

Our Vision

Nambucca Valley ~ Living at its best

Our Mission Statement

'The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.'

1.0 Policy objective

To ensure the prompt recovery of all amounts due to Council.

2.0 Related legislation

Local Government Act 1993

Local Government Regulation 2021

Office of Local Government Debt Management and Hardship Guidelines - November 2018

3.0 Definitions

"Suitable Arrangement" – Arrangements will be made with the view of finalising the debt within 12 months. Yearly rate levies will be taken into consideration where an arrangement extends beyond the current financial year.

"Broken Arrangement" - An arrangement is taken to be broken after two scheduled payments are missed or underpaid without explanation to Council.

4.0 Policy Content

That appropriate action be taken on a regular basis and in a consistent manner for the recovery of rates and charges, including sundry debtors, to ensure that the Rates and Annual Charges Outstanding percentage meets the adopted Key Financial Indicator benchmark per the Financial Sustainability policy.

Returned Mail: Every effort is made to locate the property owner, if unsuccessful an Alert Memo will be created in the Names and Address Register. This will alert all office users of returned mail.

5.0 Recovery of Rates & Annual Charges

The Full Rate Notice is produced and mailed in July each year. This details all rates and charges raised, any arrears or credits carried forward and any rebates granted, the four instalments, their due dates and various methods for payment. Those ratepayers electing to pay by instalments will also receive Instalment Notices approximately thirty (30) days prior to the due date of the instalment. These instalment notices will include any arrears and accrued interest and therefore act as a '*reminder*'.

Ratepayers may make suitable arrangements for regular payments (weekly, fortnightly or monthly) of overdue or outstanding rates. Such arrangements will be monitored on a regular basis and contact may be made if payments are missed.

- Council's credit collection agent will issue an 'Overdue Letter' 14 days after the instalment due date to ratepayers with rates equal to or greater than two instalments with an overdue amount in excess of \$1,000 (unless they have made and maintained a suitable payment arrangement).
- Should the account remain unpaid or a suitable arrangement not entered into within 14 days of the 'Overdue Letter' a 'Letter of Demand' will be issued. There are no legal costs associated with the issuing of these two letters.
- If the debt remains unpaid 14 days after the date shown on the 'Letter of Demand' legal action will commence.

Legal Procedures

Legal procedures will only be undertaken by the credit collection agent upon Council instruction. All legal fees accrued during the debt recovery process will be added to the outstanding balance of the debt in accordance with Section 550 of the Local Government Act 1993.

- A *Statement of Liquidated Claim* (SOLC) may be served on ratepayers who have not responded to the Letter of Demand within the 14 day time period. Suitable arrangements for payment after service of the SOLC will still be accepted, but must be strictly maintained. Further legal action outlined below may be taken on a SOLC within 9 months from the date of service.
- *Default Judgment* will be entered after a minimum of 28 days, if there is no response to the SOLC. The default Judgement is recorded against the ratepayer's credit history and can be accessed by credit agencies and banking/lending authorities.

Once default judgement has been entered legal action will continue with a range of options, including but not limited to:

- Writ of Execution
- Examination Summons
- Garnishee Orders (wages or Bank Account)
- Rent for Rates where the subject property is leased or rented.

Debt recovery staff are able to exercise options to withhold action on a Writ, and also to reactivate a Writ anytime within six (6) months of the date of issue.

In the instance of the issue of a Garnishee Order, if the employer fails to comply, and Council can establish payment was made to the ratepayer(s), appropriate legal action can be instigated against the employer for recovery of the debt.

If letters are forwarded to tenants under Local Government Act 1993 Sect. 569 –“Rent for Rates”- and Council can establish receipt of such letter, (letter served by staff or ordinance officer or forwarded by registered post), legal action will be commenced against the tenants if they do not respond as instructed.

Sale of Land for Unpaid Rates

- Pursuant to Section 713 of the Local Government Act 1993 Council has the authority to sell land which has any unpaid rates and charges for 5 years or more.
- In case of vacant land, if the outstanding debt is more than the unimproved land value, it can be sold after one year.

