



FRAUD AND CORRUPTION PREVENTION POLICY

Summary:

This policy aims to educate and inform Tenterfield Shire Council staff and councillors about their responsibilities and obligations in preventing and reporting instances of fraud and corruption within Council, create awareness about what constitutes unethical conduct and reduce and prevent the risk of internal and external fraud and corruption.

Policy Number	TBA
File Number	
Document version	V1
Adoption Date	TBA
Approved By	Council
Endorsed By	Executive Management Team
Minute Number	
Consultation Period	N/A
Review Due Date	November 2022
Department	Customer Service, Governance and Records
Policy Custodian	Manager Customer Service, Governance and Records
Superseded Documents	N/A
Related Legislation	NSW Local Government Act 1993 NSW Local Government (General) Regulation 2005 NSW Independent Commission Against Corruption Act 1988 NSW Public Interest Disclosures Act 1994 (PID) NSW Local Government Code of Conduct NSW Crimes Act 1900 NSW Public Finance and Audit Act 1983 Australian Standard: AS 8001-2003/AMDT 1-2-004 Corporate Governance - Fraud and Corruption Control.

1. Overview

This policy outlines the expected standards of ethical behaviour at Council and is aimed at ensuring appropriate mechanisms and processes are in place to prevent, detect and respond to fraud and corruption.

2. Policy Principles

The Fraud and Corruption Prevention Policy assists in building a corruption resistant culture at Council by promoting ethical behaviour and encouraging accountability and transparency in Council processes and dealings with external parties.

Tenterfield Shire Council is committed to preventing fraud and corruption across the organisation as such activities have an impact on Council resources and reputation. Senior Council employees and councillors have a key ongoing role in the prevention of fraud and corruption and the fostering of an ethical and accountable environment at Council.

Tenterfield Shire Council will not tolerate corrupt conduct by employees, Councillors or external parties.

Council is committed to:

- Minimising the opportunities for corrupt conduct by employees, members of the public, councillors, contractors and clients.
- Detecting, investigating and disciplining/prosecuting corrupt conduct.
- Reporting corrupt conduct to appropriate external authorities.
- Developing and implementing a fraud and corruption risk assessment strategy to assist in the identification and management of corruption risks across Council.

This policy aims to educate and inform Staff and Councillors about their responsibilities and obligations in preventing and reporting instances of fraud and corruption within Council, create awareness about what constitutes unethical conduct and reduce and prevent the risk of internal and external fraud and corruption.

3. Policy Objectives

This policy is based on the 10 element best practice control model, which is consistent with national and international best practice. The elements are:

- organisation wide fraud and corruption policy
- risk assessment and risk management framework
- internal controls
- internal reporting
- external reporting
- public interest disclosures

- investigations
- code of conduct
- staff education and awareness
- client and community awareness

4. Policy Statement

In implementing this policy, Council will undertake a strategic assessment of fraud and corruption and will undertake an operational risk assessment across the organisation, with a particular focus on fraud and corruption risks. This risk assessment will assist in identifying areas of high risk of fraud and corruption within Council and in turn, assist in the development of management strategies in response to such risks.

In accordance with the risk assessment and Council's risk management framework, Council will implement the strategies and mitigation measures identified in the assessment.

Internal reporting of fraud and corruption

Council will provide support to persons who report instances of fraud, corruption and wrongdoing in accordance with the *NSW Public Interest Disclosures Act 1994*. The *Public Interest Disclosures Act 1994* provides protection to persons who have reported suspected or actual wrongdoing in good faith. The Tenterfield Shire Council Code of Conduct also establishes responsibility for employees to report breaches. For more information regarding procedures for reporting fraud and corruption, please refer to Council's Code of Conduct and Procedures for the Administration of the Code of Conduct.

External reporting of fraud and corruption

This policy outlines the different external authorities which are the most appropriate agency to report instances of fraud and corruption. These include:

Independent Commission Against Corruption (ICAC) - ICAC is responsible for investigating allegations and complaints of corrupt conduct involving or affecting public authorities or public officials and exposing instances of corrupt conduct in public authorities and public officials. ICAC also has an advisory function and provides recommendations to prevent corruption in public authorities and actively educating public authorities, public officials and members of the public about corruption.

NSW Ombudsman - The NSW Ombudsman is an independent complaint handling body for public authorities including local councils. The NSW Ombudsman also investigates the administrative practices of a local council and the conduct of councillors and council employees with a view to ensuring council processes are fair and just. The Ombudsman also has oversight responsibility for the *NSW Public Interest Disclosures Act 1994*.

Office of Local Government NSW - The Office of Local Government is the central regulatory agency for local government and provides best practice advice to local

councils. It is responsible for investigating and reviewing allegations of serious and substantial waste of public funds.

Office of the Information Commissioner - The NSW Information Commissioner is an independent agency established to promote public awareness and understanding of the new right to information law, and provide information, support, advice, assistance and training to agencies and the general public. The OIC also has the power to review decisions made by government agencies and to deal with complaints. The Information Commissioner also monitors agencies' functions and may report to the Minister for the *NSW Government Information (Public Access) Act 2009* about proposals for legislative or administrative change.

5. Scope

This Policy applies to all Tenterfield Shire Council's employees, Councillors and external parties, including contractors, volunteers, community representatives and consultants.

6. Accountability, Roles & Responsibility

Elected Council

Councillors are elected representatives and comprise the governing body of Council. This governing body has the role of directing and controlling the affairs of the Council in accordance with the *NSW Local Government Act 1993*.

As Councillors are members of the Council's governing body, they are required to perform civic duties and fulfil a leadership role for the community.

This includes an obligation to:

- Report possible fraud and corruption related activities to the Chief Executive, Mayor, Disclosures Officer or relevant external agencies;
- Promote Council's commitment to the prevention of fraud and corruption throughout the community and among Council employees, and
- Comply with the Tenterfield Shire Council Code of Conduct by acting in an ethical manner.

Chief Executive

The Chief Executive is responsible for the efficient and effective operation of Council as an organisation. The Chief Executive is to play a prominent role by taking a proactive stance on preventing fraud and corruption within Council by acting to, and through the promotion of, the highest standard of ethical behaviour which is expected across Council. In this way, as part of this leadership role, the Chief Executive is responsible for ensuring that Council's Code of Conduct and associated policies are extended to all Council employees, Councillors, contractors and volunteers, and promoting Council's commitment to preventing fraud and corruption to the local community.

The Chief Executive, or delegate, also has the responsibility to fully investigate allegations of wrongdoing and to report to relevant external agencies of any allegations of fraudulent or corrupt conduct that have been identified at Council. In the same way, the Chief Executive has a legislated requirement under section 11 of the *NSW Independent Commission Against Corruption Act 1988* (ICAC Act) to report to ICAC any matter that is suspected to concern or may concern corrupt conduct.

Specific responsibilities relating to the implementation of this policy:

- Culture
- Policy and Strategy
- Business Risk
- Corporate Governance
- Compliance (legislative, regulatory, community)
- Council Image

Chief Corporate Officer, Director and Managers

The Chief Corporate Officer, Director Infrastructure and Managers are to actively promote Council's Fraud and Corruption Prevention Policy and lead by example by demonstrating ethical decision making and act with honesty and integrity in dealings with others.

Managers and Team Leaders are to promptly report instances of suspected or actual fraud. The Chief Corporate Officer, Director Infrastructure and Managers are to play a supervisory role in the implementation of the Fraud and Corruption Prevention Policy. This includes ensuring that employees within their area of responsibility receive fraud and corruption awareness training, regularly endorse Council's position of zero-tolerance of corrupt behaviour and reinforce the expectations of the Tenterfield Shire Council Code of Conduct.

Specific responsibilities relating to the implementation of this policy:

- Develop and implement fraud and corruption prevention strategies for operational activities;
- Identify and mitigate actual potential corruption risks in the workplace;
- Monitor and review the effectiveness of mechanisms implemented to minimise and detect corruption;
- Demonstrate ethical conduct in all business dealings;
- Monitor and review fraud and corruption prevention mechanisms in place;
- Promote awareness of fraud and corruption prevention and ethical conduct in the workplace, and
- Lead by example.

Supervisors and Team Leaders

Supervisors and Team Leaders are responsible for the proactive promotion and dissemination of this policy and the standards of ethical behaviour expected of

employees as outlined in the Code of Conduct to employees in their area. Similarly, supervisors and team leaders are to regularly reinforce to employees their role in preventing and detecting fraud and corruption within the organisation and promote an environment of compliance with this policy and other Council policies. Supervisors and team leaders also have an important role in ensuring that the policy is operating effectively and contributing to fraud and corruption risk assessments.

