

Policy Number: F.01.02

Policy Section: Finance

Person Responsible: Finance and Administration Director

Policy Title: DEBT RECOVERY

Date of Adoption: This policy is the consolidated document of the previous position of Yallaroí Shire Council, Bingara Shire Council and Barraba Shire Council prior to amalgamation on 17/03/2004.

Date of Review: September, 2008

File reference:

OBJECTIVES:

To establish a debt collection program for both property related debts and other debts which maximises inward cash flow to Council and provides the flexibility to manage Council debt in a sensitive manner and at minimal expense to both Council and the respective debtor.

POLICY STATEMENT:

GENERAL

For debt recovery purposes, debts are considered to be overdue in the following circumstances:

- Rates and Annual Charges three (3) days after the instalment due date.
- Water Charges thirty (30) days after the account issue date.
- Sundry Debtors thirty (30) days after the invoice issue date.

RATES AND ANNUAL CHARGES

1. Section 562(3)(b) of the Local Government Act 1993 defines the dates on which rate instalments fall due as 31 August, 30 November, 28 February and 31 May in each financial year. Rate Notices shall be issued within the first two (2) weeks of July each year. Instalment

Notices shall be issued one (1) month prior to the instalment due date in accordance with Section 562 (5) of the Act (e.g. 2nd Instalment Notice shall be posted no later than 31 October).

2. Within thirty (30) days after the overdue date, a “Reminder Notice” or “Statement of Account” shall be forwarded to the debtor. The notice shall advise the amount outstanding and that interest charges are attracted at the statutory rate in accordance with Section 566 of the Local Government Act 1993 (See Attachment A). The letter shall refer to an included “Acknowledgement of Debt” form that is to be completed and returned to this office by the debtor (See Attachment B).
3. Debts which remain outstanding sixty (60) days after the overdue date shall be issued with a “Final Notice” requesting payment of the amount in full or for the debtor to contact the Revenue Officer or Finance Manager to make alternative arrangements. This letter shall indicate that failure to pay will result in legal action being initiated to recover the debt, together with any statutory interest and legal charges (See Attachment C).
4. Should a response not be received from the debtor as a result of the Final Notice, legal action shall be commenced and:
 - Where applicable, on-going credit for the debtor shall be suspended; and
 - A list of such debts shall be prepared and submitted to the Finance Manager for authorisation, or otherwise, for the issuing of a Statement of Liquidated Claim against the debtor.

WATER USER CHARGES

1. Council shall issue an account for water charges to each consumer three (3) times per year in March, November and July following the reading of water meters. The account shall provide all relevant details including previous reading, present reading, water consumption, consumption charge, total charge and due date.
2. Within thirty (30) days after the overdue date, a “Reminder Notice” or “Statement of Account” shall be forwarded to the debtor (See Attachment A). The letter shall refer to an included “Acknowledgement of Debt” form that is to be completed and returned to this office by the debtor (See Attachment B).
3. Should a response not be received from the debtor as a result of the Reminder Notice, a “Final Notice” shall be issued to those accounts that remain outstanding sixty (60) days after the due date (See Attachment C). The letter shall request payment in full within seven (7) days, or a suitable arrangement be made with the Revenue Officer or Finance Manager, following which water restrictions shall apply. The

restrictions shall allow limited water flow to meet basic requirements only. Resumption to normal mains supply shall be subject to an eighty dollar (\$80.00) reconnection fee payable in addition to the overdue amount. The letter shall also indicate that failure to pay will result in legal action being initiated to recover the debt and associated legal charges.

4. Should a response not be received from the debtor as a result of the Final Notice and imposition of water restrictions, legal action shall be commenced and:
 - Where applicable, on-going credit for the debtor shall be suspended, and;
 - A list of water accounts remaining outstanding after ninety (90) days shall be prepared and submitted to the Finance Manager for authorisation, or otherwise, for the issuing of a Statement of Liquidated Claim against the debtor.

SUNDRY DEBTORS

1. A debt owed to the Council outside of the Rates and Water User Charges is classified as a Sundry Debtor.
2. Following completion of the works, an invoice shall be raised detailing the work undertaken, the due date and the amount owing. Debtors shall be issued with a Statement of Account on a monthly basis.
3. Debts which remain outstanding ninety (90) days after the overdue date are to be issued with a "Letter of Demand" requesting payment of the amount in full or for the debtor to contact the Revenue Officer or Finance Manager. This letter shall indicate that failure to pay will result in legal action being initiated to recover the debt and associated legal charges (See Attachment D).
4. Where no contact is established with the debtor or where the debtor fails to enter into a satisfactory arrangement:
 - Where applicable, on-going credit for the debtor shall be suspended; and;
 - A list of such debts shall be prepared and submitted to the Finance Manager for authorisation, or otherwise, for the issuing of a Statement of Liquidated Claim against the debtor.