- Any land to be sold under Section 713 must be by resolution of Council.
- All outstanding rates and charges must be paid to Council prior to withdrawing any property from a sale under this provision.
- All cost associated with the sale process such as advertising, postage, title searches, Real Estate Agents, Auctioneers and Conveyancing will be recovered from the sale proceeds in accordance with Section 718 of the Local Government Act.
- If the purchase money is insufficient to satisfy all rates, charges and debts owing in relation to a property, the debt is taken to have been fully satisfied.
- If the purchase money is more than the amounts owing the balance will be held in Council's trust fund for the persons having estates or interests in the land immediately before the sale

6.0 Recovery of Water Usage Charges

- A 'Final Notice/Reminder' is sent out on all six monthly accounts over \$5.00, still outstanding 14 days after the due date has expired and no arrangement has been entered.
- If water usage charges remain unpaid or a suitable arrangement is not entered into within 14 days of the 'Final Notice' a 'Notice of Intention to Restrict Water Flow' will be issued. A copy of this notice will be provided to the tenants of leased properties but will **NOT** include the owner's details.
- Should the debt remain unsatisfied after 7 days of the 'Notice of Intention to Restrict' a water flow restrictor will be fitted.

Water Flow Restrictor

Authority has been delegated to the General Manager, Assistant General Manager Corporate Services, Chief Financial Officer, Rates Officer and Rates Assistant to approve the restriction of water supply to properties that have ignored the 'Notice of Intention to Restrict' in accordance with Section 144 of The Local Government (General) Regulation 2021.

- Flow restrictors will only be fitted to properties with a debt balance exceeding \$100.00. If the premise is unoccupied at the time of installation, a signed letter is left for the occupier and the restrictor is fitted. Cash payments will not be taken on the premises at the time of restriction, although payments to satisfy the debt in full can be made at this time via electronic methods to stop the restriction.
- Once the restrictor device is fitted a 'Water Restrictor Removal Fee', per Council's adopted Revenue Policy, will be charged to the account for the removal of the restrictor to restore the normal flow of water. Restrictors will only be removed when the account has been paid in full, this includes the Water Restrictor Removal Fee'.
- If there is still no contact after the flow restrictor is fitted and the debt remains outstanding, Council will commence legal action, as outlined under 'Recovery of Rates & Annual Charges', to recover the monies owed.

As per the Local Government (General) Regulation 2021, Clause 144 also provides Council with the power to cut off the supply of water to a premises because water rates or charges for the property are unpaid.

In the case of Council's 'monthly' water account users, once the accounts are in arrears for 2 months, action is taken in the same order as for 6 monthly accounts.

7.0 Recovery of other Outstanding amounts including Sundry Debtors/Account Receivable

- A detailed monthly statement is issued on all accounts. Thirty days is given for settlement of the account and if this is not possible by the due date a suitable arrangement to make weekly/fortnightly payments will be accepted.
- If the account remains unpaid the next monthly statement will have the aging band on the bottom of the statement highlighted.
- A Letter of Demand will to be sent to debtors whose account remains unpaid after 90 days.
- Legal action as outlined under 'Recovery of Rates & Annual Charges' will commence on debtors whose account remains unpaid after 90+ days and exceeds \$1,000.

In the event that the account outstanding is less than \$1,000 follow-up action will occur through telephone contact, emails and letters. If a debt is considered irrecoverable, refer to the General Manager's Delegations of Authority.

Recovery for Category 6 Waste Facility monthly accounts

- If the debtor has an amount outstanding greater than 30 days on their monthly statement a 'Final Payment Notice' is issued requesting payment within 14 days or a suitable arrangement.
- If no response is received by the due date a 'Suspension of Waste Facility Account' is issued suspending the account until payment is made. The account suspension is advised to the Waste Management Officer and Waste Facility staff. The suspension is noted into the Weigh Bridge software to alert staff. Debtors can continue to use the facility but must pay by cash or card.
- If the outstanding balance exceeds \$1,000.00 legal action will commence as outlined under 'Recovery of Rates & Annual Charges'.
- Once the debtors account is back in order, use of monthly account will be reactivated but should arrears occur more than three (3) times the Monthly Credit account will be cancelled.

Recovery for Category 42 Conveyancing Debtors account

- If the debtor has an amount outstanding greater than 30 days on their monthly statement a 'Final Payment Notice' is issued requesting payment within 14 days or suitable arrangements.
- If no response is received use of the credit account will be cancelled.
- If the outstanding balance exceeds \$1,000.00 legal action will commence as outlined under 'Recovery of Rates & Annual Charges'

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