Specific responsibilities relating to the implementation of this policy:

- Promote awareness of ethical conduct and mechanisms to prevent corruption;
- Provide input to policies, procedures and instructions that relate to areas of risk;
- Drive the fraud and corruption prevention risk assessment and mitigation process, and
- Monitor the integrity of the risk assessment process within the operating parameters of Council's risk management framework.

Employees/Contractors/Volunteers

All Council employees are reminded of the obligation to comply with the Council Code of Conduct and conduct themselves in an ethical manner including concerning the use of Council assets and resources. Under the Code of Conduct, Council employees must not participate in wrongdoing including fraudulent and corrupt activities. Council employees are required to report any activity which may comprise fraudulent and corrupt conduct.

Specific responsibilities relating to the implementation of this policy:

- Ethical behaviour;
- Report suspected incidents of fraud and corruption, and
- Compliance with fraud and corruption prevention controls including the Fraud and Corruption Prevention Policy.

7. Definitions

Fraud: The NSW Audit Office defines fraud as 'a deliberate and premeditated turn of events which involves the use of deception to gain advantage from a position of trust and authority. The type of events include: acts of omission, theft, the making of false statements, evasion, manipulation of information and numerous other acts of deception'. Fraud and corruption can be committed solely by one person or in collusion with others. Such persons may be:

- An employee or employees of Council;
- Councillors;
- Volunteers;
- External individuals or companies, or
- External contractors or service providers.

Corruption is defined under the *Independent Commission Against Corruption Act 1988* No 35 (8) as follows:

(1) Corrupt conduct is:

(a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority; or

(b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions; or

(c) any conduct of a public official or former public official that constitutes or involves a breach of public trust; or

(d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.

(2) Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:

(a) Official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition);

(b) Bribery;

(c) Blackmail;

(d) Obtaining or offering secret commissions;

(e) Fraud;

(f) Theft;

(g) Perverting the course of justice;

(h) Embezzlement;

(i) Election bribery;

(j) Election funding offences;

(k) Election fraud;

(l) Treating;

(m) Tax evasion;

(n) Revenue evasion;

(o) Currency violations;

(p) Illegal drug dealings;

(q) Illegal gambling;

(r) Obtaining financial benefit by vice engaged in by others;

(s) Bankruptcy and company violations;

(t) Harboursing criminals;

(u) Forgery;

(v) Treason or other offences against the Sovereign;

(w) Homicide or violence;

(x) Matters of the same or a similar nature to any listed above, and

(y) Any conspiracy or attempt in relation to any of the above.

Fraud is recognised as a subset of corruption. The Australian Standard on Fraud and Corruption Control (AS 8001 - 2003), defines Fraud as:

"Dishonest activity causing actual or potential financial loss to any person or entity including theft or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately after the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position'.

Examples of Fraud could include, but are not limited to:

- Misappropriating Council's assets including use of Council assets for private purposes;
- Abuse of Council time;
- False invoicing, and /or invoicing for goods or services never rendered;
- Providing false or misleading information;
- Misuse of sick leave or carers leave; and
- Theft of cash, equipment or tools.

8. Related Documents, Standards & Guidelines

Tenterfield Shire Council Fraud and Corruption Control Protocol

9. Version Control & Change History

Version	Date	Modified by	Details
V1.0	November 2020	Council	Adoption of Original Policy

Acknowledgements:

Gunnedah Shire Council – Fraud and Corruption Prevention Policy

Glen Innes Severn Council - Fraud and Corruption Prevention Policy



RECORDS MANAGEMENT

Summary

The purpose of this policy is to provide clear direction on Tenterfield Shire Council's Records Management Program.

Policy Number	1.187
File Number	
Document version	V6.0
Adoption Date	23 September 2020
Approved By	Council
Endorsed By	Council
Minute Number	TBA
Consultation Period	Not Applicable.
Review Due Date	August 2023 – 3 years
Department	Corporate & Governance
Policy Custodian	Chief Corporate Officer
Superseded Documents	Records Management Policy V5.0
Related Legislation	<ul style="list-style-type: none">• NSW State Records Act 1998 - including standards and retention and disposal authorities issued under the Act• NSW Government Information (Public Access) Act 2009• NSW Privacy and Personal Information Protection Act 1998• NSW Evidence Act 1995• NSW Public Finance and Audit Act 1993• NSW Treasurer's Directions• NSW Local Government Act 1993• Good Conduct and Administrative Practice: Guidelines for Public Authorities and Officials (NSW Ombudsman)• NSW Public Sector Code of Conduct• Commonwealth Copyright Act 1968• Public Sector Employment and Management Act 2002• Electronic Transactions Act 2000• Environmental Planning & Assessment Act 1979

Delegations of Authority

Chief Corporate Officer Manager Customer Service, Governance & Records Records Coordinator

1. Overview

The NSW State Records Act 1998 directs that public offices, such as Tenterfield Shire Council, are required to establish and maintain a records management program in conformity with standards and codes of best practice approved by the State Records Authority.

The Australian Standard AS 4390-1996 (redesignated AS ISO 15489) has been adopted as a code of best practice for the NSW Public Sector.

The Policy is applicable to all records media in both physical and electronic formats and requires Council to document business transactions fully and accurately in compliant recordkeeping systems.

Council uses an internet based information management system for the corporate records management system.

The records management policy provides the framework for Council to effectively fulfil its obligations and statutory requirements under the legislation and other Government directives.

The policy enhances effective information management and retrieval in Council and highlights the responsibilities and accountabilities of staff in complying with the Act.

The establishment of an effective and efficient recordkeeping environment ensures standardisation, protection and retrieval of information, improving levels of quality customer service.

2. Policy Principles

This policy is approved by Council and issued under the authority of the Chief Executive. The policy will be reviewed and amended to maintain consistency with the State Records Act 1998.

Council's Chief Corporate Officer is the Nominated Senior Officer. The Chief Corporate Officer has ownership of this policy and responsibility for its implementation.

3. Policy Objectives

To ensure that the management of Council's information resources and records management program provide timely and comprehensive information to meet operational business needs, accountability requirements and community expectations.

To ensure the preservation of Council's 'corporate memory' through sound recordkeeping practices and the accurate capture of information to meet legal, evidential and accountability requirements.

Records management is the discipline and organisational function of managing records to meet operational business needs, accountability requirements and community expectations.

The records management program is viewed as an important management issue, equivalent in importance to the management of other activities within Council; it is part of the totality of 'information management'.

Records management proceeds from the assumption that information is a resource which must be managed. To be used effectively, good records management is of key importance to good management.

Council operates in an accountable and community orientated environment, Council is committed to maintaining a records management program that meets its business needs and accountability requirements.

Records are a vital ingredient in the support of Council's ongoing business activities. The effective management and preservation of Council's corporate memory is intrinsic to both the decision making process and productivity within Council.

As a public agency, Council is bound by the requirements and regulations of the State Records Act 1998. These regulations set out specific practices, which Council must comply with, and be audited against. Council is committed to meeting all statutory and accountability requirements.

There are certain community expectations and cultural obligations associated with recordkeeping practices. Council is committed to managing its records of continuing value.

4. Policy Statement

Tenterfield Shire Council is committed to maintaining a records management program that meets its business needs and accountability requirements, while ensuring records of continuing value form part of the States cultural heritage.

5. Scope

This policy applies to all Council business, including electronic business. It concerns records, which are created, collected, processed, used, sentenced, stored and disposed of in the conduct of official business.

Electronic messages (E-mail) which are relevant to the information gathering, policy formulation or decision making processes of Council are part of the scope of this policy.

Not all electronic messages are relevant to information gathering therefore they do not require downloading or printing, where these are of short-term value or personal messages.

All records management systems, procedures and processes are to be consistent with this policy.

6. Accountability, Roles & Responsibility

Elected Council

Council is responsible for the protection, safe custody and return of All State records under its control, ensuring accessibility to all equipment or technology dependant records.

The State Records Act 1998 requires Council to make and keep full and accurate records as evidence of business activities. Council is required to implement a records management program based on legislation, standards and codes of best practice.

Chief Executive, Senior Executive and Management Teams

Responsibility for Council's records management program is assigned to the Nominated Senior Officer (Chief Corporate Officer).

The role of the Nominated Senior Officer is to provide a strategic focus for recordkeeping throughout Council and is responsible for:

- Establishing records management policies for the organisation as a whole.
- Establishing corporate standards for recordkeeping and records management.
- Providing consulting services to Council staff.
- Working with other managers of information resources to develop coherent information architecture across the organisation.

