stage Intervention providing previous Early Stage Intervention has not been undertaken.

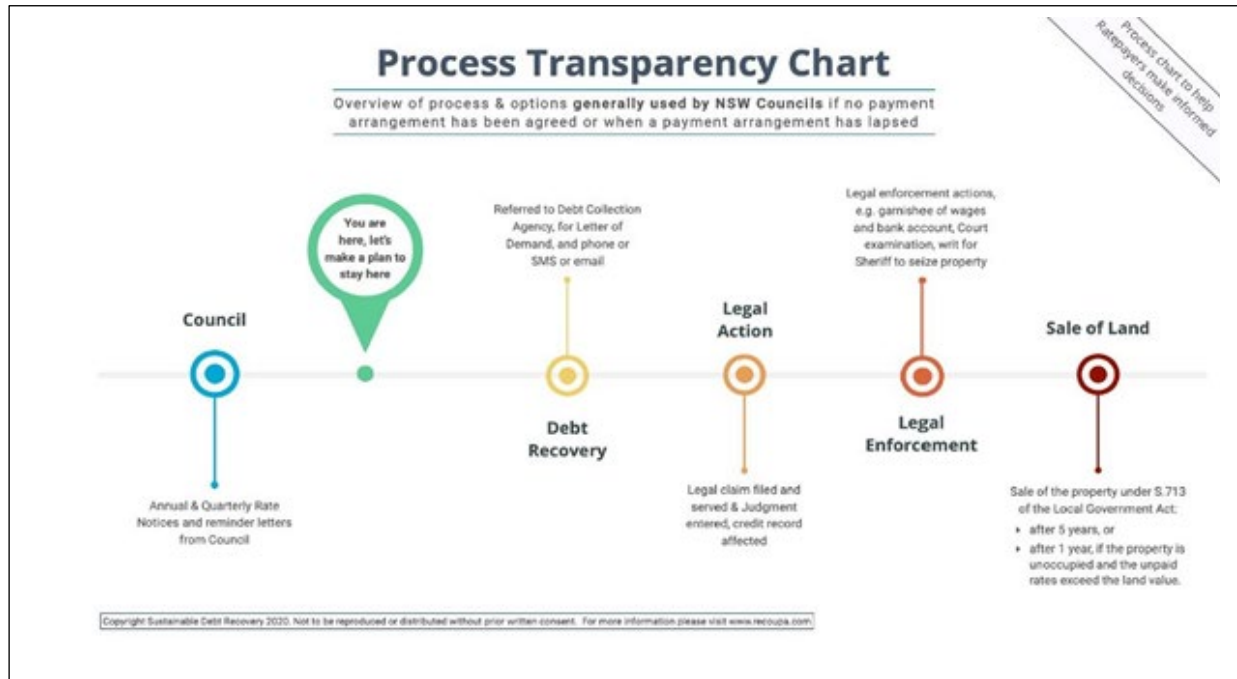
Early Stage Intervention

Council has introduced a sustainable debt recovery approach to deal with ratepayers that have been unable to pay their rates and charges for various reasons. Using this approach will see a reduction in legal action being taken by Council and will prevent additional legal fees being charged to the ratepayer. The Early Stage Intervention process starts after Council has issued reminder and final notices and prior to the debt being referred to Council's Debt Recovery Agency for further action. If a ratepayer fails to respond to the Early Stage Intervention process they will be referred to Council's Debt Recovery agency for further action.

Please note: Ratepayers who have previously failed to respond to the Early Stage Intervention process will be excluded from this stage and will be referred directly to Council's Debt Recovery Agency for legal action after the Final Notice stage.

Early Stage Intervention (Cont'd)

The Early Stage Intervention process is outlined below;



Legal Action

Legal action will commence against:

1. Ratepayers who have failed to make payment or contact Council after reminder and final notices have been issued and the Early Stage Intervention process has failed to yield results.
2. Ratepayers who have previously failed to respond to the Early Stage Intervention process. These debtors will be referred directly to Council's Debt Recovery Agency for legal action after the Final Notice stage.
3. Sundry debtor accounts ninety (90) days overdue.

Should it be deemed necessary for Council to take legal action to recover rates and charges, any costs awarded to Council by a court in these proceedings are a charge on the land, in accordance with section 550 of the Act and are payable by the debtor.

Note: Rate and water accounts can be combined in one legal action.