LEGAL ACTION

Subject to the discretion and judgement of the Revenue Officer and Finance Manager, legal action may be initiated when:

- Rates and Annual Charges: Two (2) instalments are outstanding.

- Water User Charges: Water restrictions are applied and the debt exceeds ninety (90) days.
- Sundry Debtors: All amounts outstanding after ninety (90) days.

LITIGATION

A Statement of Liquidated Claim (Summons) shall be issued by the Local Court after expiration of the Final Notice or Letter of Demand. Council may subsequently accept payment in full or agree to a satisfactory arrangement.

At the discretion of the Revenue Officer or Finance Manager, Council may choose to accept an arrangement via a Court Instalment Order. Under such an arrangement, the debtor must deal directly with the court. Failure to comply with the order shall impose immediate judgement on the debtor.

Where a debtor lodges a defence against the Statement of Liquidated Claim, the Finance Manager is to be immediately advised and instructions sought. A Solicitor may need to be retained and briefed pending the Court hearing.

DEFAULT JUDGEMENT

Council files for Judgement in the Local Court after the expiration of the Statement of Liquidated Claim. Default Judgement should be filed thirty five (35) days after the Statement of Liquidated Claim was served.

GARNISHEE

Garnishee proceedings permit Council to satisfy the outstanding debt from moneys due to the debtor from third parties. Council may garnishee the wage or salary payable to the debtor.

SEIZURE OF GOODS

Where default Judgement is obtained, an application for the issue of a Writ of Execution shall made to the Local Court within seven (7) days of receipt of the Judgement.

Where seizure of goods is made by the Sheriff in accordance with a Writ of Execution, the Finance Manager is to be immediately advised and his/her affirmation obtained in relation to the physical retrieval of the goods and their disposal at auction or otherwise.

SALE OF LAND

Pursuant to Section 713 of the Local Government Act 1993, Council may, subject to the provisions of the act, sell any land on which a rate is overdue and remains unpaid for more than 5 years. The General Manager shall be advised and his approval obtained prior to commencement of sale of land to collect unpaid rates. Advice shall also be given in the actions taken under this

policy. A certificate shall be prepared and authorised by the General Manager to formalise the requirements of this section of the Act (See Attachment E).

EXTERNAL DEBT COLLECTION AGENCIES

At the discretion of the Finance Manager, external debt collection agencies may be used for any or all of the above debt recovery processes, including the making and monitoring of satisfactory instalment payment arrangements by debtors, where there is no charge to Council by the external agency. In the majority of circumstances, this option will only relate to property debts.

For non-property related debts, the Finance Manager may engage external debt collection agencies to undertake any or all of the above debt recovery processes, including the making and monitoring of satisfactory instalment payment arrangements by debtors, where there is minimal cost to Council and within budgetary constraints.

PENSIONERS/HARDSHIP

In the circumstances where the debtor is a pensioner or a person suffering from financial hardship, the ability of the debtor to make full or part payments shall be carefully examined. Subsequent demands or arrangements shall be made without causing further financial hardship. Information provided by debtors to enable an assessment of their overall financial position shall, at all times, be treated as 'Confidential'.

NON-RECOVERABLE DEBTS

Where the anticipated non-recoverable costs to Council, either internal, external or both, of collecting a debt is deemed by the Revenue Officer to be substantial, or potentially substantial, the prior approval of the Finance Manager is to be obtained in relation to the most cost effective method of recovering the debt.

Recovery procedures are to be initiated for all amounts owing to Council, irrespective of the amount. However, for debts not exceeding \$2,000, where it is determined by the General Manager either before or during the debt recovery process that the cost of attempting to recover the debt exceeds the amount thereof, then that debt may be written-off.

CONCLUSION

It is not the intention of Council to cause hardship to any ratepayer through implementation of this policy. At all times, consideration shall be given to clearing the debt by way of mutually agreed arrangements of payment with a view to clearing the debt prior to the end of the current financial year. This will minimise the possibility of compounding manageable repayment programs into long term debtor problem.