- Working with other accountability stakeholders to ensure record keeping systems support organisational and public accountability.

Managers

Managers are responsible for:

- Ensuring staff comply with the Records Management Policy.
- Ensuring staff are trained in the Records Management and Enterprise Content Management systems.
- Ensuring staff are aware of their recordkeeping responsibilities.
- Ensuring staff are aware that Council records and information are to be used only for business purposes.
- Informing the Records Coordinator of any staff changes so that security and access controls for the systems can be maintained.

Council Staff (Incorporates Contractors / Service Providers)

As public sector employees, all Council staff need to be aware of recordkeeping requirements that affect the performance of their duties. The State Records Act 1998 requires public officials to 'make and keep full and accurate records' of the business activities.

The NSW Ombudsman's Good Conduct and Administrative Practice Guidelines for State and Local Government (3rd edition) also states that public officials must make and keep full and accurate records of their official activities and that good recordkeeping assists in improving accountability and provides for transparent decision-making.

Council staff have a number of basic obligations regarding records:

- Comply with Records Management Policy;
- Create full and accurate records to support the conduct of their business activities, including records of all decisions and actions made in the course of their business;
- Create records that would not otherwise be created;
- Ensure records are saved into the electronic recordkeeping systems (Enterprise Content Management - ECM) and physical files where retention of a hard copy record has been identified;
- Learn how and where records are kept within Council;
- Do not destroy Council records without authority from the Records Co-ordinator;
- Do not lose records, and
- Be aware of records management procedures.

Records Section

The Records Coordinator is operationally responsible for the efficient management of Council records (physical and electronic) incorporating sound recordkeeping principles and records management best practice guidelines.

Records staff will assist other staff in fulfilling their recordkeeping responsibilities and provide advice and training throughout the life of this policy.

Records staff will monitor and review the implementation process of all records management policies and procedures.

7. Related Documents, Standards & Guidelines

Regular monitoring of the Records Management Program is undertaken by the Nominated Senior Officer.

Council will complete and forward the annual '**Records Management Survey**' conducted by the State Records Authority of NSW as part of the monitoring and reporting arrangements of the State Records Act 1998.

Regular planning for the records management program will be undertaken through a specific strategic and operational plan, which will be reviewed on a regular basis.

Value of Records as a Corporate Asset

The records of Council are an exceptionally important information resource, they are a unique and vital asset, and often they cannot be easily reconstructed or replaced.

They show valuable precedents and courses of action, without the knowledge of which Council cannot function.

They exist for a variety of administrative, functional, historical and legal reasons. Their existence protects Council's interests, and the interests of the community that Council serve.

Records are the major component of the Council's corporate memory, they provide evidence of actions and decisions and document Council's transactions. Records support policy formulation and managerial decision making and help deliver Council services in a consistent and equitable manner.

Council creates records as evidence of business activity; they support efficiency and productivity and enable staff to meet their legislative and administrative responsibilities.

As part of the NSW public sector, records created by Council also form part of the State's records, that is records 'made and kept, or received and kept, by any person in the course of the exercise of official functions in a public office, or for any purpose of a public office, or for the use of a public office' (State Records Act 1998, Part 1-3 (1)).

Legislative Framework for Recordkeeping

Council's records management and recordkeeping practices comply with the State Records Act 1998 (NSW) and other relevant Acts and Regulations and standards relating to records management, including:

- NSW State Records Act 1998 - – including standards and retention and disposal authorities issued under the Act
- NSW Government Information (Public Access) Act 2009
- NSW Privacy and Personal Information Protection Act 1998
- NSW Evidence Act 1995
- NSW Public Finance and Audit Act 1993
- NSW Treasurer's Directions
- NSW Local Government Act 1993
- Good Conduct and Administrative Practice: Guidelines for Public Authorities and Officials (NSW Ombudsman)
- NSW Public Sector Code of Conduct
- Commonwealth Copyright Act 1968
- Public Sector Employment and Management Act 2002
- Electronic Transactions Act 2000
- Environmental Planning & Assessment Act 1979

Disposal of Records

Disposal of records forms part of records management. In accordance with the State Records Act 1998, Council is required to retain or destroy records using the General Retention and Disposal Authority: Local Government Records (GA39).

GA39 must be used when determining whether files/documents should be retained as a State Archive or destroyed after a set retention period, therefore all records must be referred to the Records Co-ordinator prior to disposal.

In addition to GA39, the General Retention and Disposal Authority: Original or source records that have been copied (GA45) applies to original or source records stored in day boxes and allows for the disposal of a hard copy record and the retention of the image in its place provided that the following conditions are met:

- The original or source records do not come within one of the categories of excluded records;
- The records are covered by an approved retention and disposal authority;
- Authentic, complete and accessible copies of the records are made;
- The copies become the official record of the business of the agency and are kept in accordance with authorised retention requirements, and
- The original or source records are kept for quality control purposes for an appropriate length of time after copying.

As New South Wales State Archives and Records recommends a minimum retention period of six months for retention of original documents of imaged records, Tenterfield Shire Council has adopted this timeframe.

Records excluded from disposal in accordance with GA45 are:

- Original or source records that were created prior to 1 January 1980 and are required as State archives or required to be retained in agency;
- Original film (including photographic negatives) or analogue audio-visual material that are required as State archives;
- State archives that have been retrieved or are on loan from State Records or its regional repositories. These records must be returned to State Records or the relevant regional repository;
- Records subject to a legislative or Government policy requirement that the original record not be destroyed;
- Records that are considered to have intrinsic value in their original format e.g. records that have a cultural, iconic, heritage or aesthetic value as a physical artefact;
- Records documenting special circumstances personal information of high personal value to the subject of the record, and
- Source records that have been used as the input or source records for migration (see the General retention and disposal authority for source records that have been mitigated).

Original copies of documents for Development Application files, Human Resources files and Legal files will not be covered under this policy.

Obligations of Records Users

Staff members shall not alienate, relinquish control over, or destroy records of Council without authorisation to do so.

Staff members shall ensure that records in any format, including electronic documents and electronic messages are captured into Council's recordkeeping systems.

Staff members are required to follow authorised procedures in carrying out records management functions.

Staff members are required to handle records with care and respect in a sensible manner, to avoid damaging records with a view to prolonging their life span.

Staff should not eat, drink or smoke near records or in records storage areas.

Training

Staff responsible for Records Management should receive appropriate training in Records Management. Other staff should receive training on the operation of the records management system and their records management responsibilities.

8. Version Control & Change History

Version	Date	Modified by	Details
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V1.0	26/09/07	Council	Adoption of Original Policy (Res No. 576/07)
V2.0	19/12/12	Council	Review/Amended (Res No. 532/12)
V3.0	23/04/14	Council	Review/Amended (Res No. 118/14)
V4.0	22/04/15	Council	Review/Amended (Res No. 99/15)
V5.0	23/08/17	Council	Review/Amended (Res No. 168/17)
V6.0	24/09/2020	Council	Review/Amended (Res No. xxx/20)

Borrowing Policy

Summary:

The purpose of this policy is to ensure that the use and management of Council borrowings (including overdraft facilities):

- complies with the Ministerial Revised Borrowing Order dated 13 May 2009;
- is undertaken with due regard for Council's role as a custodian of public funds;
- is undertaken with the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons; and
- complies with Council's overall risk management philosophy.

Policy Number	1.020
File Number	
Document version	V2.0
Adoption Date	28 October 2020
Approved By	Council
Endorsed By	Executive Management Team
Minute Number	(Insert)
Consultation Period	Not Applicable
Review Due Date	September 2021 (One Year)
Department	Finance & Technology
Policy Custodian	Manager Finance & Technology
Superseded Documents	(Insert)
Related Legislation	1. Local Government Act 1993; 2. Local Government (General) Regulation 2005; 3. Ministerial Revised Borrowing Order; 4. Local Government Code of Accounting Practice and Financial Reporting; 5. Australian Accounting Standards; and 6. Office of Local Government Circulars.
Delegations of Authority	Paul Della, Manager Finance & Technology

1. Overview

The Council's power to borrow funds arises from Section 621 of the Local Government Act 1993. As a custodian of public funds, Council must exercise the reasonable care and diligence that a prudent person would exercise when borrowing funds.

