

# RECOVERY OF RATES, DEBTS AND SERVICE CHARGES POLICY

## PURPOSE

The purpose of this policy is to provide a clear, accountable, and transparent process for the Shire's rates and service charges debt management and collection practices and ensure consistency for all debt recovery.

## OBJECTIVE

The Shire of Quairading aims to ensure that all payments due to the Shire are received by the due date for payment and, through close monitoring of aged accounts, to reduce the likelihood of debts for outstanding rates and service charges becoming unrecoverable. However, sometimes rates and service charges due to the Shire remain outstanding after the due date for payment. This Policy is to guide staff on the process to recover rates and service charges that are in arrears.

## DEFINITIONS

### **Financial hardship**

Financial hardship occurs where a person is unable to pay rates and service charges without affecting their ability to meet their basic living needs, or the basic living needs of their dependants.

### **Firebreak debtor**

Means an individual who has failed to construct a firebreak and the Shire has on charged the costs incurred for construction of a firebreak on the ratepayer's property.

### **Payment Arrangement**

Means an arrangement whereby a debtor and the Shire enter into an agreement for an amount to be paid over a set period to pay a total amount outstanding.

### **Rates debt**

Means amounts due and payable to the Shire for rates and service charges levied by the Shire pursuant to the provisions of the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996*.

### **Rates debtor**

Means an individual, organisation or other party that has outstanding monies owed to the Shire for a rates debt.

## POLICY

The Shire will exercise its debt recovery powers as per Part 6 of the *Local Government Act 1995*, guided by the following principles:

- a. Equity – Implementing rate collection procedures fairly and equitably, ensuring consistent treatment of ratepayers in similar circumstances;
- b. Simplicity – Making the processes used to recover outstanding rates clear, simple to administer and cost effective;
- c. Transparency – Making clear the processes used by the Shire to ensure ratepayers meet their financial obligations;
- d. Flexibility – Responding where necessary to changes in the local economy and to meet local, State or National crises and other unforeseen events where they are applicable;
- e. Compliance – Ensuring the Shire’s rate collection procedures are compliant with all regulatory obligations.

### 1. Recovery of Rate Arrears

Rates are due for payment not less than 35 days from date of issue of the Rates Notice, in accordance with section 6.50(2) of the *Local Government Act 1995*. Rates debts not received by the due date shall be recovered in accordance with this Policy and any relevant legislation.

#### a. Interest

The Shire will charge interest against rates debts that remain outstanding more than 35 days from the date of the issue of the rates notice, as follows:

- i. Where payment of rates is made by instalments pursuant to section 6.45(3) of the *Local Government Act 1995*, interest will be charged at the rate adopted by Council as part of the annual budget, up to the maximum prescribed by regulation 68 of the *Local Government (Financial Management) Regulations 1996*; and
- ii. Where rates remain unpaid after the due date for payment pursuant to section 6.51 of the *Local Government Act 1995*, interest will be charged at the rate adopted by Council as part of the annual budget, up to the maximum prescribed by regulation 70 of the *Local Government (Financial Management) Regulations 1996*.

#### b. Rates outstanding after the due date shown on the rate notice

Where the Shire has not entered into a payment agreement with the rates debtor, the Shire will adopt the following process to recover outstanding rates debts due:

- i. Issue a Final Notice to the rates debtor requiring payment within 14 days.

- ii. Final Notices are not to be issued to eligible persons registered to receive a pensioner or senior rebate under the *Rates and Charges (Rebates and Deferments) Act 1992*; as such persons have until 30 June of the current financial year to make payment, without incurring any penalty interest. The Shire may, however, issue a Final Notice to registered pensioners or seniors for any unpaid charges not subject to a rebate or deferment (for example, waste collection charges);
- iii. If payment has not been received by the due date shown on the Final Notice, attempt to contact the debtor by other means, including telephone and email, regarding payment of the debt;
- iv. Where contact was not possible or did not result in payment of the debt or the Shire entering into a payment agreement with the debtor, issue a “Notice of Intention to Claim” demanding immediate payment; and
- v. The Shire may lodge a Minor Case Claim (where the debt is less than \$10,000) or a General Procedure Claim (where the debt is \$10,000 or more) with the Magistrates Court.
- vi. Should the debtor not respond within the timeframes established by the Court, default judgment may be requested. Where a General Procedure Claim has been lodged and default judgement requested and granted, a Property Seizure and Sale Order (PSSO) may be lodged. The PSSO authorises the Bailiff to seize and sell as much of the debtor’s real or personal property as necessary to satisfy the debt wholly.

The Shire may engage a debt collection agency and/or legal representative to act on its behalf in taking debt recovery action.

c. Recovery of rates debt from lessee

The Shire may seek to recover an outstanding rates debt from the lessee of a leased property, pursuant to section 6.60 of the *Local Government Act 1995*.

**2. Actions to take possession of land policy.**

The Shire may seek to recover an outstanding rates debt that has remained unpaid for at least three years by taking possession of the land in accordance with subdivision 6, Division 6, Part 6 of the *Local Government Act 1995*.

