

RATES AND CHARGES RECOVERY AND HARDSHIP RELIEF POLICY

Policy statement

Blue Mountains City Council (Council) will ensure that recovery of Rates and Charges is enacted in accordance with the *Local Government Act 1993* (NSW). Council will provide mechanisms for hardship assistance to ratepayers experiencing genuine financial difficulty with the payment of their Council rates and charges.

Scope

This policy applies to all Council ratepayers. This policy relates to Council's annual rates and charges only and excludes other forms of debt.

Roles and responsibilities

Position(s)	Responsibilities
Elected Council (by Resolution)	<ul style="list-style-type: none">• Adopt the interest rate (through the Annual Fees and Charges) for unpaid rates as set by the Minister; and• Approve sale of land for unpaid rates.
Revenue Officer Rates Control	<ul style="list-style-type: none">• Preliminary review and assessment of hardship assistance applications and make recommendations (in consultation with the Aged & Disability Services Officer as required).
Any of the following: <ul style="list-style-type: none">• Director Strategy and Corporate Services• Manager Finance• Program Leader Revenue• Revenue Officer Rates Control	<ul style="list-style-type: none">• Refer and instruct Council's debt recovery agency to implement debt recovery actions which may involve legal proceedings; and• Approve hardship assistance applications and payment agreements.
Manager Finance or Director Strategy and Corporate Services	<ul style="list-style-type: none">• Approve the outcome of an appeal made against a Council decision in respect to this policy

Definitions

Term	Definition
arrangements to pay (ATP)	An agreement between Council and a ratepayer to pay rates and charges and interest outside of the normal instalment due dates.

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charges	Charges levied annually on the land shown on the annual Rates and Charges Notice. These may include: Emergency Services Charges; Domestic Waste Charges; On-Site Sewer Management Charges and other annual charges as prescribed by Regulation 125 of the Regulation.
debt recovery action	Any communication with the ratepayer in regards to their overdue rates and charges.
Farmland rating category	Land categorised for rating purposes pursuant to section 515 of the Act.
hardship	Hardship is any situation where an individual is having difficulty paying legally owed debt. This can result from life changes (for example, because of illness, unemployment or changed financial circumstances), restricting their short-term capacity to pay.
penalty interest	Simple interest calculated daily and charged on overdue rates and charges pursuant to section 566 of the Act.
Pensioner	An eligible pensioner as defined in clause 134 of the Regulation.
principal place of residence	The property that the ratepayer occupies as their sole or dominant residence or place of living.
proceedings	Legal action in the local court that commences with the issuing of a letter of demand by Council's appointed legal agent.
ratepayer	The person or persons liable for payment of Rates and Charges levied on the property for which assistance is being claimed.
rates	Council rates levied annually on the land shown on the annual Rates and Charges Notice. These may include: Ordinary Rates and Special Rates and annual charges.
Residential rating category	Land categorised for rating purposes pursuant to section 516 of the Act.
sale of land	In accordance with section 713 of the Act, a council has the authority to sell land which has any unpaid rates or charges for more than 5 years (or 1 year for vacant land, where the owing debt exceeds the land valuation). This is used in exceptional circumstances only, and is subject to strict legislative criteria and principles of fairness.
the Act	<i>Local Government Act 1993 (NSW).</i>
the Regulation	<i>Local Government (General) Regulation 2005 (NSW).</i>
write off	The accounting procedure for cancelling a debt that is no longer collectable resulting in its removal from the ratepayer's balance sheet account.

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1. Background

Council has a responsibility to recover monies owing to it in a timely, fair and effective manner to finance the delivery of its services and facilities and ensure effective financial management for ongoing financial sustainability.

Annual rates and charges are due and payable on 31 August of the rating year. Ratepayers can pay in quarterly instalments due 31 August, 30 November, 28 February, and 31 May of the rating year or by agreed monthly, fortnightly or weekly payment plans. Rates and charges are on land, including all interest accrued on overdue rates and charges.

This policy describes Council's debt recovery process for rates and charges, which aims to be effective, consistent and fair while minimising additional costs by taking informal recovery steps first.

Council recognises that there are cases of genuine financial difficulty requiring appropriate response and compassion. This policy establishes guidelines for assistance in these cases.

Financial assistance provided by Council may include:

1. Arrangements to pay outside legislated due dates;
2. Writing off accrued interest; and
3. Pensioner concessions.

Further support may be provided through Council's community staff and referral made to relevant community services where required, including:

- aged and disability support services;
- counselling services;
- financial advisory services;
- legal advisory services; and
- public charities.