This policy provides a framework for Council to borrow funds while ensuring the ongoing viability of the Council by not permitting overall borrowings to extend Council beyond its ability to meet future repayments and budgetary obligations. Section 377(1) (f) of the Local Government Act 1993 stipulates that Council cannot delegate the borrowing of money. It is expected that Councillors will have a full understanding of the terms and conditions of borrowing arrangements before entering into any contract.

2. Policy Principles

Delegation of Authority

Authority for the implementation of this policy is delegated by Council to the Chief Executive Officer in accordance with the Local Government Act 1993. The Chief Executive Officer may, in turn, delegate the day-to-day management of Council's borrowings to the Responsible Accounting Officer or other appropriately qualified senior staff (subject to regular reviews).

A record of the delegated authority is to be maintained and delegates are required to acknowledge that they have received a copy of this policy and understand the obligations of their delegated role.

It is the responsibility of the Chief Executive Officer to ensure that delegates have the necessary expertise and skill to carry out their delegated roles.

Guiding Principles

Guiding principles for Council borrowings.

1. Borrowings may only be used to fund capital expenditure and not operating expenditure (which should be funded from revenue).
2. Minimum working capital requirements are to be identified and maintained in a readily available form such that there is no need to call on borrowings to fund any shortfall in reasonably anticipated operating requirements.
3. It is appropriate to fund significant capital works via borrowings such that the full cost of infrastructure is not only borne by present day ratepayers, but also by future ratepayers who will benefit from use of the funded infrastructure.
4. It may be appropriate to fund certain capital projects with user charges, in which case user charges should reflect the project's costs, including loan payments.

5. The impact on Council's budget of any movement in interest rates must be actively managed.

3. Policy Objectives

The objectives of this policy are to ensure that the use and management of Council borrowings (including overdraft facilities):

- complies with the Ministerial Revised Borrowing Order dated 13 May 2009;
- is undertaken with due regard for Council's role as a custodian of public funds;
- is undertaken with the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons; and
- complies with Council's overall risk management philosophy.

4. Policy Statement

Structure of Borrowings

Overdraft

The Council may maintain a modest overdraft facility for unexpected changes to operating cash flow requirements. As there are costs involved in accessing the facility, it is not to be used for expected operating cash flow and it is not to be used for long-term financing.

Credit Cards

It should be noted that the use of Council Credit cards (which is a form of borrowing) is subject to its own Policy. Council should set the overall credit facility limit within that Policy.

Long-Term Borrowings

Considerations

To assist with making the decision on whether to undertake long-term borrowings, Council should consider:

1. the financial impact of the proposed borrowing on Council's Long Term Financial Plan, Delivery Programme and Operational Plan including:
 - a. scenario analysis in the case of changes to market interest rates; and
 - b. any positive impact of the capital works funded by the proposed borrowing;
2. the Debt Service Ratio, which is an indicator of Council's ability to service its borrowings (should be shown to remain below 10%);
3. the cost-benefit analysis of the capital works to be funded and the works alignment with Council's strategic planning and capital programme; and

4. the proposed structure of the borrowings and the proposed way in which the Council will procure the borrowings to achieve competitive and favourable terms.

Requirements

All borrowings must be approved by Council resolution. The intention to borrow funds must be included in Council's annual draft Operational Plan.

Council should advise the Office of Local Government (OLG), completing a loan borrowing forecast return. If Council subsequently changes the purpose of the loan or increases the amount, a Council resolution must be passed prior to drawing any funds. In the event of an increase, Council must also re-submit their loan borrowing return to OLG (this information is normally collected by NSW Treasury Corporation on behalf of OLG).

Process

To minimise the cost of borrowing, the policy will require Council to seek competitive borrowing terms by way of obtaining a minimum of three (3) quotes. Once Council is permitted to borrow from the NSW Treasury Corporation, one of these quotes should be sourced from there.

The borrowing maturity profile should reflect the Council's forecast repayment profile. Consideration should also be given to incorporating flexibility in borrowing covenants in case of early repayment or a need to extend the term of the loan.

During the life of long-term borrowings, Council must regularly update its financials to ensure no breach of covenants or to take advantage of flexibility in the repayment profile should Council's financial situation change over time.

Restrictions

Council is restricted, by the Ministerial Revised Borrowing Order dated 13 May 2009, to source the borrowings from Australia and in Australian currency.

Borrowing Parameters

The maximum term of borrowings is the shorter of 20 years or the expected economic life of the capital works funded.

Monitoring and Reporting

Any breach of this policy is to be reported to the Chief Executive Officer and Responsible Accounting Officer immediately upon becoming aware of such breach. A written statement of the facts relating to the breach is to be prepared within two business days, including the remedial action taken or proposed to be taken. The breach should be reported to Council at the next meeting.

Review

This policy will be reviewed at least once every two years and, in addition, as and when required in the event of legislative or other regulatory changes. Any amendment to this policy must be authorised by Council resolution.

5. Scope

This Policy applies to all of Council's borrowings.

6. Accountability, Roles & Responsibility

Elected Council

It is the Elected Council's responsibility to approve borrowings. There must be a Council resolution for each borrowing.

Staff

Any member of staff involved in organising Council borrowings must do so in accordance with the adopted Borrowing Policy.

7. Definitions

Variable Rate Loan. A loan that attracts an interest rate linked to a variable benchmark. In Australia variable rate loans are normally priced at a fixed margin over the Ausbond Bank Bill Rate which is the market benchmark three month interbank rate

Fixed Rate Loan. A loan that attracts a fixed pre-determined interest rate throughout the term of the loan.

Amortising/Credit Foncier Loan. A loan that is repaid over the term of the loan, normally by equal instalments due quarterly or semi-annually. Interest payments and capital repayments are normally combined and paid on the instalment date.

Interest Only Loan. A loan repaid in full on the final maturity date. The loan can be either a variable rate loan or a fixed rate loan with interest payments normally payable quarterly for a variable rate loan and semi-annually for a fixed rate loan.

8. Related Documents, Standards & Guidelines

Investment Policy.

Credit Card Policy.

9. Version Control & Change History

Version	Date	Modified by	Details
V1.0	23 May 2018	Council	Adoption of Original Policy

RATES HARDSHIP

Summary:

The purpose of this policy is to provide clear direction to Ratepayers of the application process on how to apply and what hardship relief is available.

Policy Number	1.070								
File Number									
Document version	V5.0								
Adoption Date	28 October 2020								
Approved By	Council								
Endorsed By	Council								
Minute Number	(Insert)								
Consultation Period	N/A								
Review Due Date	September 2023 – 3 years								
Department	Office of Chief Corporate								
Policy Custodian	Manager Finance & Technology								
Superseded Documents	<table> <tr> <td>23 January 2008</td><td>25/08</td></tr> <tr> <td>26 September 2012</td><td>392/12</td></tr> <tr> <td>26 August 2015</td><td>270/15</td></tr> <tr> <td>23 August 2017</td><td>168/17</td></tr> </table>	23 January 2008	25/08	26 September 2012	392/12	26 August 2015	270/15	23 August 2017	168/17
23 January 2008	25/08								
26 September 2012	392/12								
26 August 2015	270/15								
23 August 2017	168/17								
Related Legislation	Local Government Act 1993 Local Government (General) Regulation 2005								
Delegations of Authority	Manager, Finance & Technology								

1. Overview

To provide assistance to ratepayers, suffering genuine financial hardship, with the payment of their rates and charges.

2. Policy Principles

(Insert Information)

3. Policy Objectives

The Tenterfield Shire Council aims to:-

- a) Consider ratepayers' personal circumstances when assessing applications.
- b) Provide a framework for ratepayers experiencing financial hardship to seek

relief.

4. Policy Statement

1. Payment Arrangements

Section 564 of the Local Government Act 1993 provides Council with an option to accept payment of rates and charges due and payable in accordance with an agreement made with the person.

Payment arrangements are to be dealt with in accordance with Council's Debt Recovery Policy and Writing Off of Debts Policy. However, the following procedures will apply in respect of a payment arrangement for a person deemed to be suffering hardship because of a rate or charge:

Procedures

The following procedures are to be read in conjunction with Council's Debt Recovery Policy and Writing Off of Debts Policy and will be followed with all financial hardship concessions:

- Any mutually acceptable repayment schedules have a maximum of a 12 month term, which may be extended to two (2) years in exceptional circumstances. Exceptional circumstances will generally entail death of a family member, injury, and any other form of incapacitation which would result in hardship; Variation to payment terms may be approved by Chief Executive Officer.
- It is the responsibility of the applicant to advise Council of any changes in the applicant's circumstances which may affect the applicant's ability to honour the payment arrangement;
- Where an applicant cannot honour a payment arrangement for a short period, for example one (1) or two (2) payments, Council will where reasonable, accommodate an applicant where an applicant has shown a commitment to extinguishing the debt;
- All repayment schedules are to be reviewed at the end of each six (6) month period and upon the raising of further rates and charges;
- Any future rates and charges levied against the property are to be taken into account when repayment schedule is negotiated to be paid by the end of the term of hardship;
- A payment defaulter having a history of more than two (2) incidents of payment default shall be deemed to be a person not exhibiting a genuine commitment to extinguish the debt.

