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**Policy:**

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**Debt Management and  
Financial Hardship  
Assistance**

**2019**

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## INFORMATION ABOUT THIS DOCUMENT

<b>Date Adopted by Council</b>	14/08/19	<b>Resolution No.</b>	19-293
<b>Document Owner</b>	Director Corporate and Community Services		
<b>Document Development Officer</b>	Revenue Coordinator		
<b>Review Timeframe</b>	4 Years		
<b>Last Review Date:</b>		<b>Next Scheduled Review Date</b>	August 2023

### *Document History*

<b>Doc No.</b>	<b>Date Amended</b>	<b>Details/Comments eg Resolution No.</b>
<b><i>Debt Recovery Policy</i></b>		
<b>W2018/463</b>	24/06/1997	Debt Recovery Policy 2.3 originally adopted by Council on 24/06/1997 (resolution 9143).
<b>#628690</b>	12/02/02	Res 02-34
<b>#1022697</b>	11/11/10	Draft reported to Council
<b>#1074640</b>	11/11/10	Res 10-890 Adopted after exhibition period – 30/12/10
		Policy to be superseded by combined Debt Management and Financial Hardship Assistance policy 2019.
<b><i>Financial Hardship Policy</i></b>		
<b>#630123</b>		Existing Policy – Rates and Charges Writing Off
<b>#861882</b>	02/07/09	Draft reported to Council. Resolution 09-608 – on public exhibition see Advert #870062
<b>#885063</b>	14/08/09	Policy adopted after exhibition period in accordance with Res 09-608 (no submissions received)
<b>E2016/102054</b>	15/12/16	Draft reported to Council. Resolution 16-621 – on public exhibition See Advert E2017/876
<b>E2017/8216</b>	06/02/17	Policy adopted after exhibition period in accordance with Res 16-621 (no submissions received)
<b>E2019/6982</b>	23/01/19	Reviewed for currency, endorsed by ET. Minor amendment to policy year
		Policy to be superseded by combined Debt Management and Financial Hardship Assistance policy 2019.

### ***Combined Debt Recovery and Financial Hardship Policy***

<b>E2019/33651</b>	22/05/19	New draft combined policy presented to ET meeting 22/05/19 (I2019/730 – Report 3.2) for endorsement prior to presenting to Council.
<b>E2019/41313</b> (PDF version E2019/41483)	22/05/19	ET requested minor changes to draft policy in regard to highlighting that interest write off will be made in accordance with General Manager Delegation of Functions prior to draft policy being presented to 27/06/19 Council meeting.
<b>E2019/63417</b>	14/08/19	Adopted per resolution 19-293. No submissions received at close of exhibition period on 14/08/19

### **Further Document Information and Relationships**

<b>Related Legislation*</b>	Local Government Act 1993 (LGA) Local Government (General) Regulation 2005 (LGR) Local Court Act 2007
<b>Related Policies</b>	Rates and Charges Pensioner Concessions (E2019/6983)
<b>Related Procedures/ Protocols, Statements, documents</b>	Statement of Revenue Policy Statement (IP&R documentation) - Adopted Annually Office of Local Government – Council Rating and Revenue Raising Manual 2007 (E2018/41378) Office of Local Government – Debt Management and Hardship Guidelines 2018 (E2019/33813) Management Administrative Guidelines – Rates and Charges (E2019/41299) Management Administrative Guidelines – Sundry Debtors (E2019/41257) General Manager Delegation of Functions (Section 378 and 335[2] LGA)

*Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.*

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## 1. OBJECTIVES

- To provide a framework for how Council will efficiently and effectively manage and recover overdue debts.
- To ensure that Council's debt recovery procedures are clear, consistent and fair.
- To provide financial assistance for customers experiencing genuine financial hardship.
- To satisfy legislative debt management and debt recovery requirements.
- To minimise outstanding debt and endeavour to meet the industry benchmark ratio of less than 5% of overdue rates and charges.

## 2. SCOPE

This policy applies to all Council staff, ratepayer's' community members and contracted service providers.

