

Attachment 4 - Debt Recovery Policy - SVC-FIN-PO-086-01 - Approved by Council 21 11 2019 Adopted after Public Exhi



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| Policy Title | Debt Recovery Policy |
| Policy Category | Operational |
| Number & Version | SVC-FIN-PO-086-01 |
| Policy Owner | Finance |
| Approval by | Council 21 November 2019 |
| Effective date | After Public Exhibition - 28 December 2019 |
| Date for review | September 2020 |

1 POLICY STATEMENT

To outline the recovery procedures that will be undertaken by employees on behalf of Snowy Valleys Council (Council) to ensure the effective control over all debts and to maintain Council's rate collections to a percentage of at least 95%.

2 DEFINITIONS

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|---------------------------|---|
| Council Officials: | Councillors, administrators, employees |
| Act: | NSW Local Government Act 1993 |
| Interest: | The fee charged by Council, expressed as a percentage, on rates and charges that remain unpaid after the due date. |
| Interest Rate: | Made in accordance with Section 566 of the Local Government Act 1993 |
| Rate Payer: | The person liable for the payment of rates and charges for the property in accordance with section 560 of the Local Government Act 1993 |
| Sundry Debtor: | A person, organisation, company or other entity that has a debt or legal obligation to pay an amount to Council |

3 METHOD

Payment of Rates and Annual Charges

Rates notices are issued by 1 August each year in accordance with Section 562 of the Local Government Act 1993 (The Act).

Section 562(3) of the Act defines that rates and annual charges may be paid by a single instalment by 31 August or by quarterly instalments. If payments are made by quarterly instalments, the instalments are payable as follows:

Instalment 1 - Due 31 August
 Instalment 2 - Due 30 November
 Instalment 3 - Due 28 February
 Instalment 4 - Due 31 May

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Instalment reminder notices are issued on or before 31 October, 31 January and 30 April of each financial year.

Rates and charges not paid by the due date are considered outstanding.

Interest on overdue rates and charges

Council will charge interest on outstanding rates and charges that remain unpaid 7 days after they become due and payable. Interest is charged in accordance with Section 566 of the Act. Interest accrues on a daily basis. The rate of interest is set by Council but not exceeding the rate specified by the Minister for Local Government. Accrued interest is, for the purpose of its recovery, taken to be a charge which is due and payable.

Payment Arrangement

Council accepts that there are ratepayers who cannot meet mandatory instalment amounts by the due dates as provided under section 562 of the Act.

Council therefore may accept an alternative payment schedule by way of a short extension or a payment arrangement under section 564 of the Act. Payment arrangements can be weekly, fortnightly or monthly payments provided that Council determines that the reasons for the arrangement is acceptable.

Payment arrangements should, where possible, seek to have the outstanding amount and the future rate instalments (including water consumption where applicable) paid in full by 30 June of the current financial year.

Where payment arrangements will not pay the rates and charges in full by 30 June, the arrangement should, where possible, pay the outstanding amount and future instalments (including water consumption where applicable) within twelve (12) months.

Ratepayers who are not able to enter into an arrangement that would clear the outstanding rates and charges within twelve (12) months should be referred to the *Financial Hardship policy/procedure* and encouraged to seek financial support/advice.

Arrangement offers for amounts that are insufficient to pay the outstanding amount will only be accepted for a maximum period of three months to allow the rate payer to seek financial support and make further contact with Council.

Payment arrangements that are for a period of greater than three months will be documented in writing in a payment arrangement agreement. Customers are required to sign and return the completed agreement, this formalises the arrangement and will commit the ratepayer to the agreed payment schedule.

Rate payers who default on two (2) or more occasions on the payment arrangement entered, will have the payment arrangement cancelled and recovery action may continue.

In accordance with section 568 of the Local Government Act 1993, payments will be applied towards the payment of rates and charges in the order in which they became due.

Council may write off or reduce interest accrued on rates or charges if the person complies with the agreement as per section 564 of the Act.

The CEO is to be advised by Rates department of any employee or Councillor whose overdue account has been referred to Councils debt collection agency. These employees are to be treated the same as any other ratepayer.