Hardship Criteria

A determination under this policy will be assessed against information provided by the applicant upon completion of Council's Financial Hardship Application form including supporting documentation, but is not limited to:

- Reasons why the person was / will be unable to pay the rates and charges when they became due and payable;
- Copy of a bank and other financial institution statements for all accounts;
- Details of all income and expenditure (monthly budget analysis);
- A balance sheet, specifying assets and liabilities;
- Letter from a recognised financial counsellor or financial planner confirming financial hardship and advising of what procedures have been put in place to remedy the situation.

5. Hardship Resulting from a General Revaluation of the Local Government Area (Section 601 LGA, 1993)

Land valuations are independently determined by the NSW Valuer General. Appeal mechanisms are available to landowners under the provisions of the Valuation of Land Act 1916 No 2. Accordingly Council will not consider applications made under this section.

6. Privacy

In accordance with Privacy Code of Practice and Council's Privacy Management Plan, personal information collected as a consequence of this policy will only be used for the purpose of assessing eligibility under the Policy and will not be used for any other purpose or disclosed to any other person unless we are required by law to do so or authorised to do so by the person whom that personal information relate.

7. Scope

This policy applies to any ratepayer who struggle to pay their rates or charges for reason of financial hardship.

8. Accountability, Roles & Responsibility

Elected Council

Council is responsible for approving Council Policies.

General Manager, Executive and Management Teams

The Chief Executive Officer has the power to sub-delegate certain functions to other staff members. In this case, The CEO delegates responsibility for approving the rates hardship application and interest to be held or waived to Manager, Finance & Technology.

Management Oversight Group

Not Applicable.

Individual Managers

Not Applicable.

9. Definitions

Not Applicable.

10. Related Documents, Standards & Guidelines

- Debt Recovery Policy No. 1.041
- Writing Off of Debts Policy No 1.230
- Financial Hardship Application

11. Version Control & Change History

Version	Date	Modified by	Details
V1.0	23/01/08	Council	Adoption of Original Policy (Res No. 25/08)
V2.0	26/09/12	Council	Review/Amended (Res No. 392/12)
V3.0	26/08/15	Council	Review/Amended (Res No. 270/15)
V4.0	23/08/17	Council	Review/Amended (Res No. 168/17)

FORM RATES HARDSHIP APPLICATION



Privacy Notification (Privacy and Personal Information Protection Act 1998 – Section 10) - The personal information that Council is collecting from you on this application form is personal information for the purposes of the Privacy and Personal Information Protection Act 1998 ('the Act'). The intended recipients of the personal information are officers within the Council and any person wishing to inspect the application in accordance with the Local Government Act 1993 or the Government Information (Public Access) Act 2009. The supply of the information by you is not voluntary and if you cannot provide or do not wish to provide the information sought, the Council will be unable to process your application. You may make application for access or amendment to information held by Council. You may also make a request that Council suppress your personal information from a public register. Council will consider any such application in accordance with the legislation. Council is to be regarded as the agency that holds the information. Enquiries concerning this matter can be addressed to Council by telephoning 02 6736 6000.

SECTION 1 – APPLICANT/S

	I/We,	(Full name/s)
	of	(Address)
	(Mobile)	(Telephone)
	(Email)	
	Would like to apply for financial hardship relief on rates and/or water charges.	

SECTION 2 – PROPERTY DETAILS

Assessment	Council Rates/Water Assessment Number	
Description	Property address	
	The property for which I am claiming has been my sole/principal place of living since/...../.....	

SECTION 3 – APPLICATION

Application	This application is for financial hardship relief for the whole or part of the year commencing	1 July 20.....
	What is the cause of financial hardship (e.g. unemployment, illness, natural disaster)	
	
	How long have you been experiencing hardship?	

SECTION 4 – INCOME AND EXPENDITURE

Pension or Allowances	Do you have a current Pensioner Concession Card (PCC) issued by the Commonwealth Government?	Yes	No
	If 'Yes', type of pension or benefit		
	If 'Yes', PCC Number (attach copy)		
	Date of Grant	<input type="checkbox"/>	<input type="checkbox"/>
	Have you claimed a Pension Concession on any other property this year in any other local government area?	Yes	No
	If 'Yes', state the address of the property		


SECTION 4 – INCOME AND EXPENDITURE (Continued)

Statement	I am liable for the payment of rates and charges on this property, together with others as listed below:						
	<input type="text"/>			(If no others, please write SOLE OWNER)			
	ALL OWNERS other than the applicant should be listed below and are required to supply the same supporting documentation as applicant for the financial hardship application.						
	Name	PPC Holder Yes / No	Pension Number	Date of Grant	Relationship to me (spouse, father, co-owner, etc.)	Resident of Property (Yes / No)	Percentage of Ownership
	Do you own (either fully or partially) any other land or buildings			<input type="checkbox"/> Yes <input type="checkbox"/> No			
If 'Yes', list addresses							
How many children do you support?							
State ages:							
	Please indicate whom is living at the property? e.g. spouse, children, boarders etc.						
Income from all sources	Net weekly income received in dollars and cents from all sources of income is:					\$ <input type="text"/>	
	Sources of income include: (details)					\$ <input type="text"/>	
	a	Wages – Employer				Total income \$ <input type="text"/>	
	b	Pensions and benefits				Total income \$ <input type="text"/>	
	c	Compensation, superannuation, insurance or retirement benefits				Total income \$ <input type="text"/>	
	d	Spouse's income -				Total income \$ <input type="text"/>	
	e	Income of other residents of the property -				Total income \$ <input type="text"/>	
	f	Casual / Part-time employment -				Total income \$ <input type="text"/>	
	g	Family allowance				Total income \$ <input type="text"/>	
	h	Interest from Banks, Credit Unions, Building Societies				Total income \$ <input type="text"/>	
	i	Other				Total income \$ <input type="text"/>	
	** Please provide copies of the last 3 current pay advices						
Savings	Total savings held in Bank, Credit Union or Building Society				Total savings \$		
** Please provide copies of all detailed bank account statements							
Property & Assets Owned	Property Address:				Amount owing \$		
					Equity \$		
	Motor Vehicles/boat/motor bikes:				\$		
	Household contents:				\$		

SECTION 4 – INCOME AND EXPENDITURE (Continued)

Expenditure	Please state details of weekly outgoings:		
	Outgoings	Owed to	Amount
	Rent/Home Loan		
	Other mortgages		
	Personal loans/Hire Purchase		
	Credit Cards		
	Electricity costs		
	Gas costs		
	Health costs		
	Council rates and charges		
	Rates/Water		
	Other outgoings		
		Total Expenditure	\$
Income Less Expenditure	Total Income		
	Total Expenditure		
	TOTAL		\$

SECTION 5 – CUSTOMER CONSENT (Pensioner if applicable)

Signature	For the sole purpose of authorising the Council to confirm with Centrelink whether or not the detail I have provided to the Council matches Centrelink or other Commonwealth portfolio department or agency records in relation to the current status of my Commonwealth Benefit:	
	I, <input type="text"/>	(Full Name)
	Authorise Council to confirm with Centrelink the following details: Pension Number; Name; Address; Postcode, and that I am a valid concessional card holder.	
	I agree that, unless I revoke my consent, this Customer Consent record is a permanent consent, and may be relied on by the Council until such time as I revoke it. I may revoke this Customer Consent record at any time by giving the Council written notice that my consent is revoked. I understand if I revoke this consent, I may not be eligible for the concession given by the Council. I acknowledge I have read and understood this Customer Consent.	
		Date: / /

SECTION 6 – Financial Counsellor/Financial Planner

	<p>A letter is to be provided from a recognised Financial Counsellor or financial planner confirming financial hardship and advising of what procedures have been in place to remedy the situation.</p> <p style="text-align: right;">Copy attached <input type="checkbox"/></p> <p><i>Suggested organisations for assistance – The Salvation Army, St Vincent De Paul, ASIC MoneySmart – website, Rural Financial counselling service NSW</i></p>
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SECTION 7 – INFORMATION FOR APPLICANT/S

Council will accept this application if all information sought is provided by you. Additional information that you may have that supports your application can be attached ([See Checklist below](#)):

Please indicate preferred repayment amount & frequency	Amount \$ _____	Amount \$ _____	Amount \$ _____
	Weekly <input type="checkbox"/>	Fortnightly <input type="checkbox"/>	Monthly <input type="checkbox"/>

SECTION 8 – DECLARATION

I hereby declare that the information provided is true and correct.