## 3. DEFINITIONS

<b>Council</b>	Byron Shire Council
<b>Financial Hardship</b>	When a ratepayer is willing but unable to pay their rates and charges on time because of unexpected events (e.g. injury or medical condition, natural disasters, expenses not budgeted for) or unforeseen changes (e.g. unemployment or income variations, family separation) that impacts cash flow.
<b>Substantially Honoured Agreement</b>	Means within a 90% variation of the original agreement, unless the ratepayer contacts Council to renegotiate a variation to the agreement if they are unable to meet the original terms and conditions imposed, which is then approved by Council.
<b>LGA</b>	Local Government Act 1993
<b>LGR</b>	Local Government (General) Regulation 2005
<b>MAG</b>	Management Administrative Guidelines

#### **4. STATEMENT**

In regard to rates and charges accounts, Council's annually adopted Statement of Revenue Policy within its Operational Plan outlines how Council will levy rates, charges and fees.

This policy establishes the framework for how Council will manage and recover overdue accounts, supported by the "Management Administrative Guidelines – Rates and Charges" and "Management Administrative Guidelines – Rates and Charges" operational procedural guidelines adopted by Council's Executive Team.

In developing its debt management and recovery policies and procedures, Council has considered best practice processes and principles outlined in the Office of Local Government publication "Debt Management and Hardship Guidelines – November 2018".

Council has implemented systems and processes to provide customers with access to information and flexible payment options in an attempt to reduce legal debt recovery actions.

Council acknowledges that ratepayers may experience genuine financial hardship from time to time and as a result, may need assistance to meet their rates and charges payment responsibilities. This policy outlines the circumstances in which financial hardship assistance will be provided and the various types of voluntary financial assistance Council will provide to ratepayers.

Staff will make decisions subject to the limits on their role delegations that apply at the time by resolution of Council or by General Manager approved Delegation of Functions made under section 378 and 335(2) of the LGA.

## **5. DEBT MANAGEMENT AND RECOVERY – RATES AND CHARGES**

In accordance with the LGA, Council issues **Rates and Charges Notices** annually in July and subsequent quarterly instalment notices are issued at least 30 days prior to the quarterly instalment payment due dates set under section 562 of the LGA as follows:

31 August, 30 November, 28 February and 31 May.

**Water and Sewer Usage Notices** are issued following the processing of quarterly water meter readings and at least 30 days prior to the payment due date. Quarterly payment dates vary due to reading and processing time variations. Our current water meter reading contract that expires on 31 January 2022 results in quarterly accounts being due for payment around:

15 July, 15 October, 15 January and 15 April.

Pensioners are not excluded from Council's debt recovery policies. Pensioners may qualify for financial assistance under separate Council policies.

### **5.1. Payment agreements (Section 564 LGA) - Ratepayers ineligible for financial hardship assistance**

Ratepayers experiencing short term financial difficulties that don't meet financial hardship assistance eligibility criteria will be provided with the option of a payment due date extension or a suitable regular periodical payment agreement in accordance with section 564(1) of the LGA and Council's "Management Administration Guidelines – Rates and Charges".

Interest charges (full or part) may be written off under section 567 of the LGA, in accordance with General Manager Delegations of Functions (section 378 and 335[2] LGA) and Council's "Management Administration Guidelines – Rates and Charges" in certain circumstances such as;

- A new owner
- A late payment by a long term ratepayer with excellent payment history
- An owner/occupier experiencing temporary financial hardship that enters into and complies with a suitable periodical payment agreement.
- A ratepayer that experiences a significant water and sewer usage account due to a water leak event and enters into and complies with a suitable periodical payment agreement.

### **5.2. Overdue Reminder Notices - Issued Quarterly - Rates and Water Accounts**

If a rates or water account remains unpaid after the payment due date listed on a quarterly notice, an overdue reminder notice will be issued for the overdue water or rates account balance in accordance with Council's "Management Administrative Guidelines – Rates and Charges".

### **5.3. Water Supply Flow Restriction – Processed Half Yearly - Overdue Water Accounts**

On a half yearly basis, if a ratepayer has not taken any actions to remedy the overdue water account following the deadline listed in the overdue reminder notice, Council will initiate actions to restrict the flow of water supply to the property pursuant to clause 144 (1) (b) of the LGR and in accordance with the conditions outlined in Council's "Management Administrative Guidelines – Rates and Charges".

The property owner and occupier will be provided with written notification of Council's intention to restrict the property's water supply and Council will make every effort to personally contact the property owner to negotiate a suitable payment plan in order to avoid installing the restriction device.

Once the water supply restrictor is installed, a suitable payment agreement may be entered into with the ratepayer however, the flow restrictor will not be removed until the overdue water account and flow restrictor device disconnection fee is paid in full.

The installation of a water flow restrictor does not affect Council's normal rates and charges debt recovery processes.

