

## **POLICY OBJECTIVE**

The objectives of this policy are to:

- Ensure debts for outstanding rates, annual charges, service usage charges, interest and sundry debtors owed to Council are recovered in a timely, efficient and effective manner to finance Council's operations and deliver services.
- Provide a formal administrative process to objectively determine and assist those ratepayers who are experiencing genuine financial hardship.
- Ensure Council compliance with the relevant statutory requirements of the Local Government Act 1993 (the Act).

## **SCOPE**

This policy applies to debts owed to Edward River Council through the non-payment of Council rates, annual charges, service usage charges, interest and sundry debtors. It also outlines how Council may help ratepayers who experience exceptional and genuine financial difficulties to pay their rates and charges.

## **LEGISLATIVE REQUIREMENTS**

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Valuation of Land Act 1916 NSW
- Privacy and Personal Information Protection Act 1998

## **POLICY STATEMENT**

Edward River Council aims to ensure effective and efficient financial management over outstanding debts. This includes overdue rates, annual and service usage charges, interest and sundry debtors.

## **SPECIAL AMENDMENT – RATES HARMONISATION**

Edward River Council has taken time to review its Debt Recovery and Hardship policy in regard to the RATES HARMONISATION process. ERC has initiated an Interim Debt Recovery and Hardship policy containing an amendment.

Council appreciates that some ratepayers, have been and will be adversely affected by the RATES HARMONISATION process, While Edward River Council acknowledges current financial difficulties, possibly caused due to RATES HARMONISATION, it also must consider the adequacy of payments offered to meet the requirement that the debt will be cleared within an acceptable timeframe.

Council is introducing financial assistance measures to assist ratepayers as a result of RATES HARMONISATION. Whilst Local Government Legislation restricts the waiving of

rates interest and charges Edward River Council has implemented separate assistance measures, due to the impact of the RATES HARMONISATION on Ratepayers in Edward River. ERC has implemented the following guidelines:

- Any Ratepayer/s who believe that have suffered financial hardship due to the ERC Rates Harmonisation process (effective from 1st July 2021) should make a Hardship Application to ERC on the approved Hardship Application form.
- The application, when received, will be considered, and reviewed by council staff and the ratepayer will be advised of the outcome. If hardship is granted to the ratepayer/s the following conditions obligations will apply:

### **Ratepayer Obligations**

- Ratepayer/s must enter into a mutually agreeable Payment Plan between Council and the Ratepayer/s
- The agreed Payment Plan to be completed and signed by Ratepayer/s on the approved form. (form available from Council's website)
- The payment Plan must be adhered to by the Ratepayer/s.
- Ratepayer/s must advise Council in writing of any request to vary the Agreed Payment Plan.
- If the agreed Payment Plan is adhered to by the Ratepayer, then no interest charges will be raised by ERC on any outstanding amounts as they fall due.
- **NOTE:** Interest will be raised and become due and payable should any agreed payment be missed without written request to Council by the ratepayer/s.

### **ERC Obligations**

- If the agreed Payment Plan is adhered to by the Ratepayer/s, then no interest charges will be raised by ERC on any outstanding amounts as they fall due.
- This interest waiver will be in force for the duration of the mutually agreed payment plan.
- Council to consider any variation in writing and advise the ratepayer/s of the outcome.
- Interest will be raised and become due and payable should any agreed payment be missed, without written request to Council by the ratepayer/s.

The special Amendment clause relating RATES HARMONISATION is a temporary amendment and will be reviewed by Management and Council on or after 30 June 2022.

## **RECOVERY OF RATES AND CHARGES**

Council issues rates and charges notices in accordance with section 562 of the Local Government Act 1993 in July each year. An annual rate notice is issued on or before 31 July. They can be paid in full by 31 August or via four instalments due 31 August, 30 November, 28 February, and 31 May each year. Rate instalment reminder notices are issued on or before 31 October, 31 January and 30 April.

### Arrangements to Repay Rates and Charges

In accordance with section 564 of the Act, a ratepayer may at any time arrange with Council officers to enter into a weekly, fortnightly, or monthly payment arrangement to repay the rates and charges with Council.

Failure to make payments as per the agreement voids the agreement and may result in Council referring the account for debt management. All ratepayers who enter into an arrangement will continue to have interest charged on the outstanding amount in accordance with Section 566 of the Act. Rates are required to be paid in full prior to the end of the rating year

Applications to repay rates by set regular repayments are to be made and forwarded to Council on the approved form available from Council's Customer Service Centre or on Council's website.

### Interest Charges

Council charges overdue rates and water accounts with the maximum allowable interest rate in accordance with Section 566 of the Act and may write off interest charges on overdue rates in accordance with the Act, by resolution or by delegation of authority of the General Manager.