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Recovery of Rates Debts

1. Reminder notices are issued for all accounts outstanding over \$5.00 by Council, through Councils mail house after minimum 7 business days (this allows for processing of rural centre transactions that collect money on Councils behalf). Reminder notices gives 14 days to pay, interest is raised on these accounts prior to issuing.
2. All accounts still outstanding and where no communication has been received or arrangement organised will be sent to Councils Debt Collection Agency. The accounts will be minimum of \$100.00. A letter will be issued by Councils Debt Collection Agency on Councils letter head for a further 14 days.
3. If no communication or arrangement has been made and the account is still outstanding Councils Debt Collection Agency will send a letter of demand allowing the customer 7 days to pay. The agency may also attempt other means of communication including but not limited to email, phone sms/calls or mail.
4. If no communication or arrangement has been made and the account is still outstanding Councils Debt Collection Agency will send a final letter of demand allowing a further 7 days to pay. The final demand letter is to include a warning of pending legal action. The agency may also attempt other means of communication including but not limited to email, phone sms/calls or mail.
5. Where no response is received or the rate payer's address unknown, a notice under section 569 of the Local Government Act 1993 may be issued or Council will instruct the debt collection agency to proceed with statement of claim (SOC) or any other action specified by Council or recommendation from collection agency on amounts greater than \$750.00 (Including any accrued interest) if the customer has not made any arrangement or contact. 28 days waiting period from issuing of statement of claim.
6. Prejudgment letter is issued 10 days before judgment.
7. Where a response to statement of Claim is not received, default judgment is to be entered.
8. Enforcement actions to recover rates, water, sundry or other costs may be taken after default judgment has been entered. These may include
 - a. An Examination Notice
 - b. An Examination Order
 - c. A Warrant if failing to attend the Examination
 - d. A Garnishee Order for wages/salary or debts
 - e. Writ for Levy of Property
 - f. Bankruptcy
 - g. Sale of Land
 - h. Winding up of a company

Water Usage Charges

Water usage accounts are considered overdue immediately following the due date as per the notice issued.

Suitable Arrangements

A ratepayer may make a suitable arrangement for the payment of their water usage charges, including those accounts already with the Debt Collection Agency, note consideration must take place depending where legal proceedings are at.

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A suitable arrangement for payment will clear the total outstanding debt by the following quarterly water account or subsequent quarters. Where payment arrangements will not pay the water usage in full by 30 June, the arrangement should, where possible, pay the outstanding amount and future usage (including rates and charges where applicable) within twelve (12) months.

Arrangement offers for amounts that are insufficient to pay the outstanding amount will only be accepted for a maximum period of three months to allow the rate payer to seek financial support and make further contact with Council.

Recovery of Water Debts

1. Reminder notices are issued for all accounts outstanding over \$5.00 by Council, through Councils mail house after minimum 7 business days (this allows for processing of rural centre transactions that collect money on Councils behalf). Reminder notices gives 14 days to pay, interest is raised on these accounts prior to issuing.
2. Water restriction notice issued minimum 5 business days after the water reminder notice, if an account in excess of \$100 remains unpaid or no satisfactory payment arrangement has been made, a water restriction notice is issued by Council. The due date for payment is 14 days from the date of the water restriction notice.
 - i. For **domestic water accounts**, restriction of supply is to be used for at least thirty (30) days prior to referring the action for enforcement. This action can be skipped where the CFO & IT is of the opinion that:
 - Restricted water flow will have an significant negative health impact; or
 - Where the CFO or CEO is of the opinion that progressing to the enforcement is the most appropriate action.
 - ii. For **commercial accounts** restriction of supply is to be used for at least thirty (30) days prior to referring the action for enforcement. This action can be skipped where the CFO & IT is of the opinion that:
 - Restricted water flow will have an significant negative health impact on employees or customers;
 - That the economic impacts on the business are likely to be higher than the cost of enforcement; or
 - Where the CFO or CEO is of the opinion that progressing to the enforcement is the most appropriate action.
3. At the expiration of 7 days after the due date of the water restriction notice, if no payment or satisfactory payment arrangement has been made, a notice of intention to restrict water supply is issued by Council. A restriction action notice penalty as per Council *Fees and Charges* applies to the issue of this notice.
4. On or as soon as practicable after the nominated date appearing on the notice of intention to restrict if no payment or satisfactory arrangement has been made, the restriction device is to be fitted to the water meter connected to the property.
5. At the expiration of 14 days after the restriction device has been fitted to the water meter, if an account remains unpaid or no satisfactory payment arrangement has been made, a notice of intention to disconnect authorised by the CFO may be issued. The disconnection of the water meter connected to the property will occur on or soon after a nominated date. A restriction/disconnection notice penalty as per *Councils Annual Fees and Charges* applies to the issue of this notice. A service disconnection/reconnection fee, as per *Council annual fees and charges* also applies.

