



muswellbrook shire council

DRAFT Debt Recovery Policy

MSC19E

Authorisation Details

Authorised by:		Internal/External:	External
Date:		Minute No:	
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Department:	Finance		
Document Owner:	Chief Financial Officer		
Community Strategic Plan Goal	6. Collaborative and responsive community leadership that meets the expectations and anticipates the needs of the community		
Community Strategic Plan Strategy	6.2 Ensure Council is well managed, appropriately resourced, effective, efficient, accountable and responsive to its communities and stakeholders		
Delivery Program activity	6.2.1 Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves		

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☎ (02) 6549 3700 @ council@muswellbrook.nsw.gov.au 📍 Campbell's Corner 60–82 Bridge Street Muswellbrook NSW 2333

📮 PO Box 122 Muswellbrook 2333 🌐 muswellbrook.nsw.gov.au 📺 muswellbrook shire council ABN 86 864 180 944

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1. Policy Objective

- a) To provide direction for the collection of rates, annual charges and sundry debtors and ensure that debt collections are reviewed on a regular basis.
- b) To ensure integrity, confidentiality and fairness are maintained in all proceedings for Council and its Customers during the debt recovery process.

2. Risks being addressed

This policy will assist to minimise financial loss incurred from unpaid debts.

3. Scope

This policy applies to any person or organisation owing rates, charges, fees or other debts to Council.

4. Definitions

Term	Definition
Council	Muswellbrook Shire Council
The Act	Local Government Act 1993 (as amended)
The Regulation	Local Government (General) Regulation 2021 (as amended)
Payment Arrangement	a negotiated agreement to pay regular amounts of money as a course of action

5. Policy Statement for Rates, Charges and Water Usage

Payment of rates and charges is an important obligation of all property owners. Revenue collected from rates and charges is used to fund facilities and services for our community. Without this revenue Council would not be able to function or meet the needs of the local community.

5.1 Rate Payment Timetable

Rates and charges are levied by 31 July each year and are payable by four equal instalments by the following dates:

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

Any instalment not paid by the due date falls into arrears and attracts interest charges stipulated annually in the adopted Revenue Policy contained within Council's Operational Plan and in accordance with Section 566 of the *Local Government Act 1993*.

5.2 Overdue Rates and Charges, Water Charges and Usage

Council may take recovery action within one (1) month of the Rates and Water becoming overdue, unless the ratepayer requests a short extension of time or enters into a suitable payment arrangement with Council.

Council may accept a payment arrangement in accordance with Section 564 of the Act. Payment arrangements can be for weekly, fortnightly or monthly in accordance with suitable arrangements (see clause 5.3).

5.3 Suitable Arrangements

- a) Council determines the reasons for the arrangement are acceptable.
- b) The payment arrangement is entered into Council's billing system with a member from Council via writing, personally or by telephone. If the arrangement is adhered to no further action is required.
- c) Arrangements should be made on the basis that current rates and charges are to be paid in full by the end of the financial year. This will prevent arrears being carried forward into the next rate year. Also, that at least one payment per month is made. If this cannot be achieved, then the arrangement should be reasonable so that the debt is reduced as soon as possible. Council may make contact to those on a payment arrangement to reassess their payments. If the Payment Arrangement cannot be completed within the financial year, the case may be referred for review by the Chief Financial Officer or the General Manager.
- d) Interest will continue to accrue at the prescribed rate per annum as per Section 566 of the Act on any arrears during the period of extension or payment arrangement.
- e) If an arrangement is made and later dishonoured Council will write to the rate debtor requesting that payment be made within 7 days or written application be made for approval to pay by direct debit to avoid further debt recovery action.
- f) Those debtors who do not respond to the 7-day follow-up letter are to be issued with a further letter advising that if payment is not received within 14 days or an arrangement to pay is not made by that date, legal action will commence. The letter will also advise that such action will incur estimated legal costs and that those costs incurred will be added to the debt.
- g) Legal action to commence.

5.4 Debt Recovery

If insufficient payments have been made to cover overdue amounts for rates and charges, water charges or usage or where there is no current arrangement in place then debt recovery action will commence. Council or their Debt Recovery Agent will issue the following:

- a) A Reminder Notice.
- b) A Letter of Demand and/or a Letter of Intent.
- c) If the ratepayer does not contact Council or its Debt Recovery Agent to arrange to pay the arrears, or to enter into a suitable arrangement, then legal proceedings may be instigated against the ratepayer which will include the issue of a Statement of Claim against the owner/s of the property.

- d) Following service of the Statement of Claim, if the ratepayer fails to pay the arrears or enter into a suitable arrangement, Council will obtain Default Judgement and arrange to recover the Judgement Debt through the appropriate recovery actions.
- e) Any legal costs and expenses incurred in debt recovery proceedings will be charged against the property (including the expenses of tracing a person in accordance with Section 605 of the Act) and will be payable by the ratepayer as these costs will remain a charge on the land until paid in full.

6. Hardship

Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. Please refer to Council's Hardship Policy MSC15E with cases of hardship.

7. Sale of Land

Where the above policy and procedures have not been successful in relation to the recovery of outstanding rates and charges, Part 2, Division 5 of the Act (Sale of land for unpaid rates and charges, Sections 713 – 726) is to be instigated where applicable.

