

# JUNEE SHIRE COUNCIL

## POLICY REGISTER

**SUBJECT: RATES & CHARGES**

**POLICY TITLE: RATES & CHARGES DEBT RECOVERY POLICY**

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### **1. Objective**

To establish guidelines for the General Manager and staff on appropriate debt recovery and write-off procedures to ensure effective control over Rates and Charges that become due and payable.

To fulfil the statutory requirements of the Local Government Act, 1993 with respect to the recovery of outstanding rates and charges.

### **2. Definitions**

*Rateable person – includes the Crown in respect of rateable land owned by the Crown and means:*

- a) *An owner in any case where the Local Government Act 1993, provides that a rate is to be paid to the Council by the owner, and*
- b) *A holder of a lease in any case where the Local Government Act 1993, provides that a rate is to be paid to the Council by the holder of the lease.*

### **3. Background / legislative requirements**

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

### **4. Policy statement**

Council acknowledges that ratepayers will, for various reasons from time to time, fail to pay rates when they become due and payable to Council. It is not the intention to cause hardship to any ratepayer through Council's recovery procedures and consideration will be given to acceptable arrangements to clear the debt prior to the end of the current financial year, where possible.

The General Manager has the delegated authority to assess/approve and/or reject payment arrangement plans from any customer after receiving a written request.

The General Manager has the delegated authority to proceed with legal action to recover outstanding rates and charges where an arrangement plan has defaulted or if the ratepayer has failed and/or neglected to pay one or more instalments or a suitable attempt has not been made to clear the outstanding balance within a time specified as reasonable by Council.

## **PROCEDURES**

### **Rates and Annual Charges**

Rates Notices are issued prior to 31st July each year in accordance with Section 562 of the Local Government Act 1993. Instalment notices will be issued one month prior to the instalment due date in accordance with Section 562 (5) of the Local Government Act, 1993.

Instalments are due on the following dates each year:

- 31 August
- 30 November
- 28 February
- 31 May

### **Interest on Overdue Rates and Annual Charges and Other Accounts**

Interest is calculated daily on overdue rates and charges at the maximum rate announced by the Minister for Local Government each year in accordance with Section 566 (3) of the Local Government Act, 1993.

Interest is not charged on legal costs.

Section 564 and 567 of the Local Government Act allows Council to provide assistance to ratepayers by writing off accrued interest charges. All applications for assistance must be made to Council in accordance with Council's Rates and Charges Hardship Policy.

### **Rates Reminder Notice / Letters from Debt Recovery Agent**

A Rates Reminder Notice shall be issued where applicable within 30 days after the due date of an instalment to those ratepayers who have an outstanding instalment balance greater than \$20.00 and have not made previous satisfactory payment arrangements with Council.

This notice gives the ratepayer the balance outstanding and the option of paying this debt off via a suitable payment arrangement. The reminder notice will request payment within 14 days from the posting date of the letter.

If a reminder notice does not result in payment in full or a suitable payment arrangement being made, a notice of intent to commence legal action will be issued by Council's debt recovery agent. The notice of intent to commence legal action will be sent to ratepayers where arrears exceed \$750. It will give the ratepayer 14 days from the posting date of the letter in which to pay the arrears or to make a satisfactory arrangement to pay.

Council's debt recovery agent will send an Overdue Notice letter to ratepayers with arrears between \$250 and \$750 requesting payment or a suitable arrangement to pay.

### **Sundry Debtors and Other Accounts**

The debtor will receive an invoice detailing the particulars regarding the invoice and payment is required within 30 days. Statements are mailed on a monthly basis to all debtors with amounts owing to serve as a reminder to pay.

For amounts exceeding \$750, if not paid within 60 days, the debtor will receive a notice of intent to commence legal action.

For amounts under \$750, Council staff will contact the debtor either by phone and/or by letter to request payment or a suitable arrangement to pay.

After 90 days accounts exceeding \$750 will be submitted for legal action to Council's debt recovery agency.

### **Payment Arrangements**

Arrangements may be entered into with all ratepayers in accordance with Section 564 of the Local Government Act, 1993.

Arrangements are to be negotiated with the aim of recovering all arrears and the current year's rates and charges within the current rating year, where possible. It is Council's intention to have outstanding balances paid within three months of an arrangement being made.

However, Council is sympathetic to ratepayers with special circumstances and payment of outstanding amounts should be settled within 12 months from the date the arrangement is made. Current and future instalments should be paid in addition to the payment arrangement.