Legal Action (Cont'd)

The Legal Action process is outlined below;

LEGAL ACTION PROCEDURE/TIMELINE	
Letter of Demand issued	Council's Debt Recovery Agency will issue a fourteen (14) day Letter of Demand for amounts over \$500.
Summons warning letter	If the debtor fails to respond within 14 days, a seven (7) day Summons warning letter will be issued for amounts over \$500.
Statement of Claim (Summons)	If debtor fails to respond to Summons warning letter a Summons will be served on the debtor/s for amounts over \$1,000 (process takes up to 8-10 working days for service). Debtor has 28 days to respond.
Rent for Rates (Sec 569) LG Act	If the debtor's whereabouts are unknown and the property is being tenanted a "Rent for Rates" notice can be served on the tenant.
Default Judgement	If no response is received, a Notice of Motion for Default Judgement is filed with the Court and Default Judgement order is issued. (Can take 3 working days)
Garnishee – Wages / Bank	This can be issued within 24 hours of obtaining Judgement if the debtor's employment or bank details are known to Council.
Examination Notice	Examination Notice prepared and posted. Debtor has 28 days to respond to Examination Notice.
Examination Order	Examination Order issued after 28 days of issue of Examination Notice if no response is received from debtor.
Writ of Execution	Notice of Motion for Writ is filed with Court. Writ Order will be issued (Can take 3 working days). Will be used in exceptional circumstances.
Bankruptcy or Wind-up Notice	Three step process that once started, can be stopped at any time. Council resolution required to start this process.
Sale of Land for unpaid rates (Sec 713) LG Act	Property can be sold by Public Auction once all requirements of the Local Government Act, 1993 have been met. Can only be used for outstanding rates and charges.

Hardship

Hardship is any situation where an individual is having difficulty paying legally owed debt. This can result from life changes (for example, because of illness, unemployment or changed financial circumstances) restricting the short-term capacity to pay. Ratepayers experiencing genuine hardship can apply for relief under Council's Hardship policy.

Interest

Interest accrues on a daily basis in accordance with section 566 of the Act on rates and charges that remain unpaid after they become due and payable. The current interest rate is shown in Council's Fees and Charges document.

Ratepayers who are unable to pay accrued interest on rates and charges for reasons beyond their control, or because payment of the accrued interest would cause them hardship, may apply to have the accrued interest written off under section 567 of the Act. All applications must be lodged in accordance with Council's Hardship Policy.

Arrangements

Ratepayers who wish to enter into a mutual payment agreement with Council to pay outstanding rates and charges must submit a written request or complete and sign Council's Application to make regular payments (**Attachment A**).

Any arrangement entered into with a ratepayer shall endeavour to clear all outstanding rates and charges within twelve (12) months from when the agreement is entered into. An agreement should not, under normal circumstances, extend beyond two (2) years. Arrangements outside the two (2) year period are granted under special consideration as outlined in Council's Hardship Policy. Hardship Applications are to be approved by the General Manager.

Where a ratepayer fails to comply with the terms of a mutual payment agreement, Council will contact the ratepayer advising that they are in default and full payment is required within fourteen (14) days from the date of contact. Contact may be verbal or in writing. The agreement will be terminated after fourteen (14) days if no response is received. The debt will be referred to Council's Debt Recovery Agency for action.

Extension to Pay

In special circumstances ratepayers may request an extension to pay their outstanding rates and charges in full by a certain date. They may be expecting funds at a future date i.e. expecting tax refund and will be able to make a bulk payment to clear all arrears. Ratepayers will need to complete the appropriate application form (**Attachment B**) and submit to Council for approval.

Direct Debts

Council will accept an arrangement whereby the debtor agrees to pay their outstanding rates and charges by direct debit providing Council's Direct Debit Request form (**Attachment C**) has been completed in full. If the direct debit fails at any time Council will be subject to a returned direct deposit charge as shown in Council's Fees and Charges. If the direct debit request fails three (3) times the arrangement will be cancelled and if required the matter will be referred for Early Stage Intervention or Council's Debt Recovery Agency for further action.

Rent for Rates – Section 569 (Rates and Charges Only)

In the case of a tenanted property, in the first instance Council should only pursue the debt directly with the landholder and, where necessary, take legal action against the landholder. Section 569 of the Act allows Council to order tenants of properties with overdue rates and charges to pay rent to Council in lieu of unpaid rates, under special circumstances.