(If you make a false statement in an application, you may be guilty of an offence and fined up to \$2,200).

Signature



Date: / /

I HAVE COMPLETED: (*Please provide supporting documentation)

SECTION 1	Applicant	<input type="checkbox"/>
SECTION 2	Property Details	<input type="checkbox"/>
SECTION 3	Application	<input type="checkbox"/>
SECTION 4	Income and Expenditure*	<input type="checkbox"/>
	Pension or Allowances*	<input type="checkbox"/>
	Statement*	<input type="checkbox"/>
	Income from all sources*	<input type="checkbox"/>
	Pay advice*	<input type="checkbox"/>
	Savings*	<input type="checkbox"/>
	Property & Assets Owned*	<input type="checkbox"/>
	Expenditure	<input type="checkbox"/>
	Income less Expenditure	<input type="checkbox"/>
	Customer Consent (Pensioner if applicable)	<input type="checkbox"/>
SECTION 5	Declaration	<input type="checkbox"/>
SECTION 6		
SECTION 7		

Office Use Only

Reviewed by	Name Position Date	Recommendation <input type="checkbox"/> Approve <input type="checkbox"/> Decline Interest calculation attached <input type="checkbox"/>
Approved by	Name Position Date	Authorisation <input type="checkbox"/> Approved <input type="checkbox"/> Declined

DEBT RECOVERY

Summary:

The purpose of this policy is to provide clear direction to Council Staff and advising Ratepayers/Debtors of the process in recovering outstanding debts owed to Council.

Policy Number	1.041
File Number	
Document version	V8.0
Adoption Date	28 October 2020
Approved By	Council
Endorsed By	Council
Minute Number	(Insert)
Consultation Period	N/A
Review Due Date	September 2023 – 3 years
Department	Office of Chief Corporate
Policy Custodian	Manager Finance & Technology
Superseded Documents	<div>23 May 2003 231/03</div> <div>18 November 2004 584/04</div> <div>23 April 2008 190/08</div> <div>19 December 2012 525/12</div> <div>27 March 2013 69/13</div> <div>27 April 2016 92/16</div> <div>23 August 2017 168/17</div>
Related Legislation	<div>Local Government Act 1993</div> <div>Local Government (General) Regulation 2005</div>
Delegations of Authority	Manager, Finance & Technology

1. Overview

The intention of this policy is to:

- a) Ensure effective control over debts owed to Council;
- b) Outline the principles and guidelines that apply to the recovery and management of overdue Rates, Water Consumption Charges and Sundry Debtor accounts;

- c) To be sympathetic to those ratepayers and debtors suffering genuine and proven financial hardship;
- d) To fulfil the statutory requirements of both the Local Government Act, 1993 and Civil Procedure Act, 2005 with respect to the recovery of rates and charges;
- e) To ensure the integrity and confidentiality of all proceedings for both the Council and the debtor.

2. Policy Principles

Nil

3. Policy Objectives

To recover monies owing in a timely and effective manner to finance Council's operations and ensure effective cash flow management. Provide a process that is ethical, transparent, compassionate, open, accountable and compliant with legal obligations.

4. Policy Statement

Nil

5. Scope

1. Rates and Quarterly Instalment Notices

1.1 Rate notices are issued in July of each year and are payable in four instalments. The due dates for each instalment are 31 August, 30 November, 28 February and 31 May. A rate notice is to be issued 30 days before 31 August and a quarterly instalment notice is to be issued 30 days before 30 November, 28 February and 31 May. Any person electing to pay rates in full without incurring any interest must pay the rates in full by 31 August of each year.

1.2 On occasions, Council has to levy a rate notice after the main issue date, in which case a ratepayer is entitled to alternative arrangements for payment of the rate account.

If the supplementary issue is for the current year's rate levy only, then Council will ask for quarterly payments based on the remaining due dates provided for under the Act. For example, if the rate issue was made during October, the next instalment date is 30 November and Council would ask for the first two quarters payable by 30 November with the quarterly instalments due 28 February and 31 May respectively.

If the supplementary rate issue involves more than the current year's levy, then the ratepayer is asked to make payments on a quarterly basis as per above or on a monthly basis. Providing all payments of amounts due are made by 30 June of that financial year, no interest is payable. (Refer Section 564 of the Local Government Act 1993)

2. The Rates Reminder/Early Intervention Notice

2.1 A Rates Reminder/Early Intervention Notice shall be issued where applicable within 14 days after the due date of an instalment to those ratepayers who have not made previous satisfactory payment arrangements. This Reminder Notice gives the ratepayer a summary of the outstanding debt and the option of paying this debt off via a suitable payment arrangement. The Reminder Notices will be issued for amounts over \$20.00 outstanding and will request payment within 14 days from the posting date of the notice and advise of a potential visit from Council's preferred Early Intervention Agent after the reminder due date has passed.

3. Payment Arrangements

3.1 Arrangements may be entered into with all ratepayers. It is Council's intention to have a maximum period of 12 months for which debts may be paid under suitable arrangement including current levies during the period of the arrangement. Under exceptional circumstances this may be extended to two (2) years upon application of Rates Hardship (refer to Policy 1.070). Variation to payment terms may be approved by Chief Executive Officer/General Manager.

Interest will continue to accrue on any arrears during the period of arrangement. Any requests for the waiving or writing off of interest charges under Section 564 or Section 567 of the Local Government Act 1993, will not be recommended.

All requests for extensions or payment arrangements are to be made in writing or by completing Council's Application for Payment Arrangement form. Payments can be made either weekly, fortnightly, monthly or by other suitable arrangements.

Any default in arrangements that occur for a period greater than one (1) month without prior notification will result in Council contacting the debtor by telephone, a visit from Council's preferred Early Intervention Agent or in writing to ascertain the debtor's intentions regarding the debt.

Recovery action by Council will be deferred whilst ever the agreed payment arrangement is adhered to, providing that where a debtor wishes to repay a debt over a period greater than 12 months, a 'Default Judgement' may be obtained to secure the debt. This legal fee will be charged against the debtor.

Proceedings with Legal Action – Civil Claims Law

4.1 If Council receives no response from the debtor after the due date of the Reminder/Early Intervention Notice or defaults on a payment arrangement Council may initiate recovery action.

Recovery action may include Early Intervention with personal visits, letters, telephone calls, Reminder Notices or Notices of Demand, Summonses, Writs, Garnishee Orders, Section 569 Notices, Warrant of Apprehension, Notices to wind up a company and sale of land for overdue rates under Section 713 of the Act. At a cost payable by the Ratepayer.

4.2 Legal action will be initiated with either an Early Intervention personal visit or a "Letter of Demand" being sent to the debtor by Council's Debt Collection Agency. The personal visit will engage and assist the ratepayer to negotiate a suitable payment arrangement alternatively a letter of demand will be issued giving the debtor 14 days to make either payment or an acceptable arrangement before further action is taken.

4.3 If payment or an arrangement for payment has not been received by the due date stated on the "Letter of Demand" then Council may issue and serve a Summons (known as a "Statement of Liquidated Claim") where the debt is greater than \$1,000. The issue and serving of this Summons will be conducted by an external Debt Collection Agency employed by Council. The debtor may, within 28 days of the service of the Summons lodge a defence to the claim made by Council. The debtor may also choose (within the 28 days) to either make an acceptable arrangement with Council or apply to the Court to pay the debt by regular instalments.

4.4 If the debtor does not respond to the Summons within the set period, Council (through the external Debt Collection Agency) can apply for 'Default Judgement'. To achieve this, a completed Affidavit of Debt form must be lodged with the Court. Once this form has been lodged the debtor is deemed by the Court to owe the debt to Council. The debtor then cannot defend this legal action.

4.5 Council (through the Debt Collection Agency) can now proceed with a 'Writ of Execution' against the debtor. To do this a completed Application to Issue Execution form must be lodged with the Court. This will then enable the Sheriff to go to the debtor's property and seize goods to the estimated value of the debt and place them for sale at public auction. Council will receive payment of the debt either:

When the goods are sold; or

If the debtor settles payment at the Court beforehand.

