

# RATES AND CHARGES, DEBT RECOVERY AND HARDSHIP ASSISTANCE POLICY

## 1.0 PURPOSE

The Rates and Charges, Debt Recovery and Hardship Assistance Policy provides the framework for Canterbury-Bankstown Council (Council) to set rates and charges at a level that provides a sustainable income but does not impose undue hardship on property owners. This Policy ensures Council fulfils its legislative obligations in accordance with *Local Government Act 1993* (the Act), the *Local Government (General) Regulations 2005* (the Regulations) and other relevant legislation in relation to the recovery of rates, charges, fees and other debts.

### **Rates and Charges**

This Policy seeks to administer rates and charges in accordance with the Act, Regulations, and Council's Revenue Policy, as identified in Council's Operational Plan 2019-2020.

Council is committed to a rates and charges process that is ethical, open and transparent, accountable and compliant with its legal obligations. As such, Council's rates administration will be honest, diligent, and applied consistently and fairly across all properties.

### **Debt Recovery**

Council has a responsibility to recover monies owing to it in a timely, efficient and effective manner to finance its operations and ensure effective cash flow management.

Council aims to ensure effective control over debts owed to Council, including overdue rates, fees, charges, and interest, and to establish debt recovery procedures for the efficient collection of receivables and management of outstanding debts, including deferment and alternative payment arrangements.

### **Hardship Assistance**

Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. This Policy establishes guidelines for assessment of hardship applications applying the principles of fairness, integrity, confidentiality, and compliance with relevant statutory requirements. It applies to all applications for waiving, deferment and alternative payment arrangements, or writing off of rates, fees, annual charges and interest accrued on such debts.

This Policy provides a framework for responding to applications from owners/ratepayers and customers experiencing genuine hardship with the payment of their rates, annual charges and fees in accordance with the Act and associated Regulations.

## 2.0 SCOPE

This Policy applies to all Council staff including Councillors, ratepayers and contracted service providers.

## 3.0 POLICY STATEMENT

### 3.1 Revenue Policy

In accordance with the Act and associated Regulations, Council is required to prepare an annual statement of its Revenue Policy for the year within its Operational Plan. The Revenue Policy is a component of Council's financial plan, setting out the principles Council will use to set its budget and to identify the general strategy it will use for raising its revenue, including the determination of rates, fees and charges.

Council's Rates and Charges, Debt Recovery and Hardship Assistance Policy has been prepared in conjunction with its Revenue Policy.

### 3.2 Rates and Charges

Council applies the following rate and charging settings in accordance with the Act, Council's Revenue Policy and the NSW Government's policy of freezing existing rate paths for newly merged Councils:

- The split between residential and business ratepayers will be that which applied at the date of amalgamation.
- Rate revenue will be levied on the basis of ad valorem valuation of land and minimum rate levies determined annually by Council.
- Council will, in accordance with Sections 548A and 531B of the Act allow the aggregation of the rateable values of separately titled car and/or storage lots to enable a single rate to be levied. Council will aggregate only where:
  - the lots are used in conjunction with the unit, by the occupier of the unit;
  - the ownership of each lot noted on the certificate of title is exactly the same for each;
  - all lots are within the same strata plan, or strata scheme, or the strata plan notes that the lots are used in conjunction with; and
  - the lots are not leased out separately.
- A special rate in addition to the ordinary rate will apply to all properties within the Bankstown Central Business District (CBD) and will be determined annually by Council.
- Council will levy an annual Domestic Waste Management Charge for each rateable parcel of rateable land for which the service is available. The Charge will be determined annually by Council.
- Council will levy an annual Business Waste Charge in accordance with the Act on all business rateable properties within the former Canterbury City Council Local Government Area.
- Council will levy an annual Stormwater Management Service Charge to the maximum amount available, applicable to both residential and business properties, subject to the approved exemptions.
- There will be no discounts for early payment of rates and charges.
- Council will provide a reasonable range of cost effective options for ratepayers to make their payments. However, in providing these options Council will pass on any credit card merchant

service fees to the ratepayer.

- Property owners will be levied rates and charges in the succeeding rate instalment period after the date of registration of a new plan of subdivision.
- Council will charge interest on overdue rates commensurate with the maximum interest rate set by the Minister for Local Government.
- Council will request ex-gratia payments from tenanted properties within Bankstown Airport, or any other applicable Commonwealth land, calculated at the appropriate rating category for the use.
- Exemptions from Ordinary Rates will apply in accordance with the Act.
- Eligible pensioner property owners are entitled to a rate rebate not exceeding \$250 per annum in accordance with the Act. Canterbury-Bankstown Council also provides an additional rate rebate of \$40 per annum for all eligible pensioners. In accordance with the Act, these rate rebates can only be provided where the pensioner is the registered owner and title holder of the property.
- Council will allow overdue rates and charges by pensioners to be accrued to a maximum of 19 years. No action will be taken to recover outstanding amounts until the property is sold, passes to the beneficiary of the estate or the ratepayer is no longer an eligible pensioner.