ATTACHMENT A

XX September 2XXX

Mr. A & Mrs. B Ratepayer

Dear Madam/Sir

Re: Statement of Account - Rate Assessment No. XXX.X0000.X

I refer to the above assessment and advise that as at the date of this correspondence, amounts owing to Council are as follows:

Rates and Annual Charges	\$ X,XXX.XX
Water User Charges	<u>\$ XXX.XX</u>
Total	\$ X,XXX.XX

In accordance with Section 566 of the Local Government Act 1993, interest at the statutory rate of XX % accrues on a daily basis on rates and annual charges that remain unpaid after they become due.

You are advised that Council will be commencing a program for recovery of all outstanding debts, involving legal action, in the coming month.

Consequently, it shall be in your best interest to clear the debt or complete the attached "Acknowledgement of Debt" form and return it to this office with your first instalment by XX September 2XXX.

Failure to comply with this request shall result in action being commenced against you. Your early attention to this matter is urged.

Yours Faithfully

M. T. Eastcott
General Manager

ATTACHMENT B

Address:.....
.....

The General Manager,
Gwydir Shire Council,
Maitland Street,
BINGARA NSW 2404

Dear Sir,

ACKNOWLEDGMENT OF DEBT

Amount.....

Being For Rates and Charges/Excess Water

Reference.....

I.....of.....

.....hereby agree:-

- (1) To pay the abovementioned debt by instalments of \$.....
per week/fortnight, until such time as the total amount outstanding has
been paid.
The first instalment being paid on.....

OR

- (2) To pay the total amount outstanding on or before.....

**I acknowledge that failure to honour this agreement will result in
immediate action being taken by Council to recover the total amount
outstanding.**

.....Date:.....

Signature

.....

Name

Witness

ATTACHMENT C

XX October 2XXX

Mr. A & Mrs. B Ratepayer

Dear Madam/Sir

Re: Final Notice - Rate Assessment No. XXX.X0000.X

Outstanding Amounts:

Rates and Annual Charges	\$X,XXX.XX
Water User Charges	<u>\$ XXX.XX</u>
Total	\$X,XXX.XX

I refer to previous correspondence in relation to the outstanding amounts and note that, to date, Council has received no payment or advice of your intentions in dealing with this matter.

You are urged to give this matter your immediate attention as Council intends to commence legal proceedings by the issue of a Statement of Liquidated Claims to recover the outstanding amount, together with statutory interest and legal charges, on XX October 2XXX.

Should your account include an overdue water amount, Council advises the account must be paid with seven (7) days, or a suitable arrangement made with Councils Revenue Officer, or restrictions shall apply to your water supply. The restrictions shall allow limited water flow to meet basic requirements only. Resumption to normal mains supply shall be subject to an eighty dollar (\$80.00) reconnection fee payable in addition to the overdue amount.

Yours Faithfully

M. T. Eastcott
General Manager

ATTACHMENT D

XX October 2XXX

Mr. A & Mrs. B Debtor

Dear Madam/Sir

Re: Letter of Demand - Debtor No. XX.XXXXX.X

I refer to the above assessment and advise that as at the date of this correspondence, amounts owing to Council are as follows:

Invoice No. XXXXX	\$X,XXX.XX
Invoice No. XXXXX	<u>\$ XXX.XX</u>
Total	\$X,XXX.XX

Ninety (90) days has elapsed since raising the accounts and, as at the date of this correspondence, Council has received no payment or advice of your intentions in dealing with this matter.

You are urged to give this matter your immediate attention. Council intends to commence legal proceedings by the issue of a Statement of Liquidated Claims to recover the outstanding amount and associated legal charges on XX October 2XXX.

Yours Faithfully

M. T. Eastcott
General Manager

ATTACHMENT E

GWYDIR SHIRE COUNCIL

Certificate for Sale of Land for Unpaid Rates

Assessment No. Lot: Sec: Psh: D.P. Location: Road: Area: Vol: Fol: No.			Surname: Other Names: Last Known Address:		
Rates Due on Above Land					
Kind of Rate	Date of Resolution	Amount of Rate	Date Due	Interest on Rate Due	Total
Rate Notices Served in respect of the above rates					
Year	Person Served	Address	Date of Service	Proof of Service	

The total amount of rates and charges overdue for more than five (5) years within the meaning of Section 713 of the Act are \$

The total amount of rates and changes overdue excluding rates overdue for more than five (5) years are \$

I, the General Manager of the above named area, hereby certify that the particulars herein furnished are to the best of my knowledge and belief true and correct in every particular, and can be supported by the production of the books and records of the Council.

Witness.....
Address.....
Date.....
.....

General Manager