4.6 The debtor at this time may apply for an 'Instalment Order' by declaring their assets and liabilities; income and expenditure to the Court and request payment be made to Council via a weekly or monthly amount. If Council is not satisfied with this arrangement it may lodge an objection to the 'Instalment Order' and apply (Section 107 Civil Procedure Act, 2005) for the seizure of goods to be recommenced by the Sheriff.

4.7 Council (through the Debt Collection Agency) when proceeding with a 'Writ of Execution' has the option of recovering the debt via a garnishee against the debtor's salary or the debtor's bank account.

4.8 Any legal expenses including professional costs incurred by Council from the recovery of outstanding rates and charges will be charged against the debtor subject to any limitation in respect of the amount that can be recovered which is imposed by any statutory instrument.

Other Comments Concerning the Civil Claims Law

Debts may need to be recovered through the District Court if the amount claimed exceeds the jurisdiction of the Local Court.

When serving a Summons by mail it must be sent to the debtor's principal place of residence. A Summons must not be served using a Post Office Box as the mailing address.

When serving a Summons on a Company by the post it must be sent to the Company's registered address.

The Summons must detail any interest charges to be included in the debt separately.

When the Court makes a Judgement for the debt to be paid this order stands valid for a 12 year period.

When proceeding with legal action against a debtor that resides interstate the procedure remains the same up to the point of Judgement. To continue with the recovery a Certificate of Judgement must be obtained from the Local Court and sent to the interstate Local Court in the district of the debtor.

Proceeding with Legal Action (Local Government Act)

5.1 Pursuant to Section 712 (1) of the Local Government Act, proceedings for the recovery of a rate or charge may be commenced at any time within 20 years from the date when the rate or charge became due and payable.

5.2 Section 712 (2) All rates and charges payable by the same person, whether in respect of the same or of different land, may be recovered in a single action.

5.3 Section 605 of the Local Government Act 1993, allows Council to add to the amount of a rate or charge any reasonable out-of-pocket expenses incurred in tracing the person liable to pay the rate or charge.

5.4 The Local Government Act 1993 allows further options for Council to recover outstanding debts.

5.5 Section 569 allows Council the option to garnishee rent if the rateable property is let by the debtor to a tenant. A Notice must be served on the tenant under this Section before the garnishee can be attempted.

5.6 Section 713 allows Council to sell the debtor's property for unpaid rates where rates have been overdue for a minimum of 5 years or in the case of vacant land, Council has the option of selling the property after 12 months if the amount of rates owing exceeds the land value.

The Sale of Property for Unpaid Rates and Charges

The following is the procedure to be adopted for the Sale of Land for Unpaid Rates and Charges pursuant to Section 713 to 726 (inclusive) of the Local Government Act 1993.

6.1 Examine list of rate balances to ascertain if any properties have rates, which are overdue more than 5 years.

6.2 Section 714 does not enable the sale of:

Any estate or interest of the Crown in land; or

Any interest in land owned by the Crown that may not be transferred.

6.3 The Aboriginal Land Rights Act also does not permit Council to sell property owned by Aboriginal Land Councils for outstanding rates and charges.

6.4 Council will advertise for expressions of interest to conduct a public auction for the sale of property for unpaid rates.

6.5 Council must take reasonable steps to ascertain the identity of any person who has an interest in the land. Council must then take reasonable steps to notify each such person of the Council's intention to sell the land (Section 715).

6.6 To identify the persons having an interest in the land a certificate under Section 700 (title Search) of the Local Government Act should be obtained. This certificate provides that in addition to any other method of proof available, a certificate furnished by the Registrar General is evidence that the person described as the proprietor or owner of the land was the owner of the land at the time specified in the certificate.

6.7 Send a letter to the owner(s) described in the certificate advising them that the property has reached the stage where it can be sold for unpaid rates (Section 713). This letter will request payment and/or payment arrangement to be made to Council within 14 days from the date of posting (Send letter(s) by Registered Mail).

6.8 If the land, building or premises are unoccupied and the owner or the owner's address or place of residence is not known to the Council, the notice stating Council's intention to sell the property for unpaid rates may be by advertisement in a newspaper circulating in the district in which the property is situated.

6.9 If Council receives no response from this letter or advertisement after the allotted time Council will proceed to sell the property.

6.10 The Rates Department will at this time prepare a certificate in accordance with Section 713(3) (to be signed by the General Manager) certifying the following:

- What rates and charges are payable on the land.
- When each rate was levied.
- When each rate became due.

- What rates and charges are overdue.
- What rates and charges are not overdue.

6.11 The Rates Department will then submit the certificates and a report to Council recommending that the properties be sold in accordance with the Act and recommending a date and place for sale. The date for sale must be not more than 6 months and not less than 3 months from a publication advertising the proposal to sell (Section 715).

6.12 This publication will contain the following information:

- Council proposes to sell the land for unpaid rates and charges at public auction.
- The name of the auctioneer and the proposed place, date and time of the auction.
- If all rates and charges payable (including overdue rates and charges) are not paid to Council by the rateable person before the time fixed for the sale, the Council will proceed with the sale.

6.13 This publication pursuant to Section 715 of the Local Government Act must be placed in the Gazette and at least one newspaper.

6.14 If before the time fixed for the sale all rates and charges payable (including overdue rates and charges) are paid to the Council, the Council must not proceed with the sale (Section 715).

6.15 Approximately one month prior to the sale, submit a report to Council setting out details of properties to be sold and recommending any reserve prices to be placed on the properties (based on qualified independent valuation). Another title search on the properties should be obtained to once again confirm ownership records.

6.16 At this time also arrange for Council's solicitor to draw up contracts of sale and for them to attend the auction. Council must submit Section 149 Certificates to the solicitor before the contracts can be drawn up.

6.17 The land must be offered for sale by public auction. If the land fails to sell at public auction it may then be sold by private treaty.

6.18 Any purchase money received by Council on the sale must be applied:

- Firstly, towards payment of Council's expenses incurred in connection with the sale; and
- Secondly, towards the payment of any rate or charge on the land due to Council and any debt due to the Crown (Section 718).

6.19 If purchase money is less than the amount owing, the amount available is to be divided between the rates, charges and debts in proportion to the amounts owing on each and the balance owing is to be written off (Section 719).

6.20 If the purchase money exceeds the amount owing, the balance is to be held by Council in trust for the persons having interests in the land prior to the sale according to their respective interests. If Council knows the identity of those persons it may pay the money to them. If Council does not know the identity of those persons it must continue to hold the money in trust and the provisions of the Unclaimed Money Act 1982 will apply (Section 720) in which Council must forward unclaimed monies to the Office of State Revenue after six (6) years.

6.21 After the sale has been finalised submit a report to Council showing details of the sale and the disposal of the proceeds including sale expenses and amounts outstanding.

7. Debt Recovery Procedures for Water Consumption Charges

7.1 The Water Consumption Reminder Notice

1st Water Consumption Account Reminder Notice

A Reminder Notice shall be issued where applicable within fourteen (14) days after the due date of the account to all ratepayers that they may have overlooked their account. This reminder notice gives the ratepayer a summary of the outstanding debt and the option of paying this debt off via a suitable payment arrangement.

2nd Water Consumption Account Reminder Notice

If the account still remains unpaid after seven (7) days a further notice will be issued for amounts outstanding over \$50.00 to those ratepayers who have not made previous satisfactory payment arrangements. This notice states that unless the account is settled within a further fourteen (14) days a Water Limiter may be installed on a specified date. The notice will further request that if the property is tenanted, that the tenant or the letting agent notify Council of this fact so that a water limiter is not installed while it is occupied by a tenant.

7.2 Water Payment Arrangements

Arrangements may be entered into with all ratepayers. It is Council's intention to have a maximum period of six (6) months for which debts may be paid under suitable arrangements.

All requests for extension or payment arrangements are to be made in writing or by completing Council's Application for Payment Arrangement form. Arrangements under \$400.00 must be made in two (2) equal instalments and over \$400.00 in four (4) equal instalments. Payments can be made either weekly, fortnightly, monthly or by other suitable arrangements.

Any default in arrangements that occur for a period greater than one (1) month without prior notification will result in Council contacting the debtor by telephone or in writing to ascertain the debtor's intentions regarding the debt. If the debtor continues to fail to meet their negotiated payment plan, Council will fit a restrictor without notice.

8. Proceeding with Recovery Action (Notice of Water Restriction)

8.1 At the expiry of fourteen (14) days following the issue of the 2nd Water Consumption Reminder Notice where amounts remain unpaid or an arrangement for payment is not entered into or where a previous payment arrangement is not maintained, a water restriction notice will be issued to the owner advising that the normal supply of water will be restricted fourteen (14) days from the date of this notice.