### **3.3 Recovery of outstanding sundry debts (other than rates and charges)**

Council's Administrative Guidelines for Debt Recovery - Sundry Debts set out arrangements for debt management, including financial arrangements and exemptions, circumstances for stopping and/or suspension of action on financial arrangements, credit and adjustment notes, provision for doubtful debts, write-off of accounts, the use of legal agents or lawyers, the delegation process, customer service contact, dispute resolution, and third party reporting.

The General Manager or delegate may approve, in writing, a periodical payment arrangement with debtors experiencing genuine difficult circumstances, subject to written agreement from the debtor. This may include allowing a debtor to pay an outstanding account in weekly, fortnightly or monthly instalments, provided the arrangement will have the account paid in full within 12 months, if approved by the General Manager. If a debtor's financial circumstances warrant a period longer than 12 months, it will be referred to Council for formal approval at an Ordinary Meeting.

The General Manager is authorised to write-off amounts due to Council up to \$10,000 provided such write-offs are reported to Council.

In cases of not-for-profit organisations, charities, and unincorporated community groups, the General Manager retains discretion in relation to the manner in which outstanding debts are recovered.

### **3.4 Recovery of overdue rates and annual charges**

Council rates and annual charges can be paid by way of a single payment or quarterly instalments. In accordance with the Act, if a payment is made by single instalment it is due on 31 August, and if it is paid by quarterly instalments it is due by 31 August, 30 November, 28 February, and 31 May. On or before the 31 October, 31 January and 30 April, Council will send instalment notices (separately from rates and charges notice) to each person paying by quarterly instalments.

Where a payment is overdue, recovery in accordance with the Administrative Guidelines for Debt Recovery of Rates and Annual Charges will apply. Special arrangements apply to eligible pensioners with overdue rates or annual charges as outlined in this Policy.

The key principles that will apply to overdue rates and annual charges recovery are:

1. Council aims to collect all rates and annual charges by the end of each rating year.
2. A fair and reasonable approach to recovery will apply.
3. Council will assess cases of financial hardship on an individual basis.
4. Council is unable to reduce rates or annual charges, but will consider alternative available approaches to dealing with cases of financial hardship.
5. Council will consider a scheme of periodical payment outside the due dates in cases of hardship or extenuating circumstance.
6. Council will utilise the services of legal agents where required.
7. Council's Rates Outstanding Ratio aims to remain at or below the industry standard.

Council will apply the relevant provisions of the Act relating to the sale of land to recover overdue rates, charges, and interest when appropriate.

### **3.5 Hardship assistance to ratepayers and customers**

Council recognises that in some circumstance ratepayers may experience hardship in paying rates, annual charges, and fees. The Act provides for the following assistance to ratepayers and customers:

- 1) Periodical payment arrangements for overdue rates and charges.
- 2) Writing off or reducing interest accrued on rates or charges.
- 3) Waiving, reducing or deferring the payment of the increase in the amount of rate payable because of hardship resulting from general revaluation of land in the local government area.
- 4) Waiving, or reducing rates, charges and interest of eligible pensioners.
- 5) Waiving or reducing Council fees when the inability to pay is due to hardship.

Applications for hardship assistance will be considered by Council in keeping with the principles outlined in this Policy. A ratepayer may be eligible for consideration for hardship assistance in the payment of overdue rates, annual charges, interest, and fees, where:

- 1) the person is unable to pay due rates, charges fees or accrued interest when due and payable for reasons beyond the person's control, or
- 2) payment when due would cause the person hardship.

In determining eligibility Council will use the criteria used by CentreLink for granting of a pensioner concession card, including the assets and income test. Council may also require a request in writing including a statement of reasons, reasonable proof of financial hardship, details of assets, income and living

expenses, and other such information required in order to make a valid assessment. The ratepayer may also be requested to attend an interview to assist Council in understanding the issues causing hardship.

