

HOPE VALE ABORIGINAL SHIRE COUNCIL

Debt Management Policy

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DEBT RECOVERY POLICY

ORIGIN/AUTHORITY

Local Government Act 2009

Local Government Regulation 2012

RELATED LEGISLATION

Information Privacy Act 2009

PURPOSE

The objective of this policy is to ensure effective, efficient, timely and fair management and recovery of outstanding rates, charges and sundry debts.

SCOPE

This policy applies to the management of all outstanding rates, charges and sundry debts payable to Hope Vale Aboriginal Shire Council.

DEFINITIONS

Council	Means Hope Vale Aboriginal Shire Council.
Credit	Is the provision of goods and services in exchange for a commitment to make a future payment.
Debt	Is an amount of money owed to Council as a result of a transaction or lack of a transaction including, for example, the provision of goods or services, the non-payment of other money owed and the issuing of a rates notice. A debt is an asset for Council, as it implies an anticipated future benefit in the form of a cash inflow when the debt is paid.
Debtor	An individual, organisation or other entity that has a debt.
Invoice Date	Is the date on which the relevant invoice was raised in Council's financial management system.
Doubtful Debts	Are debts that may be found to be uncollectable.
Making Provision For	Is the accounting procedure for recognising the estimated value of something.
Overdue Rates and Charges	Rates and charges which have not been paid by their due date as stated on the relevant rates notice issued by Council adjusted for: <ul style="list-style-type: none">• any concession provided by Council;• any related costs awarded to Council by a court;• any related interest payable on the rates or charges or court-awarded costs.
Writing Off	Is the accounting procedure for cancelling a debt that is no longer collectable or has insufficient value to justify the cost or effort involved in

	<p>collection.</p> <p>When a debt is written off, it is removed from those assets recorded in Council's Statement of Financial Position.</p>
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POLICY STATEMENT

Council's debt management process will be clear, fair and transparent.

Parties incurring debts do so on the understanding that prescribed repayment terms are met.

Notwithstanding the above, Council recognises that a fair debt management process must seek to accommodate the circumstances of all debtors committed to clearing their debts when due or as soon as possible afterwards. This must be balanced against the need to ensure non-collection of debt does not deprive community members of the services and benefits which Council would otherwise be able to provide.

Procedures will be put in place which maximise the likelihood that all debts owed to Council are settled by the date they are due for payment and that any necessary follow-up occurs within specified timeframes.

DEBT MANAGEMENT PROCESS

Avoiding Unnecessary Debt Creation

Where possible, Council will manage its services and its procurement so that credit is not unnecessarily given and debt is not unnecessarily created.

For example, community members wishing to purchase goods or services from Council should be asked to pay for them in advance whenever possible. Conversely, those contracted to provide goods or services to Council should be paid in arrears.

Where appropriate, prepayment, bonds or deposits will be required prior to Council commencing the supply of goods or services.

Record Creation

A department of Council which provides goods and/or services to an intending debtor will be responsible for completing the documentation required for invoice generation.

Rates notices and invoices will clearly state due dates for payment.

Credit terms for all sundry debtors are thirty (30) days from the date of invoice, unless otherwise agreed by the Chief Executive Officer.

The Finance Department will be responsible for raising the invoice and for the recovery of any debts for all departments.

Council will Not Acquire or Sell Land to Settle Rates and Charges Debts

Despite relevant powers granted under legislation, Council will not consider acquiring or selling land for which rates and charges are overdue. Instead, overdue rates and charges will be managed using the same general procedures applied in the case of sundry debtors with minor exceptions as set out below.

Overdue Payments Procedures

The following procedures will be used in relation to overdue payments.

1. If full payment of a debt has not been received by the due date (i.e. within 30 days of the invoice date for a sundry debt or, for rates and charges, by the due date stated on the

rates notice) a statement may be issued to the debtor advising of the amount still to be paid.

2. If full payment has still not been received 30 days after the due date and the debtor has not contacted Council to discuss a payment plan, a request for payment may be made by telephone where possible. In addition, a second statement may be prepared with this statement being stamped “overdue” before being sent.
3. If payment has still not been received 60 days after the due date, a letter of demand may be sent to the debtor advising that debt collection will commence if the debt is not paid in full within 30 days and, in the case of sundry debts only, all costs associated with this process may be added to the outstanding debt.
4. If payment is not received within 30 days of the date listed on the letter of demand, the debtor’s contact details may be provided to Council’s debt collection agency, who may issue a further demand letter requesting payment within 7 business days. Once information is provided to Council’s collection agency, all contact with the debtor will be dealt with by that agency
5. If payment is not received within 7 business days of the date listed on the second demand letter, a final demand letter may be sent to the debtor requesting payment within 7 business days. The letter will also state that Council may issue an ‘Intention to Sue’ letter if payment is not made within this timeframe.
6. If payment is not received within 7 business days of the date of the third demand letter, the debt collection agency may issue an ‘Intention to Sue’ letter, requiring payment within 4 days.
7. If payment is not received within 4 business days of the date of the ‘Intention to Sue’ letter, Council employees will liaise with the relevant debt collection agency as to how to proceed with resulting action to be determined on a case-by-case basis.

The Chief Executive Officer (or his or her nominee) has the discretion to vary the steps above subject to delegation limits.

In any given year, Council may, by resolution, decide a date from which interest is payable on all overdue rates and charges. Should this occur, debtors with overdue rates and charges will be advised of relevant details in writing.

A debtor or debtor’s representative can request the adoption of a payment plan in relation to a debt. As far as possible, payment plans will be designed to increase the likelihood of Council receiving all outstanding payments. They are to be held in confidence to the extent possible and must be negotiated with the Chief Executive Officer or his nominee. Once a payment plan is established, debt recovery actions by Council will be suspended for as long as the plan is honoured.

Provision for Doubtful Debt

If, during the implementation of the procedures detailed above, it becomes clear the recovery of debt is unlikely (for example in situations where it becomes known the debtor is bankrupt or in liquidation), a provision for doubtful debt shall be made.

Writing Off Debt

The Chief Executive Officer has delegated authority to write-off amounts up to \$20,000, subject to receiving a recommendation from Director of Finance and Corporate Services that the debt be written off as it meets one of the following criteria –

- a) There are no reasonable prospects of recovering the debt (after reasonable attempts have been made to recover or legal advice to that effect has been received);

- b) The costs of recovery are likely to equal or exceed the amount of the debt; or
- c) It will result in full settlement of the remaining overdue Rates and Charges.

Debts in excess of \$20,000 can only be written off by Council resolution.

Miscellaneous

Council will accept full or part payment of any debt whether or not an agreed payment plan is in place for the debt.

Council retains the right to deal with special circumstances at its discretion.