The water restriction notice will be served by hand delivery to the property and, where the address for the service of notices recorded by Council is other than the property, a copy of the notice will also be issued to the address recorded as the address for the service of notices. The Council Officer delivering the notice will also make enquiry when attending the property as to whether the occupant is the owner of the property and will not serve the notice if they become aware from this enquiry that the property is tenanted.

The water restriction notice will, in addition, state;

The amount outstanding,
The total amount to be paid to avoid water restriction,
That the supply will not be restored unless the outstanding amount together with the reconnection fee is paid in full,
Arrangements for payment will not be entered into after the water supply becomes restricted,
That a fee for the reconnection of the normal water supply will apply and specify such fee,
The restriction when made will allow restricted water use so as to maintain personal hygiene.

After fourteen (14) days from service of the restriction notice and if the outstanding account remains unpaid, the water will be restricted until all charges and fees are paid in full.

If after 14 days of the restriction being enforced the debt remains unpaid legal action will commence, following the same procedures used to recover rates debt (points 4.2 to 4.8 in this policy).

9. Debt Recovery Procedures for Sundry Debtors

Council will raise sundry debtor invoices as requested.

All debtor accounts are strictly 30 days from the date of invoice.

Payment arrangements can be made for the payment of sundry debtor accounts if requested. These debts will be paid under a suitable arrangement for a maximum period of 6 months.

Monthly statements are to be forwarded to debtors. Outstanding amounts of more than 30 days are to be regarded as overdue.

Where amounts are outstanding for more than 90 days and a reminder notice has been sent, credit will cease, and debt recovery action will commence on the account.

If the debt remains outstanding after 90 days, Council will send a reminder notice giving a summary of the debt and 14 days to pay.

If Council does not receive payment within 14 days after the issue of the reminder notice and the account is more than \$1,000.00 the debtor will be referred to Council's lawyers to issue a 'Letter of Demand'. This Letter of Demand gives the debtor a summary of the outstanding debt and a further 14 days to pay the account before legal proceedings will be initiated against them.

If Council does not receive payment within the 14 day period as stated on the 'Letter of Demand' legal proceedings may be commenced. The procedures for legal action against Sundry Debtors will follow points 4.3 to 4.8 under the debt recovery procedures for rates.

This policy will not apply to amounts due from Government Departments and such amounts shall be recovered by prompt action with the Government Department direct.

This policy also does not apply to accounts raised for Kerb and Guttering and Cemetery Fees. The repayment of outstanding accounts in this regard are to be dealt with on a case by case basis.

6. Accountability, Roles & Responsibility

Elected Council

Council is responsible for approving Council Policies.

General Manager, Executive and Management Teams

The Chief Executive Officer has the power to sub-delegate certain functions to other staff members. In this case, The CEO delegates responsibility for approving the debt recovery process to collect outstanding rates and charges to the Manager, Finance & Technology and Revenue Officers.

Management Oversight Group

Not Applicable.

Individual Managers

Not Applicable.

7. Definitions

Not Applicable.

8. Related Documents, Standards & Guidelines

Not Applicable.

9. Version Control & Change History

Version	Date	Modified by	Details
V1.0	23/5/03	Council	Adoption of Original Policy (Res No. 231/03)
V2.0	18/11/04	Council	Review/Amended (Res No. 584/04)
V3.0	23/4/08	Council	Review/Amended (Res No. 190/08)
V4.0	19/12/12	Council	Review/Amended (Res No. 525/12)
V5.0	27/3/13	Council	Review/Amended (Res No. 69/13)
V6.0	27/4/16	Council	Review/Amended (Res No. 92/16)
V7.0	23/08/17	Council	Review/Amended (Res No. 168/17)

GRANTING OF PENSIONER RATE CONCESSIONS

Summary:

The purpose of this policy is to provide clear direction of the timeframe of which eligible pensioners can apply and receive a concession on their Rates and Charges.

Policy Number	1.070
File Number	
Document version	V5.0
Adoption Date	28 October 2020
Approved By	Council
Endorsed By	Council
Minute Number	(Insert)
Consultation Period	N/A
Review Due Date	September 2023 – 3 years
Department	Office of Chief Corporate
Policy Custodian	Manager Finance & Technology
Superseded Documents	<div>23 July 2017 168/17</div> <div>16 December 2015 408/15</div> <div>19 December 2012 526/12</div> <div>10 October 2005 595/05</div>
Related Legislation	<i>NSW Local Government Act, 1993 & NSW Local Government (General) Regulation 2005</i>
Delegations of Authority	Manager, Finance & Technology

1. Overview

The purpose of this policy is to allow Council to refuse requests from pensioners seeking a pension concession on their rates for previous rating years.

2. Policy Principles

Nil.

3. Policy Objectives

That Council grant a pensioner rebate only to those pensioners who prove their eligibility for the current year in which the rates are levied and not apply a rebate for retrospective years.

4. Policy Statement

Eligible pensioner concessions are applied in accordance with provisions of Clause 135 of the Local Government (General) Regulations 2005 and application under Division 1 of Part 8 of Chapter 15 of the *NSW Local Government Act 1993* is to be made in the form approved by the Director-General. Council will apply the rebate to the rate or charge proportionate to the number of full quarters remaining after the day on which the person becomes an eligible pensioner in the year for which the rate or charge is made.

5. Accountability, Roles & Responsibility

Elected Council

Council is responsible for approving this policy to align with the *NSW Local Government Act 1993*.

General Manager, Executive and Management Teams

The Chief Executive Officer has the authority to sub-delegate certain functions . The CEO delegates authority for approval of pensioner rebates for eligible pensioners to the Revenue Officer.

Management Oversight Group

Not Applicable.

Individual Managers

Not Applicable.

6. Definitions

Not Applicable.

7. Related Documents, Standards & Guidelines

NSW Local Government Act 1993, NSW Local Government (General) Regulation 2005.

8. Version Control & Change History

Version	Date	Modified by	Details
V1.0	20/10/05	Council	Adoption of Original Policy (Res No. 595/05)
V2.0	19/12/12	Council	Review/Amended (Res No. 526/12)
V3.0	16/12/15	Council	Review/Amended (Res No. 408/15)
V4.0	23/07/17	Council	Review/Amended (Res No. 168/17)

TRANSFER OF LAND IN PAYMENT OF RATES

Summary:

The purpose of this policy is to provide clear direction that Council will decline any offer of land in lieu of outstanding rates and charges.

Policy Number	1.200
File Number	
Document version	V5.0
Adoption Date	28 October 2020
Approved By	Council
Endorsed By	Council
Minute Number	(Insert)
Consultation Period	N/A
Review Due Date	September 2023 – 3 years
Department	Office of Chief Corporate
Policy Custodian	Manager Finance & Technology
Superseded Documents	<div>27 April 2000 331/00</div> <div>19 December 2012 533/12</div> <div>16 December 2015 410/15</div> <div>23 August 2017 168/17</div>
Related Legislation	<div>Local Government Act 1993</div> <div>Local Government (General) Regulation 2005</div>
Delegations of Authority	Manager Finance & Technology

1. Overview

This policy has been developed to administer requests from ratepayers to transfer their land to Council in full satisfaction of the rates and charges outstanding in accordance with Section 570 of the *Local Government Act 1993* and Clause 129 of the *Local Government (General) Regulation 2005*.

2. Policy Principles

That Council's policy is to decline requests from ratepayers to transfer their land to Council in payment of the rates and charges outstanding.

This policy is made in accordance with Section 570 of the *Local Government Act 1993* and Clause 129 of the *Local Government (General) Regulation 2005*.

3. Policy Objectives

Nil

4. Policy Statement

Nil

5. Scope

Nil

6. Accountability, Roles & Responsibility

Elected Council

Council is responsible for approving Council Policies.

General Manager, Executive and Management Teams

Not Applicable.

Management Oversight Group

Not Applicable.

Individual Managers

Not Applicable.

7. Definitions

Not Applicable.

8. Related Documents, Standards & Guidelines

Not Applicable.

9. Version Control & Change History

Version	Date	Modified by	Details
V1.0	27/04/00	Council	Adoption of Original Policy (Res No. 331/00)
V2.0	19/12/12	Council	Review/Amended (Res No. 533/12)
V3.0	16/12/15	Council	Review/Amended (Res No. 410/15)
V4.0	23/08/17	Council	Review/Amended (Res No. 168/17)