

Warringah Council Policy

Policy No. PL 515 Rates

Rates and Annual Charges Recovery and Hardship Policy

1 Purpose of Policy

To establish clear guidelines on appropriate debt recovery and write-off procedures to ensure effective control over Rates and Annual Charges that become due and payable.

To establish guidelines when dealing with ratepayers, suffering genuine financial hardship, with the payment of their Rates and Annual Charges

To fulfil the statutory requirements of the Local Government Act, 1993 (the Act) with respect to both the recovery of outstanding Rates, Annual Charges and Interest and the provision of assistance to those ratepayers who are experiencing genuine financial hardship with the payment of their Rates and Annual Charges.

2 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 approve 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.

Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. This policy establishes guidelines for assessment of a hardship application applying the principles of fairness, integrity, confidentiality and compliance with statutory requirements. It applies to all applications for waiving, alternative payment arrangements or writing off rates, fees, annual charges and interest accrued on such debts.

The General Manager has the delegated authority to assess applications due to hardship and payment arrangement plans from any customer after receiving a formal application for hardship assistance.

3 Principles

3.1 Debt Recovery

Council has a responsibility to recover monies owing to it in a timely, efficient and effective manner to finance its operations and ensure effective financial management.

Council aims to ensure effective control over debts owed to Council, including overdue rates, charges and interest and to establish debt management procedures for the efficient collection of receivables and the recovery of outstanding debts including deferment and alternative payment arrangements.

The other key principles that will apply to the collection of overdue rates and charges are as follows:

- a) Council's aim is to collect all rates and charges by the end of each rating year;
- b) A fair and reasonable approach to recovery will apply;
- c) Council will individually assess cases of financial hardship;
- d) Council will not reduce rates or charges, but will consider alternative approaches to dealing with cases of financial hardship;
- e) Council will consider periodical payment arrangements in cases of hardship or extenuating circumstances;
- f) Council will utilise the services of Mercantile Agents where required;
- g) Council will aim to keep its Rates and Annual Charges Ratio at or below Industry Best Practice however, it will not pursue through legal action the collection of outstanding Rates and Annual Charges from pensioners;
- h) Council will apply the provisions of the Act relating to the sale of land to recover overdue Rates, Annual Charges and Interest when appropriate.

3.2 Hardship Assistance

This policy recognises that due to exceptional circumstances, owners may at times encounter difficulty in paying rates and charges as they fall due, or adhere to a regular payment arrangement. This policy provides the framework to be followed to provide assistance to those owners who are suffering genuine financial hardship.

The Act provides Council with the following options for providing assistance to ratepayers who are finding it difficult to pay their rates and charges because of financial hardship:

3.2.1 Assistance by Periodical Payment Arrangements

Section 564 of the Act provides that Council may accept payment of rates and charges due and payable by a person in accordance with an agreement made with the person and may write off or reduce interest accrued on rates or charges if the person complies with the agreement.

3.2.2 Assistance by writing off accrued interest and costs

Under Section 567 of the Act Council may write off accrued interest on rates or charges payable by a person if, in its opinion

- a) the person was unable to pay the rates or charges when they became due and payable for reasons beyond the person's control, or
- b) the person is unable to pay the accrued interest for reasons beyond the person's control, or
- c) payment of the accrued interest would cause the person hardship.

3.2.3 Assistance to extend pensioner concession to avoid hardship

Section 577 of the Act, enables Council to make an order deeming certain persons who are jointly liable with an eligible pensioner(s) or solely liable, but who are not themselves eligible, to be eligible pensioners for the purpose of a mandatory reduction in rates and charges to avoid hardship.



3.2.4 Abandonment of Pensioners' Rates and Charges

Under Section 582 of the Act Council may waive or reduce rates, charges and interest due by any person who receives a pension, benefit or allowance under Chapter 2 of the Social Security Act 1991 of the Commonwealth and is the holder of a pensioner concession card issued by or on behalf of the Commonwealth Government.

