

POLICY STATEMENT

DEBT RECOVERY & FINANCIAL HARDSHIP POLICY

AUTHORISATION

POLICY TYPE: <i>(Council or Operational)</i>	Operational
POLICY LOCATION: <i>(eg. Corporate, Engineering, etc.)</i>	Finance
RESPONSIBLE OFFICER: <i>(by position title)</i>	Director Corporate and Community Services
AUTHORISED BY: <i>(GM or Director Title)</i>	Manex
DATE ADOPTED:	18 January 2022
ADOPTED BY: <i>(Manex or Council)</i>	Council
MINUTE NO: <i>(If required)</i>	
REVIEW DUE DATE: <i>(Four years unless statutorily required sooner)</i>	18 January 2026
REVISION NUMBER:	2

DOCUMENT HISTORY

VERSION NO.	DATE	DESCRIPTION OF AMENDMENTS <i>Include names of former policies that this policy will replace if applicable</i>	AMENDED BY <i>(Where required)</i>

REVIEW OF THIS POLICY

This Policy will be reviewed within four (4) years from the date of adoption or as required in the event of legislative changes. The Policy may also be changed as a result of other amendment that are to the advantage that Council and in the spirit of this Policy. Any amendment to the Policy must be by way of a Council Resolution or the approval of the General Manager.

1. Purpose:

This policy is to establish effective controls, policies and procedures to recover outstanding debts owed to Council in a timely manner. It includes Council's approach to engage in supportive and compassionate ways with debtors to consider their extenuating financial situations prior to Debt Collection.

This policy seeks to provide transparency in Council's operations with the collection of overdue rates, charges and all other outstanding accounts receivable.

This policy will also fulfil the statutory requirements of the Local Government Act, 1993 with respect to hardship applications.

2. Scope:

This policy outlines the process of Councils debt recovery procedures. Due to exceptional circumstances, ratepayers may at times experience difficulty in paying rates and charges. This policy outlines the process to be followed in providing assistance to those ratepayers who are suffering genuine financial hardship.

3. Outcomes:

Recovery of rates, Charges and Debtors:

Rates are issued annually in July of each financial year, these are followed by three instalment notices. Due dates are 31 August, 30 November, 28 February and 31 May. If payment is not received by the due date a printed reminder notice will be issued for the outstanding amount, 14 days after the instalment due date. Interest is charged on a daily basis on overdue rates and annual charges in accordance with Section 566 of the Act.

Debtor statements are issued monthly. If no response or arrangement entered, this account is followed up with 30, 60 and 90 day overdue letters.

Arrangements to pay over time, may be entered into with all Ratepayers/Debtors. It is Council's intention to have a maximum period of 12 months for which debts may be paid under suitable arrangement including current levies during the period of the arrangement. This may be extended to a two year term in extreme cases.

Any default in arrangements that occur for a period greater than one (1) month, without prior notification, will result in Council or its Early-Stage Intervention Agent contacting the Ratepayer/Debtor by any combination of phone, SMS, letter of visit to ascertain the ratepayer/Debtor's intentions regarding the debt and to encourage resumption of the arrangement.

Prolonged or repeated default in arrangements may be referred to debt collection at any time.

Prior to Debt Collection, Early-Stage Intervention

Early-stage intervention consists of two or three attempts to share compassionate and rational engagement with debtors who have fallen behind in their rates payments. Using any combination of phone, email, letter and personal visit, it seeks to:

- a. Offer help to avoid developing unmanageable levels of rates debt, and to avoid referral to Debt Collection and Legal Action.
- b. Calculate an affordable payment plans and complete the relevant forms.
- c. Mediate to resolve minor disputes or recommend formal mediation for major disputes.
- d. Report agreements and recommendations to Council.

A rates reminder/early-stage intervention letter shall be sent where applicable, within 14 days after the due date of an instalment, to those debtors who have not paid or made satisfactory payment arrangements. The letter:

- a. Will be sent for debts over \$500.00, or where three or more rates instalments are overdue.
- b. Gives the debtor a summary of the outstanding debt and encourages the debtor to contact Council to make a suitable payment arrangement.
- c. Advises of a potential compassionate visit from Council's preferred Early-Stage Intervention agent to understand the debtor's situation and help make a payment arrangement and urges the debtor to avoid the need for a visit by contacting Council.

If Council receives no response from the debtor after the due date of the Reminder/Early Stage Intervention letter, or defaults on a payment arrangement, Council may initiate Early Stage Intervention follow-up action.

Debt Collection and Civil Claims Legal Action

Debt collection action will be initiated with a Letter of Demand being sent to the Debtor by Council's Debt Collection Agency, giving the Debtor 14 days to make either payment or an acceptable arrangement before further action is taken.

If payment or an arrangement for payment has not been received by the due date stated on the Letter of Demand, and the debt is greater than \$1000.00, then Council's Debt Collection Agency may issue and serve a Summons (known in NSW as a Statement of Liquidated Claim).

- The Summons is an important legal document. Council requires each Summons to be personally served on the debtor, along with a letter urging the Debtor to contact Council to make a payment arrangement or to obtain legal advice.
- In exceptional circumstances where personal service could not be effected, a summons may be served by Court Post (mail).

The Debtor may, within 28 days of the service of the Summons pay the amount claimed or lodge a defence to the claim made by Council. The Debtor may also choose (within 28 days) to either make an acceptable arrangement with Council or apply to the Court to pay the debt by regular instalments.