### **3.5.1 Hardship assistance by periodical payment arrangements**

Council may enter into a formal agreement with a ratepayer eligible for alternative periodical payment arrangements for due and payable rates and charges. Such proposals for a periodical payment agreement can be initiated by Council or the ratepayer. In accordance with the Act, payments will be applied towards the payment of rates and charges in the order in which they became due. A periodical agreement will be offered in accordance with Council's Administrative Guidelines, with Council providing information on the amounts due and payable on relevant notices.

Council may also write-off or reduce the accrued interest and costs on rates and charges if the ratepayer complies with the periodical agreement. If the ratepayer fails to make the periodical payment in accordance with the agreement, the payment plan may be cancelled. Full payment of the amount outstanding will be due immediately, and the Administrative Guidelines for Debt Recovery of Rates and Annual Charges will be implemented accordingly.

### **3.5.2 Hardship assistance by writing off accrued interest and costs**

Council applies interest rates to the maximum allowable under the Act. However Council may write off accrued interest and costs on rates or charges payable by a person under the Act and Regulations where:

- 1) the person was unable to pay the rates or charges when they became due for reasons beyond the person's control, or
- 2) the person is unable to pay accrued interest for reasons beyond the person's control, or
- 3) payment of the accrued interest would cause the person hardship.

Eligibility for this assistance and Council's determination will be in accordance with the Administrative Guidelines for Debt Recovery of Rates and Annual Charges.

### **3.5.3 Hardship assistance due to certain valuation changes**

In accordance with the Act, any ratepayer who incurs a rate increase following a new valuation of land may apply to Council for rate relief should the new rate payable cause the ratepayer to suffer substantial hardship.

Notwithstanding the provision, Council will not consider applications under this provision, as valuations are independently determined by the Valuer General. Ratepayers are required to make an appropriate application under the appeal provisions of the *Valuation of Land Act 1916* should they have concerns regarding the change in their land value.

## **3.6 Assistance to eligible pensioners**

### **3.6.1 Pensioner rebates**

For the purpose of this Policy an eligible pensioner is a person in receipt of a pension, benefit or allowance under the *Commonwealth Social Security Act 1991* (Cth) or a service pension under the *Veterans'*

*Entitlement Act 1986* (Cth) and who is entitled to a Commonwealth Pensioner Concession Card, as prescribed in the Regulations.

If Centrelink removes the entitlement of a person to a pension under these provisions, they will not be entitled to a pensioner rate concession and will need to reapply to Council. Should a ratepayer fail to reapply, rebates will not be granted until such application is made, and will be covered by Council's back-dating provisions.

Concessions for pensioner rates and charges are provided under the Act. Eligible pensioners must apply to Council for a reduction in rates and charges not exceeding 50 percent, provided this does not exceed \$250, and the additional further \$40 per annum in accordance with Council's Revenue Policy.

Council may extend the pensioner concession to ratepayers who jointly occupy a dwelling and are jointly liable for the rates and charges with an eligible pensioner in order avoid hardship.

In accordance with the 1994 resolution of the former Bankstown City Council, interest will continue to be waived on rates which became due (arrears) prior to the commencement of 1 July 1994 for eligible ratepayers.

While the Act does not provide for the deferral of pensioner rates and charges, apart from the provisions for a formal agreement for periodical payments, Council may allow for the delay of recovery proceedings in certain cases.

### **3.6.2 Deferral of payment of rates for eligible pensioners**

Council recognises the large numbers of pensioner ratepayers in the community, and the difficulties some eligible pensioner ratepayers have in meeting their rate payments.

As outlined in the Act, proceedings for recovery of a rate or charge may be commenced at any time within 19 years from the date when the rate or charge became due and payable. The Department of Local Government's Rating and Revenue Manual advises Councils have discretion to accrue rates, charges and applicable interest against a pensioner's estate. Additionally, should councils wish to utilise this discretion, agreement is required from the pensioner ratepayer.

Where the eligible pensioner requests a delay in recovery action to allow outstanding rates, charges, and interest to accrue against their estate, and is willing to enter into an agreement, Council will:

- 1) Provide the eligible applicant pensioner ratepayer with a copy of the Pensioner Agreement Application to Defer Rates, Charges and Interest included in the Administrative Guidelines. The ratepayer must complete the application in order to prevent the commencement of proceedings in accordance with Council's Debt Recovery Guidelines.
- 2) Provide an annual rates notice of all outstanding rates, charges, and interest as it does for all ratepayers as well as appropriate instalment reminders.
- 3) Not commence recovery action until there is a change in ownership of the property, either or both ratepayers leave the property (except where the pensioner is in a care facility on a temporary basis being less than 12 months), or either of both become ineligible for a concession. Should any of these events occur, rates and charges will become due and payable.