Sale of Land (Rates and Charges only)

Should all avenues of recovery action be unsuccessful, Council is able, under section 713 of the Act, to sell land for overdue rates and charges where the rates and charges remain unpaid for a period of five (5) years, or one (1) year for vacant land, where the debt exceeds the land valuation.

The Act and the associated Regulations, detail the procedures to be followed should Council choose to follow this course of action.

Garnishee

Garnishee is a legal document issued by the court ordering third parties who hold funds on behalf of the defendant to pay funds to Council. Garnishees can be issued against a defendant's wages, bank accounts or other third party holding funds on behalf of the defendant.

Mortgagee Letter (Rates and Charges only)

Council can issue a Mortgagee letter if a Mortgage has been registered on the Certificate of Title.

Pensioners

Council encourages eligible pensioners to meet the rate commitments as they fall due. Where an eligible pensioner is in financial difficulty, Council officers shall consider the limited income of eligible pensioners and may enter into an agreement with them for the payment of rates by arrangement.

Council will accept fortnightly payments of \$20.00 or more using Centrelink's Centrepay option. As a general principle, Council does not take legal action against pensioners, however, each case will be assessed individually on its merits.

Centrepay is a voluntary bill-paying service which is free to Centrelink customers. A Centrepay deduction can be arranged by contacting the myGov helpdesk on 13 23 07, select Option 1 or logon to your Centrelink online account at <https://my.gov.au>.

Writing off of debts

Council will generally not write off debts legally owed to Council. However, the Regulations allows debts to be written off only:

- a. if the debt is not lawfully recoverable, or
- b. as a result of a decision of court, or
- c. if Council or the General Manager believes on reasonable grounds that an attempt to recover the debt would not be cost effective.

Restrict or Disconnect Water Supply

Council should only restrict or disconnect water as an option of last resort, after it has issued a notice to the tenant under section 569 of the Act and a reasonable opportunity is given to the tenant to comply with the notice.

Tenanted properties cannot have their water supply restricted as the debt is the responsibility of the landowner. In these instances, legal action will be pursued against the landowner.

Financial Counselling

Council can outline options for ratepayers to access support services to help resolve financial issues and/or negotiate arrangements to manage debt. This can be mutually beneficial as it may result in an early agreement about payment arrangements. Financial counsellors assist people to resolve debt issues by providing free, tailored expert advice. Financial counsellors provide a mix of social, financial and paralegal advice and advocacy on debt issues.

Contacting the Account Holder

In making contact and corresponding with the debtor, Council and Council's agent will follow the ACCC / ASIC Debt Collection Guidelines. Council has obligations to protect the privacy of the debtor, and when making direct contact will always ensure it is dealing directly with the debtor or their legal representative. Communications with the debtor will only occur to the extent necessary and reasonable.

Third Party Reporting

Council will not supply private credit agencies with information regarding legal action it has taken in the recovery of overdue rates. However, Council recognises that judgement details are supplied to credit agencies by NSW Courts.

Privacy and Confidentiality

Council Officers will conduct themselves with courtesy and respect when dealing with ratepayers and shall maintain the privacy and confidentiality of all ratepayers' personal circumstances.

Overview of Procedures and Flexibility

The procedures associated with this policy have been set out as a guideline for Council staff to refer to when making determinations on recovery issues. Due to the broad range of individual circumstances of our ratepayers, Council needs to remain flexible and to treat each individual case on its merits. Application form designs may change in the intervening period of this policy.

3. SUNDRY DEBTORS

Council issues sundry debtor accounts for numerous services, including private works, in accordance with Council's Operational Plan and adopted Fees and Charges. Council reserves the right to refuse credit for private work accounts where a property owner has other overdue amounts owing to Council, or has a poor payment of debt history with Council. Trading terms are 30 days from the date of the invoice, available to credit approved applicants only.

Recovery action will commence when sundry debtor accounts are not paid by the due date, unless an agreement has been entered into by the debtor to make periodical payments. Council may stop the provision of credit facilities to debtors when an account is overdue for more than 30 days. This matter will be determined in consultation with the manager of the Council department that initiated the sundry debtor request.

If an account is not paid by the due date, a second monthly statement and then a third monthly statement are forwarded as a reminder. Once an account has amounts that are 90 days in arrears, recovery action may commence if all other avenues to collect the debt are exhausted. Any costs incurred by Council in regards to actions taken to recover overdue amounts will be added to the account.