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6. If after water restrictions or disconnection have been put in place and the debt remains outstanding the recovery of the debt may be forwarded to Councils Debt recovery Agent for legal proceedings. In such instances the debt collection procedures in steps 3 to 8 as listed in the Rates section of this Policy are to apply.

Sundry Debtors

This encompasses all amounts owing to Council excluding rates and charges, water usage accounts.

Due Dates

Council issues debtor accounts for numerous services. These services include but are not limited to, trade waste services, private works, employee uniforms, leases and property rentals. Accounts are generally issued on a weekly, fortnightly or monthly basis. The trading term is 30 days from date of invoice, available to credit-approved applicants only.

Overdue Amounts

Sundry debtor accounts are considered overdue immediately following the due date. Council reserves the right to deny access to Council facilities or suspend services or suspend credit terms to customers with overdue amounts.

Suitable Arrangements

A debtor may make a suitable arrangement for the payment of their sundry debtor account, including those accounts already with the debt recovery agent. A suitable arrangement for payment will clear the total debt within 60 days of making the arrangement.

The CEO is to approve arrangements for payment where the proposed payment arrangement will not clear the debt as per above. In accordance with section 568 Local Government Act 1993, money paid in respect of sundry debtor amounts is to be applied towards payment of those amounts in the order in which they became due.

Debt Collection

The procedure for the collection of debts due to Council will follow those procedures outlined in steps 1 to 8 of the rates section of this policy. Further consideration for the collection of rates and charges, water usage and sundry debtor debts.

Sale of Land For Unpaid Rates

The ultimate recourse Council has to recover unpaid rates and charges is the enforced sale of property. This is not an action that is taken lightly and follows five years of refusal to pay or enter into a repayment arrangement. Proceeds for property sales are used to recover the debt to Council and the remaining funds are returned to the property owner or their representatives.

4 ASSOCIATED LEGISLATION

Local Government Act 1993 NSW
Local Government (General Regulation) 2005

5 ASSOCIATED COUNCIL DOCUMENTS

Hardship Assistance Application Form – SVC-FIN-F-125
Arrangements to Settle Accounts Policy – SVC-FIN-PO-084
Arrangements to Settle Account Form – SVC-FIN-F-126
Complaints Management Policy – SVC – COR-PO-037
Rates Hardship Policy – SVC-FIN-PO-085
Rates & Annual Charges Protocols – SVC-FIN-PR-050
Sale of Land Procedure - Draft

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6 HISTORY

| Date | Action | Name | Policy Number | Resolution Date | Resolution Number |
|------------|--|--|-----------------------|-----------------|-------------------|
| 5/2000 | superseded | Debt Recovery (Former Tumut Shire Council) | Fin 01.v1.4 | | |
| | superseded | Debt Recovery (Former Tumbarumba Shire Council) | TSC-FIN-PO- 110 | | |
| 28/12/2019 | Approved after public exhibition 28/12/2019 | Debt Recovery Policy | SVC-FIN-PO- 086-01 | 21/11/2019 | M382/19 |

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10.3. REVIEW OF CHARGING, DEBT RECOVERY AND HARDSHIP POLICIES - FOR PUBLIC EXHIBITION - ATTACHMENTS