3.2.5 Assistance due to General Revaluation of the Local Government Area

Under Section 601 of the Act a ratepayer who incurs a rate increase in the first year following a revaluation of land and suffers substantial hardship, may apply to Council for relief. Council has the discretion to waive, reduce or defer the payment of the whole or any part of the increase in the amount of the rate payable by the ratepayer in such circumstances, for such period and subject to such conditions as it thinks fit.

3.2.6 Deferral of Recovery Proceedings against Eligible Pensioners

Under Council's Rebate of Pensioners' Rates and Charges Policy (FIN-PL 511) where in Council's opinion payment of Rates and Charges would cause hardship eligible pensioners over the accepted male retirement age may be allowed to accrue Rates and Charges against their estate. Interest charges are to accrue on overdue Rates and Charges on a daily basis in accordance with s566 of the Act. Accrued interest is to be applied to assessments on a weekly basis subject to procedures for issuing Notices.

Council recognises the large number of pensioner ratepayers in the community and recognises the difficulties some pensioner ratepayers have in meeting their Rates and Annual Charges payments.

Under Section 712 of the Act proceedings for the recovery of a rate or charge may commence at any time within nineteen years from the date when the rate or charge became due and payable. The Local Government Rating and Revenue manual advises Councils have discretion to accrue rates, charges and interest against a pensioner's estate. The Division of Local Government advises if Councils wish to utilise this discretion, agreement is required from the pensioner ratepayer.

Where the eligible pensioner requests a delay in recovery action to allow outstanding rates, charges and interest to accrue against their estate and is willing to enter into an agreement, Council will:

- a) Provide an annual rates notice of all outstanding rates, charges and interest as it does for all ratepayers as well as instalment reminders.
- b) Not commence recovery action until there is a change in ownership of the property, either or both ratepayers leave the property (except where the pensioner is in a care facility on a temporary basis being less than 12 months) or either or both become ineligible for a concession. Should any of these events occur, rates and annual charges will become due and payable.
- c) However, given the constraints set out in Section 712 of the Act, Council will require pensioners to commence payment of overdue Rates and Annual Charges such that their total debt to Council does not exceed nineteen years.



4 Procedures

4.1 Rates and Annual Charges

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

Instalments are due on the following dates each year:

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

4.2 Debt Recovery

4.2.1 Payment Arrangements

The Council recognises that some owner may experience financial difficulties in meeting their Rates commitments. Council will seek to assist owner to make arrangements that are consistent with the owner's capacity to make regular payments.

- a) An owner may at any time make arrangements to pay off their outstanding rates and annual charges by regular payments, subject to the following guidelines:
 - i) The amount and frequency of the payments under the arrangement are to be acceptable to Council.
 - ii) Arrangements should seek to have the outstanding rates and annual charges cleared within a period of 12 months, where possible.
- b) All owners who enter into an arrangement will continue to have interest charged on the outstanding amount in accordance with Section 566 of the Act, (unless there are extenuating circumstances).
- c) However, where a owner has not honoured a previous arrangement, Council has the discretion as to whether to accept a new arrangement or continue with further recovery action.
- d) In the event that an owner fails to make a payment in full under an arrangement and does not notify Council of any financial difficulties, the total amount outstanding becomes payable and is subject to Council's normal recovery procedures.

4.2.2 Recovery Action

Recovery of rates and charges is to be conducted according to the following:

- a) All owners are to be issued with an Annual Rates Notice in accordance with Section 546 of the Act and, where required, Rates Instalment Notices in accordance with Section 562 of the Act;
- b) The Rates Instalment Notice is to include any amount that is overdue. This amount is to be shown separately and identified as being overdue and subject to interest charges;