- 4) Require pensioners to commence the payment of overdue rates and charges such that their total debt to Council does not exceed 19 years given the constraints set out in the Act
- 5) Commence a legal debt recovery process for all debts should the pensioner be unable to adhere to the above.

The following conditions will apply to Council's agreement to defer recovery action:

- 1) Interest will accrue on the deferred rates and charges in accordance with the Act.
- 2) The application to allow accruing of rates against future estate or sale of the property must be in writing, signed by each owner or person having an interest in that land.
- 3) The eligible pensioner (ratepayer) must provide Council with such information as set out in the Administrative Guidelines for Pensioner Rates and Annual Charges .
- 4) An eligible pensioner ratepayer must notify Council if the pensioner no longer uses it as their principal place of living or rents it out within 30 days of vacating the premises.
- 5) Council may revoke the deferral of recovery action of rates or charges against land in any of the following circumstances and all overdue rate or charges and interest will become payable immediately when the pensioner sells the property, the pensioner ceases to occupy the property as his/her principal place of living, or the pensioner rents the property out.
- 6) Where an eligible pensioner does not enter into such an agreement, Council will advise the eligible pensioner of their right to negotiate a periodical payment arrangement. Where an agreement on deferral or a periodical payment arrangement is not entered into, the Administrative Guidelines for Debt Recovery of Rates and Annual Charges will apply.

### **3.7 Writing off of rates, charges and interest**

Any rates and/or charges will be written off in accordance with the Regulation. Subject to Council's Instrument of Delegation (clause 3.1), the General Manager may write off certain amounts for individual ratepayers.

### **3.8 Hardship assistance in relation to Council fees**

Subject to Council's Delegations, any application for hardship assistance in relation to Council's fees or charges, other than annual charges, by waiving or reducing fees (in any year for any particular case) under the Act will be assessed using the eligibility and determination criteria outlined in this Policy.

### **3.9 Reports to Council**

The General Manager will include in the Annual Report to Council a report on the financial assistance provided under this Policy, including the amount of rates, charges and interest written off.

### **3.10 Rate Notices – Inclusion of additional materials**

Council does not permit the inclusion of advertising or other material of a commercial nature not related to either Council operations or the promotion of local charities, the latter as defined under clause 3.5 of the Community Grants and Events Sponsorship Policy, in its rate notice distributions.

Applications for community-based inserts with Council rate notices must be referred to Council for determination, together with a statement of community benefit, potential distribution costs and recommended cost apportionment.

The General Manager is the delegated authority to approve inclusion of additional materials in rate notices, only in such circumstances where:

1. the additional material relates to Council services or activities,
2. these services or activities reflect agreed priorities and objectives of Council, and
3. appropriate allocation has been made in Council's budget to meet any additional distribution costs.

### **3.11 Privacy**

Council is committed to acting in accordance with its legislative obligations as it pertain to privacy and intellectual property. In upholding a ratepayer's right to privacy, Council will not disclose information of a confidential or proprietary nature unless bound by law.

## **4.0 RELATED RESOURCES**

### **4.1 Legislation**

- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Privacy and Personal Information Protection Act 1998*
- *Valuation of Land Act 1916*
- *Commonwealth Social Security Act 1991 (Cth)*
- *Veterans' Entitlement Act 1986 (Cth)*

### **4.2 Associated Documents**

- Code of Conduct
- Revenue Policy- Operational Plan 2019-2020
- Council Rating and Revenue Raising Manual Department of Local Government (2007)
- Administrative Guidelines – Debt Recovery – Sundry Debts
- Administrative Guidelines – Debt Recovery of Rates and Annual Charges
- Administrative Guidelines – Pensioner Rates and Annual Charges
- Administrative Guidelines – Rates Management Processing Guidelines

#### 4.3 Definitions

***Ad valorem***

*A variable charge set as a proportion of the unimproved land value (UV) of the rateable property – that is, the value of the property without any buildings, houses or other capital investments.*

***Annual Charges***

*Charges for services provided by Council or a contracted service provider on behalf of Council that are levied on an annual basis. Examples include Domestic Waste Charges, Business Waste Charges and Stormwater Charges.*

***Hardship***

*Circumstance in which a ratepayer meets criteria used by Centrelink for granting of a pensioner concession card.*

***Rates***

*A levy paid by home and business property owners towards services provided by their Council*

#### 5.0 POLICY OWNER

Manager, Finance.

#### 6.0 AUTHORISATION

Adopted by Canterbury-Bankstown Council on [27 June 2017](#).