This may include:

- a. Leasing the land;
- b. Selling the land;
- c. Causing the land to be transferred to the crown; or
- d. Causing the land to be transferred to the Shire.

**3. Local government may require lessee to pay rent**

A lease includes an agreement whether made orally or in writing for the leasing or subleasing of land and includes a licence or arrangement for the use of land; lessor and lessee mean the parties to a lease and their respective successors in title.

If payment of a rate or service charge imposed in respect of any land is due and payable, notice may be given to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge.

#### **4. Legal costs and other expenses**

Legal costs and expenses incurred by the Shire in recovering rates debts will be charged against the land in accordance with the section 6.43 of the *Local Government Act 1995*.

#### **5. Recovery of debts resulting from construction of fire clearances**

Under the *Bushfires Act 1954*, the Shire may charge property owners for the construction of a firebreak where the owner has failed to do so.

The Shire will issue an invoice to the property owner for any costs incurred by the Shire.

Where that amount remains outstanding after the due date for payment, the property owner becomes a firebreak debtor, and the debt may be recovered in accordance with this Policy.

If the account remains unpaid for a period exceeding 120 days, or if the property is listed for sale within that period, the debt may be transferred against the ratepayer's property and collected in accordance with Recovery of Rate Arrears in Section (1) of this Policy.

#### **6. Sundry Debtors**

The debt collection of sundry debtors' process to be followed is:

- a. Issue invoice (or rates notice).
- b. Issue Statement at EOM
- c. Issue reminder letter if the payment is not received 14 days after the Statement Issue due date.
- d. Issue a Notice of Demand if payment is not received within 14 days after the reminder letter.
- e. Refer the debt to the Council's debt collection agency; and
- f. Unrecoverable debts referred to Council to be written off.

Debts that may be considered reasonable to be written off will be at the discretion of Council.

The above will be administered in a reasonable time.

#### **7. Financial Hardship**

Where a rates debtor is experiencing financial hardship and is unable to enter into a payment agreement to pay outstanding rates within 12 months, application can be made for a payment arrangement under the Financial Hardship Policy.

## 8. Payment Arrangement

Payment arrangements facilitated in accordance with the Shire of Quairading Financial Hardship Policy and Section 6.49 of the *Local Government Act 1995* are to be of an agreed frequency and amount. These arrangements will consider the following:

- a. That a ratepayer has made a genuine effort to meet rate and service charge obligations in the past;
- b. The payment arrangement will establish a known end date that is realistic and achievable; and
- c. The ratepayer will be responsible for informing the Shire of any change in circumstance that jeopardises the agreed payment schedule.

The Shire reserves the right to consider waiving additional charges or interest (excluding the late payment interest applicable to the Emergency Services Levy).

The Shire will suspend its debt recovery processes whilst negotiating a suitable SPA with a debtor. Where a debtor is unable to make payments in accordance with the agreed payment plan, the debtor advises the Shire and makes an alternative plan before defaulting on the 3<sup>rd</sup> due payment, then the Shire will continue to suspend debt recovery processes. A special payment arrangement may be negotiated and entered into between the parties.

### Special Payment Arrangement

A 'Special Payment Arrangement' is a non-legal (but binding) arrangement between the debtor/ratepayer and the Shire, whereby the debt/outstanding money is progressively paid in agreed instalments over a period of time, by amounts that are mutually agreed between the two parties. Where reasonable, the arrangement should be made so the debt is paid off before the end of the financial year of when the application is made.

- a. Applicants are required to complete an application form for a SPA [Appendix A], giving relevant information regarding their financial position and provide any additional documentation, verifying the financial position of the applicant to substantiate the information supplied.
- b. The application will be sent to the Executive Manager of Corporate Services for assessment which will result in approval, denial, or further negotiation to reach an agreement where both parties are satisfied.
- c. In the event of an applicant being dissatisfied with the decision of the Executive Manager of Corporate Services, they will have access rights for a review to the Chief Executive Officer, and/or Council.

Where a ratepayer has not reasonably adhered to the SPA by 01 July of the current financial year of which the SPA was entered into, the Shire will offer the ratepayer one further opportunity of adhering to the SPA. This offer will be to clear the total of the rates and service charge debts that remain outstanding by a reasonable time at the discretion of the Executive Manager of Corporate Services.

Rates and service charge debts that remain outstanding during the financial year and thereafter, will then be subject to the rates debt recovery procedures prescribed in the *Local Government Act 1995*.

**GUIDELINES**

Shire of Quairading Schedule of Fees & Charges  
 Shire of Quairading Financial Hardship Policy.  
 Shire of Quairading Rates Collection Policy.

**STATUTORY ENVIRONMENT**

*Local Government Act 1995 - Part 6*  
*Local Government (Financial Management) Regulations 1996*  
*Rates and Charges (Rebates and Deferments) Act 1992*  
*Bushfires Act 1954*

Record of Policy Review						
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