Council is committed, through a range of mechanisms, to identify and assist vulnerable ratepayers including, but not limited to, those living with a chronic health issue and/or mental illness, persons living in squalor, those affected by natural disaster, pandemics and the socially disconnected.

Any ratepayer who is approved for financial assistance will not be subjected to legal proceedings for the recovery of overdue rates and charges, so long as the ratepayer maintains the agreed affordable arrangement to pay and maintains regular contact with Council.

Furthermore, repayment relief will be extended to any ratepayer at any stage of the rate recovery process from the moment the ratepayer establishes their need for assistance with Council's Revenue Team.

All confidential and sensitive information collected by Council for the purposes under this policy is strictly protected under Council's *Privacy Management Plan* and relevant legislation.

2. Objectives

The objectives of this policy are to:

1. Assist Council to comply with its the statutory requirements under the Act with respect to the recovery of rates and charges;
2. Establish clear guidelines that ensure fair and equitable assessment of all applications to pay rates and annual charges by an arrangement to pay;
3. Be sympathetic and helpful to ratepayers suffering genuine financial hardship;
4. Recover monies owing to Council in a timely, fair and effective manner to maximise cash flow; and
5. Ensure effective control over debts owed to Council.

3. Debt recovery options

Recovery action will commence if rates or charges are not paid by the due date for each quarterly instalment unless the ratepayer contacts Council to request an arrangement for payment by periodic payments.

Recovery action may include personal visits, letters, telephone calls, reminder notices, legal proceedings or sale of land for overdue rates. Such contact may be made by a Council Officer or external debt recovery agency.

Interest accrues on all overdue rates and charges. The maximum annual rate of interest is the rate specified by the appointed Minister by notice published in the NSW Government Gazette. The annual rate to be charged by Council is set by the elected Council in the Annual Fees and Charges.

3.1 Arrangements to Pay (ATP) for hardship

Ratepayers who are unable to pay rates and charges by the due date, either because of reasons beyond their control or because payment would cause hardship, may apply to enter into an agreement with Council to make periodic payments. The agreement shall specify the amounts of each regular payment and the dates by which those payments must be made to Council.

Payments under an agreement should be of regular amounts and be payable at regular intervals not exceeding one month between payments. The payments should be scheduled so as to ensure that rates and charges together with any arrears from previous periods are paid in full by 30 June of the financial year in which the rates are levied. Payment agreements entered into as a result of a financial hardship application may last for a longer period.

Interest shall be charged on amounts outstanding as required by the Act.

If a ratepayer does not meet the terms of a payment agreement, the agreement will be terminated and the full amount of the outstanding rates and charges and accrued interest will be due and payable. Action will then commence to recover the amount due.

3.2 Writing Off Accrued Interest

Overdue rates will be increased at the adopted rate of interest in accordance the Act. Accrued interest shall not be written off except in accordance with this policy, following hardship assessment.

Ratepayers who are unable to pay accrued interest on rates and charges for reasons beyond their control, or because payment of the accrued interest would cause them hardship, may apply to have the accrued interest written off.

Ratepayers who have complied with the conditions of an arrangement to pay and who are unable to pay accrued interest for the reasons stated above, may apply to have the accrued interest written off on the basis of hardship.

Applications for writing off accrued interest under hardship provisions shall be determined on the merits of each individual case. See section 3.3 of this policy for further details relating to writing off provisions.

3.3 Writing Off Rates and Charges

Rates and charges may be written off where:

- (a) there is an error in the assessment;
- (b) the amount is not lawfully recoverable;
- (c) a decision of a court requires the rates and charges to be written off; or
- (d) recovery action would not be cost effective.

Rates or charges (including accrued interest) amounting to \$5,000 or more will be written off only by resolution of Council. Amounts under \$5,000 will be written off by the CEO or by delegated staff.

3.4 Accruing debt against the land (pensioners)

Where the payment of rates and charges is likely to cause extreme hardship to an eligible pensioner, the Revenue Program Leader may allow rates, charges and interest to accrue as a charge on the land. Recovery of the debt will occur either from the estate of the eligible pensioner or the sale of the property, whichever occurs first.

An application for approval to accrue rates and charges against a property must include all relevant financial and other details which demonstrate that the payment of rates, charges and interest would cause extreme hardship.

Where rates, charges and interest have accrued against a property, the accrued interest shall not be written off.

4. Other forms of relief

4.1 Pensioner discounts

Eligible pensioners are required to pay the amounts of rates and charges remaining following any statutory reduction in rates required under the Act. Such amounts shall be paid by the due date.