All requests for payment arrangements are to be made in writing or by completing Council's Application for Payment Arrangement Form. Payments can be made weekly, fortnightly or monthly or as recommended by Council's General Manager and staff.

Where a payment arrangement has expired and an overdue balance still exists, a letter will be issued to the ratepayer advising the account to be finalised or to contact Council to establish a new payment arrangement.

Where the ratepayer fails to adhere to an agreement Council will advise in writing that the agreement has defaulted. The ratepayer may make a suitable new arrangement which will be confirmed in writing. Failing this, recovery action will commence or be continued unless the outstanding balance is paid within fourteen days from the date of the letter. If legal action has been suspended due to the ratepayer entering into a payment arrangement and the agreement has not been met by the ratepayer, the legal action will be reactivated at the level when the suspension took place.

### **Pensioners**

Where the ratepayer is an eligible pensioner, every attempt is to be made to assist the pensioner in paying rates and charges as they fall due within the current year. However, where circumstances may exist Council may accept an arrangement from a ratepayer who is a pensioner and requests a period of no more than two years to clear the outstanding debt.

### **Recovery Action**

If no payment is received or no arrangement made following the issue of the notice of intent, a Statement of Claim will be prepared, issued and served by Council or its debt recovery agent.

Following the expiration of the statutory period if the debt is not cleared or no arrangement made, a Notice of Motion - Default Judgement for Liquidated Claim will be lodged.

Recovery action by Council or its agent to recover outstanding debts that will be considered may include, but not be limited to:

- A garnishee of income;
- Writ of execution on goods and chattels;
- Examinations summons;
- Service or a rent order where the property is tenanted;
- Sale of land for unpaid rates in accordance with Section 713 of the Local Government Act 1993.

Arrangements for payment may be accepted after legal action has commenced, subject to the continuation of legal action should the ratepayer not adhere to the approved arrangement.

Section 712 (1) of the Local Government Act 1993 provides that proceedings for the recovery of a rate or charge may be commenced at any time within 20 years from the date when the rate or charge became due and payable.

All legal costs and expenses incurred in recovering outstanding rates and charges shall be charged against the property in accordance with Section 605 of the Local Government Act, 1993.

In accordance with Section 459 of the Corporations Act 2001, where the ratepayer is a company and has been served with a creditors statutory demand (Section 459E of the Corporations Act 2001) and the ratepayer has not complied within the 21 day period, Council has the right to commence proceedings to have the debtor company wound up and a liquidator appointed. All debts regarding the issue of a creditors' statutory demand must exceed the sum of \$2,000.00

### **Sale of Land for Unpaid Rates and Charges**

Where any rate or charge is overdue and has remained unpaid for more than five years from the date on which it became payable, Council may proceed to sell the land in accordance with Division 5, Part 2, Chapter 17 of the Local Government Act, 1993.

Where any rate or charge is overdue in respect of vacant land and the amount exceeds the Valuer General's current valuation of the property, Council may proceed to sell the land in accordance with Division 5, Part 2, Chapter 17 of the Local Government Act, 1993.

On an annual basis, a report shall be referred to Council for consideration listing all ratepayers who fall into the above category. 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.

## **5. Attachments**

Payment arrangement application follows:

**DATE ADOPTED:** 19 April 2011  
**MINUTE NO:** 06.04.11  
**DATE READOPTED:** 18 March 2013  
**MINUTE NO:** 06.03.14

**June Shire Council**

**Application for Payment Arrangements**

NAME:

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

PHONE NUMBER: (AH) \_\_\_\_\_ (BH) \_\_\_\_\_ (MOB) \_\_\_\_\_

CIRCLE ACCOUNT TYPE: RATES DEBTORS OTHER

ACCOUNT NUMBER: \_\_\_\_\_

BALANCE OWING: \$ \_\_\_\_\_

I hereby wish to make application to repay the above mentioned balance in the following manner, subject to the conditions set out hereunder.

*ARRANGEMENTS MADE:*

**CONDITIONS OF ARRANGEMENT:**

- Each payment must be made on or before the due date.
- All current accounts must be paid on or before the due date.
- No variance may be made to this schedule without the approval of Council.
- Failure to honour this agreement may result in legal action being commenced for the recovery of the debt.

Please note that under Section 566 of the Local Government Act 1993 interest charges will continue to accrue on the current overdue balance owing and also any subsequent quarterly instalments not received by the due date.

I understand and accept these conditions and agree to the outlined payment schedule.

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

AUTHORISED: \_\_\_\_\_

DATE: \_\_\_\_\_