- a) Commence sale of land for unpaid rates process in accordance with the Local Government Act.
- b) Letter advising that property is included on future list of properties to be sold for unpaid rates.
- c) Interest at the rate determined annually in the Council's Rates and Charges Policy is applied to all outstanding rates, whether a suitable arrangement is in place or not. Interest commences to accrue on unpaid rates after the due date.

8. Water Usage Charges

Water meters are read in accordance with Council's reading program and accounts over \$5.00 are sent to the users after each meter reading.

8.1 When water usage accounts are considered overdue

Water usage accounts are considered overdue thirty (30) days after account issue date. Any instalment not paid by the due date falls into arrears and attracts interest charges stipulated annually in the adopted Revenue Policy contained within Council's Operational Plan and in accordance with Section 566 of the Local Government Act 1993.

Council will take recovery action one(1)month of the accounts becoming overdue, unless the ratepayer enters into a payment arrangement. Ratepayers must pay the overdue accounts in full by 30 June of the financial year in which they enter the payment arrangement.

9. Sundry Debtors

Council incurs expenses, which are recoverable from ratepayers and the general public e.g. construction of kerbing and guttering, footpaths, private works, property information, etc.

Generally, accounts are raised as debtor information comes to hand.. Within 10 days of the close of a month a monthly statement of debt is issued. The due date for payment is 30 days of the

invoice date. Council may stop the provision of credit facilities to debtors when an account is overdue for more than 30 days. This matter will be determined in consultation with the manager of the Council department that initiated the sundry debtor request.

The following process is to apply to debtors:

- a) If an account is not paid by the due date a second monthly statement will be forwarded as a reminder with advice that the account is now overdue.
- b) If payment is not received after issue of the second statement, then a letter will be forwarded warning of legal action and requesting immediate payment or the making of an arrangement within 7 days.
- c) If after 90 days of the due date there has been no satisfactory response, Council will commence normal debt recovery action to recover the debt.
- d) If the account is an ongoing account, e.g. property information etc., further credit to that debtor will be withdrawn until the account is paid in full.
- e) Requests for arrangements where legal action has occurred, or the debtor has defaulted on a previous arrangement must be in writing. Extensions of time without any payment are generally not acceptable. Regular payments assist the debtor in their financial planning and allows for early follow-up in case of further defaults. Extensions of time to pay past twelve months will be considered where there are exceptional circumstances, such as unemployment, sickness benefits, workers compensation etc.
- f) Where accounts for kerb and guttering and footpath paving are outstanding for longer than three (3) months and no arrangements for payment have been made with Council, action be taken forthwith to recover the debt. These charges are charges against the land. Any accounts raised will immediately be attached to Council's computer database to enable the amount outstanding to be shown on a section 603 certificate.
- g) Debtor arrangements to Council staff must be strictly enforced with no debt being allowed to fall into arrears unless there are exceptional circumstances. Any such circumstances should be approved by the General Manager. (Under Council's Code of Conduct Council cannot be seen to be providing financial benefit to non-paying staff).

10. Writing Off of Amounts Owing

The Act s564, s567, s607 and s610E provides for the writing off of rates, charges, fees and accrued interest. Applications for amounts to be written off should be in writing with an explanation of the reasons for the request. Each application will be considered on its individual merit, in conjunction with the criteria set out in the Act, and the Regulation.

An amount of rates, charges or other debt of or below \$1,000 per account may be written off either by:

- resolution of the council, or
- by order in writing of the Council's General Manager or CFO, in accordance with their Delegations of Authority.

The write-off of any amount above \$1,000 can only occur by resolution of Council.

The General Manager must advise Council of rates and charges and debts written off by order of the General Manager. The General Manager's order will be in writing in the form provided at Appendix A to this policy.

11. Dispute Resolution

The General Manager is the interpreter of this policy and shall be the sole arbiter in respect to the application of this policy.

12. Related Documents

Legislation and Guidelines

- Local Government Act 1993 (as amended)
- Local Government (General) Regulation 2021 (as amended)

Policies and Procedures

- Hardship Policy - MSC15E
- Code of Conduct

Other Supporting Documents

- N/A

Appendix A – General Manager’s Order Form



GENERAL MANAGER’S ORDER NUMBER _____

Writing off of rates, charges, debts and accrued interest

In accordance with the provisions of the Local Government (General) Regulation 2021 Clause 131 and Council’s Hardship Policy - MSC15E, I hereby order that the following amounts be written off and the appropriate entries made in Council’s records and accounts.

Name of person whose debt is being written off	
Account number	
Amount to be written off	
Type of account	
Reason why account was raised	

Reason for writing off the account

- ☐ Error in the assessment
- ☐ Amount is not lawfully recoverable
- ☐ Result of court decision
- ☐ Attempt to recover would not be cost effective
- ☐ Small balance write-off prior to rate levy
- ☐ Hardship

Date to be reported to Policy and Planning Committee _____

Signed
GENERAL MANAGER

Date:

Prepared by _____

Council File Number _____

Date:

Chief Financial Officer:

13. Version History

Version No.	Date changed	Modified by	Amendments made
1	14/05/2001	Council minute no 142	
2	14/04/2003	Council minute no 1001	
3	11/10/2004	Council minute no 72	
4	14/08/2006	Council minute no 173	
5	05/04/2022	Council Minute no 279	Major Rewrite. Adopted 05/04/22 minute number 279. Public Exhibition from 6/04/22 for 28 days, no submissions received therefore adopted by Council on 05/04/22.
6	31/10/2024	Finance Officer – Treasury and Collections	Reviewed for new Council Term 2024-2028.