- c) An Instalment Reminder Notice will be issued to all owners who have not paid the instalment due amount in full, approximately 14 days after the due date;
- d) Interest charges are to accrue on overdue Rates and Annual Charges on a daily basis in accordance with Section 566 of the Act. Accrued interest is to be applied to assessments on a weekly basis subject to procedures for issuing Notices;
- d) Where an owner has rates and charges that are overdue (excluding accruing pensioners under Policy No. PL 511 Rebate of Pensioners' Rates and Charges), Rates staff will issue a letter (Final Notice) requiring payment or a mutually agreeable payment arrangement of the overdue amounts within 14 days from receipt of the letter;
- e) If rates and charges remain unpaid after the expiry of the Final Notice, Rates staff (or Council's agent) will forward a letter of demand allowing for seven days payment prior to instigation of legal action. Generally the legal action starts with a Statement of Claim, and where necessary, is followed by Judgment then a Writ of Execution or Garnishee Order, and/or other enforcement procedures as required.

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 recovery agent. Following the expiration of the statutory period, to protect Council's interest in the matter and all available actions to recover the amount outstanding, if the debt is not cleared, a Notice of Motion Default Judgment will be lodged.

Recovery action by Council or it's agent to recover outstanding debts that will be considered include, but not be limited to a garnishee of income; a writ of execution on goods and chattels, an examinations summons, a service or a rent order where the property is tenanted and/or other enforcement procedures as required.

- f) 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;
- g) 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 Act;
- h) 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;
- i) As a result of Council entering judgment, debtors will automatically be listed on the Credit Reference Listing by credit listing bodies.
- j) Where legal action is unsuccessful and Rates and Annual Charges remain overdue for more than 5 years the property is to be sold by public auction in accordance with Section 713 of the Act, subject to a resolution of Council.

4.3 Hardship Assistance



All applications for Hardship Assistance must be made on the Hardship Rate Relief Application Form attached to this Policy. This form is also available from Council's website www.warringah.nsw.gov.au or Customer Service Centre.

4.3.1 Assessment Process

Upon receipt an applicant's Hardship Rate Relief Application will be assessed by the relevant Council Officers. If Council is satisfied it falls within a category of hardship, it has the discretion defer the payment, and write off any accrued interest at its sole discretion, subject to the following conditions:

In determining eligibility Council will use the criteria used by Centrelink for granting of a pensioner concession, including the assets and income test.

- a) The applicant must be the owner or part owner of the property and be liable for the payment of rates on the property.
- b) The property for which the hardship application applies must be the principal place of residency of the applicant/s.
- c) The property for which the hardship application applies must be categorised as "Residential" for rating purposes.
- d) The application for hardship must be accompanied with supporting documentation which may include but is not limited to:-
 - i) Reasons why the person was unable to pay the rates and charges when they became due and payable.
 - ii) Copy of recent bank statements for all accounts.
 - iii) Details of income and expenditure.
 - iv) A letter from a recognised financial counsellor or financial planner confirming financial hardship or in cases of sickness or injury a certificate from a registered medical practitioner.
- e) Application for hardship under Section 601 must be submitted within 3 months of the posting date of the rates notice in the first year of the General Revaluation for rating purposes.
- f) It is Council's intention that whilst rates will not be reduced or waived, Council has the authority to defer payment of rates for a maximum period of 2 years once a hardship application is approved. This ensures that Council's Rate revenue is protected. Where the application is approved and payment of the increased Rates is made in accordance with the arrangement, interest charges will be written off.
- g) This policy applies to all rateable owners whose land value has increased by more than the average increase for the particular rating category. An application to defer Rates payment due to hardship under Sec 601 is to be assessed based on:
 - i) The percentage increase in land value.
 - ii) The corresponding ownership interest in the ratable property;
 - iii) Any arrears of rates & charges at the time of application.

4.4 Writing off of Rates, Annual Charges and Interest

In the cases where Council determines to write off Rates, Annual Charges or Interest, the General Manager shall have a delegation to do so for an individual ratepayer to an

amount not exceeding \$10,000 per assessment and report such write off at a meeting of Council. Any amount above that may only be approved by Council resolution.