If the Debtor does not respond to the Summons within the set period, Council (through its Debt Collection Agency) can apply for 'Default Judgement'. Once judgement is entered the Debtor is deemed by the Court to owe the debt to Council.

Council through its Debt Collection Agency can now proceed with a range of enforcement options to recover the debt.

Any legal expenses, including professional costs, incurred by Council from the recover of outstanding rates and charges will be charged against the Debtor.

Additional Remedies in the Local Government Act (1993)

Section 605 of the Local Government Act (1993), allows Council to add to the amount of a rate or charge any reasonable out-of-pocket expenses incurred in tracing (locating) the person liable to pay the rate or charge.

Section 569 allows Council the option to demand that rent payments be paid to Council if the rateable property is rented by the Debtor to a tenant. A notice must be served on the tenant under this Section, Council requires the Notice to be served on the tenant by personal service with a side-letter urging the tenant to pay the rent to Council or to obtain legal advice

because, if the tenant does not comply with the demand, the tenant may become liable for the full debt.

The Sale of Land for Unpaid Rates and Charges

Section 713 of the Local Government Act (1993) allows Council to sell a property for unpaid rates where rates have been overdue for a minimum of five (5) years or in the case of vacant land, Council has the option of selling the property after 12 months if the amount of rates owing exceeds the land value.

Council may manage the sale of land process internally or outsource it to an external organisation specialising in Sales of Land for unpaid rates.

Financial Hardship Relief

The Local Government Act 1993 gives Council the authority necessary to provide assistance to those ratepayers under the following sections of the Act:

- a) *Section 564* of the Act provides Council with the option to accept payment of rates and charges due and payable in accordance with an agreement made with the ratepayer and to write off or reduce interest accrued on rates and charges if the ratepayer complies with the agreement.
- b) *Section 567* of the Act provides for Council to write off accrued interest on rates and charges payable by a ratepayer if, in Council's opinion the reasons that the ratepayer was unable to pay the rates and charges when they became payable were beyond the ratepayer's control, or, that the ratepayer is unable to pay the accrued interest for reasons beyond that ratepayer's control, or, that the payment of the accrued interest would cause the ratepayer hardship.
- c) *Section 601* of the Act provides for ratepayers who incur a rate increase in the first year following a General Revaluation of land values to apply to Council for rate relief if the increase in the amount of rates payable will cause them substantial financial hardship.

Applications for hardship relief:

Applications for hardship relief must be made on the appropriate *Hardship Rate Relief application Form (Appendix 1)* which is also available for download on Council's website: www.blandshire.nsw.gov.au

The applicant must meet the following criteria:

- The applicant must be the owner of the property and must be liable for the payment of rates and charges to the property:
- The property for which the hardship application is made must be the principal place of residence of the applicant:
- The property for which the hardship application applies must be categorised as "Residential" for rating purposes:
- Genuine financial hardship can be displayed;
- The application of hardship must be accompanied with supporting documentation which may include, but is not limited to:
 - A letter supporting the application outlining the reason for applying for financial hardship and the period of time for which the hardship relief sought may apply;
 - Details of monthly income and expenditure;
 - Copies of most recent bank statements.

4. Roles and Responsibilities:

The General Manager has delegated authority to assess all applications in accordance with this policy.

In the first instance the application will be reviewed by the Finance Officer (Revenue), Manager Customer and Financial Services and Director Corporate and Community Services.

The application will be reviewed and a recommendation made to the General Manager regarding any offer of assistance as provided by the Local Government Act, 1993, having regard to the circumstances of the applicant.

The General Manager will make a final determination about the application after considering the recommendation of the Staff.

The applicant will be informed of Council's decision in writing.

5. Definitions:

Act: Refers to the Local Government Act, 1993

Council: Refers to Bland Shire Council

Debtor: Means a ratepayer or any other person or entity which is overdue in its liability to pay a debt to Council.

6. Legislation and Supporting Documents:

Section 564 of the Local Government Act 1993

Section 567 of the Local Government Act 1993

Section 569 of the Local Government Act 1993

Section 601 of the Local Government Act 1993

Section 605 of the Local Government Act 1993

Local Government (General) Regulation, 2005

Office of Local Government Rating and Revenue Raising Manual

7. Relationship to Community Strategic Plan:

This Policy supports Council's Delivery Program Strategy *10.4 Ensure the long-term financial sustainability of Council through effective and prudent financial management.*

8. Attachments:

Appendix 1 – Hardship Rate Relief Application Form

APPENDIX 1

HARDSHIP RATE RELIEF APPLICATION FORM

Approved by the Director General of the Division 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.

Assessment No: _____

I, _____
(Full name in block letters)

Of _____
(Address)

Telephone Number: _____ Apply for a concession 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 week.

Pension: _____ Amount: _____

- 2) Do you have a current Pension Concession Card issued by the Commonwealth Government?
 Yes No

PCC No: _____ Date of Grant: _____

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

If yes, state the address of the other property: _____

- 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 other 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 a Question 5?

Yes No

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 Compensation, superannuation, insurance or retirement benefits \$ _____
- b) Spouse's income \$ _____
- c) Income of other residents of the property \$ _____
- d) Casual/part-time employment \$ _____
- e) Family allowance \$ _____
- f) Interest from banks/credit unions/building societies \$ _____

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		

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

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 Number
- 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 for a pensioner concession is required under the Local Government Act 1993 and the Local Government (General) Regulation 2005.