### Recovery Action Referral to an External Agency

Where rates, annual charges and water charges continue to remain unpaid without a formal repayment arrangement in place Council may refer outstanding debts to an external agency for collection. Council will utilise the services of a debt recovery agent appointed by the Council where required for this purpose.

## **FINANCIAL HARDSHIP IN EXCEPTIONAL CIRCUMSTANCES**

Council recognises that there are some cases of genuine and exceptional financial hardship experienced by individual ratepayers due to unforeseen circumstances such as a declared event /disaster i.e. drought and flood, which may require compassion and consideration by Council in these special circumstances.

While Council will not reduce rates or annual charges, it will consider alternative available approaches to assist with cases of financial hardship. This policy establishes guidelines for assessment of residential rates and charges financial hardship applications.

### General Principles in Determining Hardship

Council considers the principles of fairness, integrity, confidentiality and its obligations under the Act and other related legislation when determining hardship applications. Financial assistance may take the form of:

- Arrangement of a payment agreement or schedules;
- Extending the period in which the outstanding rates may be repaid;
- Reducing or writing off accrued interest.

Each individual case will be considered on its merits. The criteria for assessment will be, but is not limited to, the following:

1. the ratepayer must own and occupy the property as their principal place of residence;
2. the property for which the ratepayer/s is requesting assistance is the ratepayer/s principal place of residence and the property must be land categorised as either residential or farmland for rating purposes;
3. the residential component of mixed developments will only be considered for the hardship provision assistance;
4. the ratepayer is required to provide Council with details of all income and expenses from all sources, with supporting evidence;
5. the ratepayer is to provide reasons and reasonable proof of financial hardship

### Applications for Hardship Assistance

Applications must be made on the Hardship Assistance Application Form available from Council's Customer Service Centre and on Council's website.

In accordance with the Act, Council has several options available to it when considering a Hardship Application. These include:

a) Entering a Payment Plan

Under Section 564 of the Act, Council may:

- Negotiate with the applicant a suitable repayment plan.

b) Transfer of Land in lieu of Payment of Rates and Charges

Under Section 570 of the Act, Council may:

- Accept a transfer of the land in respect of which rates or charges or accrued interest is due and payable in full satisfaction of the rates, charges or accrued interest.

c) Sale of Property for Overdue Rates

Under Section 713 of the Act, Council may:

- Sell any land (including vacant land) on which any rate or charge has remained unpaid for more than five (5) years from the date on which it became payable;
- Sell any vacant land on which any rate or charge has remained unpaid for more than one (1) year, provided that the amount of such rates and charges are more than the land valuation it received from the NSW Valuer-General;
- Any sale will be carried out by public auction in accordance with the process outlined in the Local Government Act 1993.

d) Write off Rates and Charges

In accordance with regulation 131 of the Local Government (General) Regulation 2005 Council may write off rates and charges:

- To correct a clerical error; or
- If the amount is not legally recoverable; or
- If a court orders the amount to be written off; or
- the General Manager believes it would not be cost effective to attempt to recover the amount outstanding

## **RECOVERY OF UNPAID SUNDRY DEBTS**

Sundry debtor accounts and invoices will be created when information becomes available and printed and posted weekly. The payment due date will be 30 days after the invoice issue. A statement will be issued within seven days of month's end.

### Overdue Sundry Debtors

The following process applies to recovery of overdue sundry debtor accounts:

- A reminder notice will be issued 14 days after due date;
- A statement will be issued at the end of the month and serve as the 2<sup>o</sup> reminder;
- If full payment is not received after issue of the 2<sup>o</sup> reminder, then an overdue sundry debtor account letter requesting payment or the making of a satisfactory arrangement to pay will be sent to the debtor;
- The overdue sundry debtor account letter will advise that the recovery of the overdue account will be referred to Council's debt collection agency if the account is not paid within 14 days.

## **PRIVACY**

Council is committed to ensuring that privacy will be maintained in accordance with the principles established under the *Privacy and Personal Information Protection Act 1998*.



**POLICY VERSION CONTROL**

<b>Title</b>	<b>Interim Debt Recovery and Hardship Policy</b>			
<b>ECM Doc Set ID</b>				
<b>Date Adopted</b>	<b>17/06/2021</b>			
<b>Council Minute No.</b>				
<b>Responsible Officer</b>	<b>Amanda Barber</b>			
<b>Version Number</b>	<b>Modified By</b>	<b>Modifications Made</b>	<b>Date modified and Approved by Council</b>	<b>Council Minute Number</b>
<b>1</b>	<b>Colleen O'Connor</b>	<b>New Council Policy</b>	<b>18/10/2018</b>	<b>2018/249</b>
<b>2</b>	<b>Amanda Barber</b>	<b>Special Amendment - Covid</b>	<b>16/04/2020</b>	<b>2020/74</b>
<b>3</b>	<b>Amanda Barber</b>	<b>Special Amendment - Rates Harmonisation</b>	<b>17/06/2021</b>	<b>2021/67</b>