5 Authorisation

This Policy was adopted by Council on 28 August 2012.

It is effective from 29 August 2012.

It is due for review on August 2016.

6 Amendments

This is a new Policy and this policy supersedes:

FIN-PL 510 – Rates and Charges Recovery Action which was originally authorised by Council on 27 March 2001 and superseded Policy no. 8.1.06 Rate Collections and Recovery authorised by Council on 14.8.1984

FIN – PL 515 Relief from Hardship Resulting from Land Valuation Changes which was originally authorised by Council on 31 May 1995 and superseded Policy 8.1.07 Relief from Rates Hardship authorised by Council on 7.2.1989.

7 Who is responsible for implementing this Policy?

Chief Financial Officer

8 Document owner

General Manager

9 Related Council Policies

FIN-PL 511 – Rebate of Pensioners’ Rates & Charges Policy

FIN-PL 525 – Pensioners’ Kerb and Guttering Charges

10 Legislation and references

Local Government Act 1993

Local Government (General) Regulation 2005

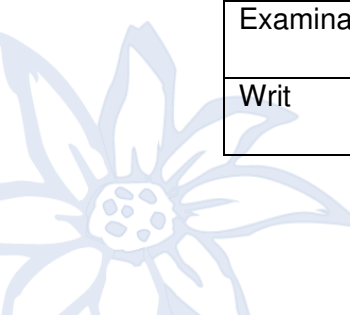
Civil Procedures Act 2005

Corporations Act 2001

Division of Local Government – Council Rating and Revenue Raising Manual

11 Definitions

Arrangement	An agreement accepted by Council or its agents to repay a debt within a specific period of time.
Statement of Claim	Court issued document defining the amount due and the debt that is due to be paid. Debtors have 28 days from being served this document to lodge a defence.
Judgment	Court issued statement acknowledging the debt recorded against the debtor.
Garnishee	Court order to withhold funds from a debtors pay or bank account
Examination Order	Court issued order to have their financial affairs “examined” for the purposes of determining their capacity to make payments.
Writ	Court issued document identifying goods to be sold in order to liquidate the judgement debt.





HARDSHIP RATE RELIEF APPLICATION FORM

Approved by the Director General of the Department of Local Government, in accordance with clause 135 of the Local Government (General) Regulation 2005 under the Local Government Act 1993.

APPLICATION FOR HARDSHIP RATE RELIEF FOR THE WHOLE OR PART OF THE YEAR COMMENCING 1 JULY 20_____

**please answer all questions relevant to you using block letters and ticking appropriate boxes.*

Property Reference No. _____

I, _____
(Full name in block letters)

of _____
(Address)

telephone number _____ apply for a hardship relief on the basis of financial hardship.

(1) Do you receive any pensions or benefits? Yes No
If Yes, please provide type of pension and amount received per fortnight.

Pension: _____ Amount: _____

(2) Do you have a current Pensioner Concession card issued by the Commonwealth Government? Yes No

(3) Have you claimed a pensioner concession on any other property this year? Yes No

(4) Is this property your sole or principal place of living? Yes No
The property for which I am claiming has been my sole/principal place of living since _____

(5) I am liable for the payment of rates and charges on this property, together with others as listed below. (If no others, write "SOLE OWNER") _____



Please provide details of all “other” persons indicated in Question 5. **(ALL OWNERS other than the applicant should be listed, including your spouse):**

Name	PCC Holder Y/N	Pension No	Date of Grant	Relationship to me (eg: spouse, father, co-owner etc)	Resident of Property Y/N	% of ownership

Evidence of joint ownership is attached/has been provided to council previously (circle whichever is applicable).

- (6) Is the property owned as shares in a company title? Yes No

If you do not own or rent the property, please explain why you are liable to pay the rates _____

- (7) Are there people living at the property other than those listed at Question 5?

Yes No

How many people live at the property? _____

- (8) Please indicate who these people are?