### **5.4. Notice of Intent (Final Demand) – Issued Half Yearly – Combined Rates and Water Accounts**

On a half yearly basis, if a ratepayer has not taken any actions to remedy the overdue account following the deadline listed in the latest issued water and/or rates account overdue reminder notice, the combined rates and water account overdue debt will be forwarded to Council's contracted debt collection agency for the commencement of debt recovery action providing the debt meets amount thresholds and any other conditions outlined within Council's "Management Administrative Guidelines – Rates and Charges".

Council's debt recovery agent will immediately issue the ratepayer with a Notice of Intent (Final Demand Notice) that provides the ratepayer/s with seven (7) days to pay in full or to contact our collection agent or Council's rating team to make a suitable payment agreement.

### **5.5. Debt Recovery Proceedings – Combined Rates and Water Accounts**

If the ratepayer/s fails to comply with the demands stated within the Notice of Intent, the steps outlined below will be undertaken.

Council may initiate debt recovery actions at any time providing proposed action notifications have been provided to the ratepayer/s. For example, if a ratepayer does not honour an agreed periodical payment arrangement.

- Council staff will undertake a review of the account – essentially an information gathering exercise to assist staff with future decision making processes in regard to recovering the subject debt.
- Council staff will attempt to make contact with the ratepayer/s via phone in the first instance or via email. The purpose of this contact is to gain an understanding of the reason for non-payment, discuss relevant financial assistance that may be available and to seek a suitable payment agreement to resolve the debt without the need for costly and time consuming legal debt recovery actions.





- If contact is unable to be made with the ratepayer/s or if the ratepayer has a history of non-payment, Council staff will commence debt recovery proceedings in accordance with the criteria and amount thresholds contained within Council's "Management Administrative Guidelines – Rates and Charges".
- The most efficient and effective method of debt recovery will be determined on a case by case basis. These may consist of but are not limited to;
  - Lodgement of a Statement of Claim ("summons") through the Local Court
  - Rent to pay rates (Section 569 LGA)
  - Sale of land for unpaid rates (Section 713 LGA)

## **6. FINANCIAL HARDSHIP ASSISTANCE – RATES AND CHARGES**

### **6.1. Eligibility criteria**

In order for Council to determine eligibility for financial hardship assistance outlined within this policy, applicants are required to complete Council's Financial Hardship Application Form.

Council will assess eligibility based on the financial information provided within the form by the ratepayer. Council may request documented proof or further information from the ratepayer in order to make a determination. Supporting documentation confirming genuine financial hardship from a recognised financial counsellor or financial planner would be considered favourably.

The applicant must be the owner or part owner of the property and it must be their principal place of abode. The property must be categorised as residential or farmland for rating purposes.

### **6.2. Payment agreement – Financial hardship (Section 564 LGA)**

Council will negotiate a formal regular periodical payment agreement with a ratepayer qualifying for financial hardship assistance in accordance with section 564(1) of the LGA and Council's "Management Administrative Guidelines – Rates and Charges"..

The agreement will require that rates and charges are paid as soon as possible whilst considering the applicant's current and estimated future repayment capabilities.

If the applicant does not comply with the agreement, the agreement may be cancelled and the full amount will become due and payable immediately and recoverable in accordance with Council policy.

### **6.3. Writing off interest charges (Section 567(c) and 564(2) LGA)**

Council will write off or reduce interest charges in accordance with Council's "Management Administrative Guidelines – Rates and Charges" and with General Manager Delegations of Functions (section 378 and 335[2] LGA) if the ratepayer substantially honours the payment agreement.

### **6.4. Deferral of the rate - New land valuations (Section 601 LGA)**

In accordance with Section 601 of the LGA, if a property owner is eligible, Council will defer payment of the whole of the increase of the ordinary rate due, to the following rating year.

This is subject to one quarter of the amount of the increase being added to each instalment due in the following rating year. Interest is not charged on the deferred amount, unless it remains unpaid when the following rate instalment to which it was added, becomes overdue.

The criteria used to determine eligibility is as follows:

- The application must be received no more than 60 days from the issue of the Rates and Charges Notice.

- The property must be categorised residential or farmland for rating purposes.
- The increase in land value must be greater than the residential shire wide average increase.
- The ratepayer must own the property and also occupy the property as their principal place of abode.
- The ratio of ordinary rates payable to gross household income must be greater than 5.0%.
- The ratepayer will suffer substantial financial hardship if required to pay rates and charges when they fall due.
- The ratepayer must provide details of their income and expenses, with supporting evidence as required by Council
- This option is only available in the first year that new land values are used to levy rates.