Eligible pensioners may receive an additional discount on their rates and charges as may be determined by Council resolution. All other conditions of this policy, including in relation to interest and write off, apply to pensioners as they do to other ratepayers, including interest on unpaid rates and charges.

Council will provide a pensioner rebate, upon application, to eligible pensioners for the current year and the previous two years only.

4.2 Extension of concession to avoid hardship

Council extends rating concessions pursuant to section 577 of the Act on a case by case basis. Applications should be made on a Pensioner Rebate Application form and must be made annually. All such applications must be referred to Council or its delegated officer for approval. Pensioner rebates approved under section 577 of the Act are subsidised by the State Government in the same way as other pensioner rebates.

4.3 Hardship resulting from certain valuation changes

Section 601 of the Act provides NSW councils with the discretion to protect ratepayers from unexpected increases to their land values that may result in an unexpected increase in their rates and charges from one year to the next. Rates and charges and interest are not waived or reduced by Council under those provisions.

4.4 Abandonment of rates and charges

Council does not abandon or write off additional rates and charges or interest other than that prescribed by section 575 (pensioner rebates) and section 595 (postponed rates and interest) of the Act or as prescribed by this policy.

5. Hardship applications and assessments

Council may agree to a form of debt recovery relief, as detailed in Part 3 of this policy, if hardship can be established.

The following principles will be applied when implementing debt recovery processes and in assessing hardship assistance applications:

- Accountability and compliance;
- Fairness and consistency;
- Confidentiality;
- Integrity and equity; and
- Transparency and appropriate confidentiality.

5.1 Hardship applications and criteria

Council may request that a detailed hardship application form is completed. Applications will be assessed on an individual basis with the financial circumstances of all property owners to be considered.

Supporting evidence may be requested and include (but may not be limited to) copies of:

- income statements;
- mortgage statements;
- credit card statements and other banking statements;
- significant bills including all utilities etc; and
- supporting medical documentation, if hardship is requested on medical grounds.

In order to be eligible for assistance the applicant must meet **all** of the following criteria:

1. The applicant must be a ratepayer of the subject property;
2. All ratepayers of the subject property must be included in the application (or Council may require a separate application from each ratepayer);
3. The subject property must be the principal place of residence for the ratepayer and must be categorised for rating purposes as “Residential” or “Farmland” (if the farm is also the principal place of residence of the applicant);
4. Hardship assistance may be provided where a property is not the principal place of residence of the ratepayer, or to properties categorised as “Business” for rating purposes, in exceptional circumstances such as a pandemic, a state of emergency, severe widespread economic stress or severe personal hardship.
5. Each case will be determined on its merits.

All approved hardship applications will be reviewed at least annually, or at any other time the Council deems necessary, to ensure the circumstances in which the original application was approved remain relevant.

5.2 Special provisions with respect to application forms

Council officers can provide assistance to ratepayers in completing a hardship application form if it is required and may also refer ratepayers to free financial advisory services for further assistance.

A completed application form may not be required by Council if the ratepayer is unable to complete the form themselves, but otherwise meets the provisions of this policy.

5.3 Cessation of assistance

The ratepayer must advise Council of any change to their circumstances which may affect their ability to pay their rates and charges within 14 days of that change occurring.

Council may require payment of the overdue rates and charges and interest if any of the following apply:

- the applicant ceases to be the ratepayer liable for payment of the rates and charges on the property;
- the circumstances for which an agreement was approved have changed, such that the ratepayer/s can afford to pay the rates and charges;
- a change occurs to the property in the form of a subdivision, acquisition in part or any other like circumstance;
- regular payments have ceased being receipted to the account as was agreed with the ratepayer when the application was approved or last reviewed; or
- the oldest outstanding amount became payable more than 18 years prior; or
- Council decides that payment of the overdue rates and charges is in the best interests of the Council and the community.

5.4 Right of appeal

A ratepayer has the right to appeal the decision of a Council officer made in respect to this policy. The appeal must be made in writing clearly stating the reasons for the appeal and will be assessed in the first instance by the Manager Finance, with final decisions made by the Director Strategy & Corporate Services.

Related documents

This document should be read in conjunction with:

Legislation

- *Local Government Act 1993 (NSW)*
- *Local Government (General) Regulation 2005 (NSW)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Health Records and Information Privacy Act 2002 (NSW)*

Other documentation

- Blue Mountains City Council, *Privacy Management Plan*

The document on Council's Records Management System is the controlled version. Please check that you have the current version before using a printed copy. HPERM: 20/131502

Council policy - Version control information

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