- Self
- Spouse
- Children (State ages _____)
- Boarders
- Relatives
- Other (please specify)

- (9) Do you own (either fully or partially) any other land or buildings?

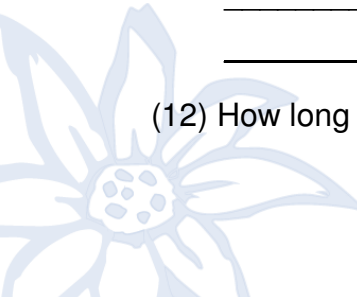
Yes No

If yes, list addresses.

- (10) How many children do you support? _____ State ages _____

- (11) What is the cause of financial hardship? _____

- (12) How long have you been experiencing hardship? _____



(13) Please state gross weekly amount received in dollars and cents from the following sources of income:

- a) Pensions and benefits \$ _____
- b) Compensation, superannuation insurance or retirement benefits \$ _____
- c) Spouse's income \$ _____
- d) Income of other residents of the property \$ _____
- e) Employment Income \$ _____
- f) Family Allowance \$ _____
- g) Interest from banks/credit unions/building societies \$ _____
- h) Income from shares \$ _____
- i) Rent from other properties \$ _____
- j) Business income \$ _____
- k) Any other form of income \$ _____
- Total** \$ _____

(14) Please provide name and current balance of all bank, credit union or building society accounts held by you.

(15) Please state details of fortnightly outgoings.

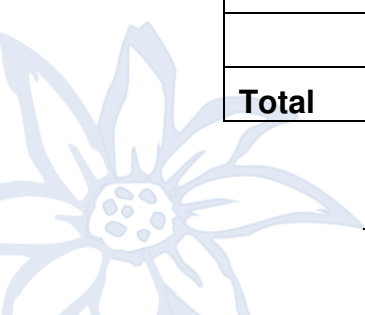
Outgoing	Owed to	Amount
Rent/Home Loan		\$
Other Mortgages		\$
Personal Loans/Hire Purchase		\$
Health Costs		\$
Council Rates and Charges		\$

(16) Do you have any assets other than your principal home, including household contents, vehicles, land, furniture etc?

Yes No

If yes, please provide details:

Type of Asset	Estimated Value
	\$
	\$
	\$
	\$
Total	\$



Please attach a separate page with any other relevant information you feel may assist your application.

*** Please include copies of any documents which may support your application, examples of which may include but are not limited to a Last Will and Testament, Documents from the owner showing you are responsible for paying the rates or showing you have life tenancy or a life lease etc.**

I hereby declare that the information provided is true and correct. **If you make a false statement in an application you may be guilty of an offence and fined up to \$2,200.**

Signature: _____ Date: _____

IMPORTANT NOTICE CUSTOMER CONSENT

For the sole purpose of authorising the council to confirm with Centrelink whether or not the detail I have provided to the council matches Centrelink or other Commonwealth portfolio department or agency records in relation to the current status of my Commonwealth Benefit:

I, _____ (full name) authorise the council to confirm with Centrelink the following details:

- Pension No.
- Name
- Address
- Postcode, and
- That I am a valid concessional card holder

I agree that, unless I revoke my consent, this Customer Consent record is a permanent consent, and may be relied on by the council until such time as I revoke it.

I may revoke this Customer Consent record at any time by giving the council written notice that my consent is revoked. I understand if I revoke this consent, I may not be eligible for the concession given by the council.

I acknowledge I have read and understood this Customer Consent record.

Signature: _____ Date: _____

PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998 Compliance with Section 10

The information contained in this application form and any information requested for the purpose of assessing eligibility hardship relief for rate payments.

This information is required before your application for hardship can be processed.

The information is private and confidential and council must not disclose the information to any person or body if it is not directly related to the purpose for which the information was collected.

If you have a complaint about the use of your personal information, contact the Council's Public Officer. The information contained or referred to in this application form may be corrected and updated by you, by contacting the council.