#### **6.5. Deferral of rates and charges against the estate (Section 564 and 582 LGA)**

This option is only available to aged pensioners and self-funded retirees that satisfy the eligibility criteria to defer payment of part or all of their rates and charges against their estate.

Interest charges for approved applicants will be charged at the maximum interest rate adopted by Council.

The criteria to be used to determine eligibility is as follows:

- The aged pensioner or self-funded retiree would suffer substantial financial hardship if required to pay rates and charges when they fall due.
- The applicant must provide details of their income and expenses, with supporting evidence as required by Council.
- The property must be categorised residential or farmland for rating purposes.
- The applicant must have owned the property for at least five years.
- The applicant must occupy the property as their principal place of abode
- The applicant must apply annually and their circumstances must remain unchanged from the previous year.
- If circumstances change and the applicant no longer qualifies, Council will negotiate a repayment plan for accrued arrears if the property remains in the same ownership.
- If the ownership of the property changes or if the property is subdivided, all rates and charges (including interest charges) will become due and payable immediately.



- Given legal debt recovery constraints set out in section 712 of the LGA, Council will require the ratepayer to commence making payments in the future so their total debt does not exceed nineteen years. Council may consider other legal avenues to secure the debt at this time (e.g. court judgement for the debt).
- All applications for this type of assistance must be approved by the elected Council.

## **7. SUNDRY DEBTORS**

### **7.1. Payment Arrangements**

All sundry debtor accounts are due 30 days from the date of invoice.

Where the debtor is unable to make full payment within the due date payment arrangements may be entered into with Council. The arrangement must be a request from the account holder.

The amounts will be paid under a suitable periodical arrangement so that the debt can be recovered without the need for external debt recovery, aiding in elimination of extra collection fees being added to the debtor account. Sundry Debtors Guidelines will provide further information and guidance on limitations to payment arrangements.

Should the applicant miss a payment without prior notification to Council, the agreement may be cancelled and the full amount will become due and payable immediately and forwarded onto external Debt Recovery for collection.

### **7.2. Hardship Applications**

In order for Council to determine eligibility for financial hardship assistance, applicants are required to complete Council's Sundry Debtors Financial Hardship Application Form. Council will assess eligibility based on the financial information provided within the form by the ratepayer. Council may request documented proof or further information from the ratepayer in order to make a determination. Supporting documentation confirming genuine financial hardship from a recognised financial counsellor or financial planner would be considered favourably.

The applicant must be the person/s who are named on the sundry debtor invoice or owner or part owner of the business or property.

Determination of the hardship application may result in deferral of payment for a specified time, writing off the debt in part or full or declining the application.

### **7.3. Writing Off of Sundry Debtors**

Section 610E allows Council to waive payment of, or reduce an approved fee other than rates and charges. This can be done if the case falls within the category of hardship or any other category in respect of which the Council has determined a category of cases under this Section until it has given public notice of the proposed category.

Council currently has the following categories in place to refund or waive fees.

The General Manager or delegated authority has the discretion to waive or reduce a fee under Section 610E Local Government Act 1993:

- Demonstrated financial hardship as per Financial Hardship Assistance Policy 2019 for Sundry Debtors, or
- Public benefit (eg: Charitable projects), or
- As recompense for poor customer services or other error on the part of Council,
- The circumstances of a particular case, where full fee payment would be unreasonable or inequitable.



- Where special circumstances exist, the matter is to be referred to the General Manager for consideration.
- Where external debt recovery has been exhausted and debt becomes unrecoverable.

A sundry debt above \$10,000.00 can only be written off in conjunction with Section 610E of the Local Government Act, by resolution of Council.

The General Manager may write off a sundry debt in conjunction with Section 610E if it is less than or equal to \$10,000.00 as per Clause 213 Local Government Regulation 2005.

## **8. SUSTAINABILITY**

### **8.1 Social**

This policy offers assistance to customers that are experiencing financial hardship and outlines debt management principles that Council will follow.

### **8.2. Economic**

This policy outlines Council's overarching debt management operational practises which give consideration to ratepayers in financial hardship whilst ensuring debts owing to Council are recovered in a timely manner to ensure Council's financial sustainability to deliver the services and facilities expected by the community.

The financial assistance provided under this policy is negligible in regard to the impact to Council's budget.