
 <p data-bbox="437 318 628 443">Adelaide Plains Council</p>	<p data-bbox="807 318 1129 353">21.1 Confidential Item</p>
<p data-bbox="671 524 954 560">17 September 2020</p>	

21.1 Overdue General Debts

RECOMMENDATION

“that:

- 1. Pursuant to section 90(2) of the *Local Government Act 1999*, the Audit Committee orders that all members of the public, except Chief Executive Officer, General Manager – Finance and Business, Manager Governance and Administration/Minute Taker and Information Technology Officer be excluded from attendance at the meeting of the Audit Committee for Agenda Item 21.1 – *Overdue General Debts*;**
- 2. Audit Committee is satisfied that pursuant to section 90(3)(b) of the *Local Government Act 1999*, Item 21.1 – *Overdue General Debts* concerns information of a confidential nature the disclosure of which could reasonably be expected to prejudice the commercial position of Council, constituting information relevant to the recovery of overdue general debts; and**
- 3. Audit Committee is satisfied that the principle that Audit Committee meetings should be conducted in a place open to the public has been outweighed by the need to keep the information, matter and discussion confidential.”**

 Adelaide Plains Council	21.1	Overdue General Debts
	Department: Report Author:	Finance and Business General Manager – Finance and Business
Date: 17 September 2020	Document Ref:	D20/36840

EXECUTIVE SUMMARY

- The purpose of this report is for the Audit Committee to consider writing off a debt in relation to an unpaid invoice of \$1,683 for cleaning of one of the Mallala Units, in accordance with section 143 of the *Local Government Act 1999* and Council’s *Rates Arrears and Debtor Management Policy*.
- A tenant of one of the units vacated the premises in early 2019. However, following the inspection of the property, it was decided that a thorough cleaning was required since the tenant has been smoking inside the unit despite repeated instructions by the Council staff and the staff from Junction Australia not to do so.
- The cost of the cleaning, after the retention of the bond was \$1,683. An invoice was issued in July 2019 and send to tenant’s new address and his daughter.
- However, the tenant is not accepting letters requesting payment from the Council or Council’s debt collection agency and his daughter is also not responding to reminder letters.
- Given the amount involved, aged of the tenant and his refusal to accept letters from the Council or Council debt collection agency, Council management is of the view that it is not economical to pursue the debt collection further.
- Under the *Rates Arrears and Debtor Management Policy*, any debt write off exceeding \$1,000 must be approved by Council.
- It is therefore for Council to consider following the recommendation of the Audit Committee whether to write off the debt or pursue recovery through Council’s debt collection agency.

RECOMMENDATION

Option 1 “that the Audit Committee, having considered Item 21.1 – *Overdue General Debts*, dated 17 September 2020, receives and notes the report and in doing so recommend to the Council to write off overdue debt of \$1,683 with regard to Mallala Aged Units on the following basis:

.....

OR

Option 2 “that Audit Committee , having considered Item 21.1 – *Overdue General Debts*, dated 17 September 2020, receives and notes the report and in doing so recommend to the Council to pursue

the overdue debt of \$1,683 with regard to Mallala Aged Units with legal action, through Council’s debt collection agency.”

BUDGET IMPACT

Estimated Cost:	\$1,683
Future ongoing operating costs:	Not Applicable
Is this Budgeted?	No

RISK ASSESSMENT

There is a possibility that any further legal actions through Council’s debt collection agency to recover the overdue debts would simply incur more costs but not recover any amount from the tenant given the level of responses Council has received from the tenant and his family to internal and external efforts to recover the debt without legal actions.

Management is also mindful that writing off this debt could set a precedent. On this basis, the report is recommended to be considered, and remain, in confidence so as not to prejudice the commercial position of Council.



Attachments

Nil

DETAILED REPORT

Purpose

The purpose of this report is to seek Audit Committee endorsement to write off overdue debt receivable from a former tenant of Mallala aged unit owned by the Council.

Background/History

With regard to writing off bad debts, Council's Rates Arrears and Debtor Management Policy states as follows;

4. Writing off bad debts

4.1 In accordance with Section 143 of the Local Government Act 1999, a council may write off any debts owed to the council if:

- a) the council has no reasonable prospect of recovering the debts; or*
- b) the costs of recovery are likely to equal or exceed the amount to be recovered.*

4.2 A council must not write off a debt unless the Chief Executive Officer (CEO) has certified:

- a) that reasonable attempts have been made to recover the debt; or*
- b) that the costs of recovery are likely to equal or exceed the amount to be recovered.*

4.3 The debts are only to be written off in exceptional circumstances where the following applies:

- a) It is not economical to pursue the debt further, or*
- b) The debt was raised in error and is not legally enforceable, or*
- c) The debt cannot be proved, or*
- d) The debtor cannot be located, or*
- e) Upon advice from a solicitor and/ or collection agent that the debt cannot be pursued.*

4.4 Under the delegation of power, General Manager – Finance and Business can write off debts up to \$500. In addition, the CEO is the delegated authority under Section 143 of the Local Government Act 1999 to approve debt write offs up to a maximum of \$1,000. Any debt write off exceeding \$1,000 must be approved by Council.

4.5 For each case when a debt is written off details of the debt recovery action undertaken and the circumstances as to why the debt cannot be recovered must be documented and maintained on file. The CEO will review and certify that all appropriate action has been taken prior to approving the write off of the debt and the amount written off will be reported to the Council via the Quarterly Budget Review Report

Discussion

Unit 4/12 Aerodrome Road, Mallala is one of 8 units which Council maintains for its aged residents. The units were managed by Junction Australia (who oversaw unit maintenance, tenant lease agreements and filling unit vacancies) until the management was handed back to the Council in March 2018.

One of the conditions of occupancy is that smoking is not permitted in the units. However, the tenant at unit 4 had been smoking in the unit and therefore had been advised several times by Council staff and Junction Australia staff to cease smoking in the unit.

The tenant had vacated the unit in early 2019 due to health reasons. A final unit inspection was undertaken and the tenant was advised that his bond would not be refunded due to the damage caused to the unit as a result of his smoking. The family of the tenant were also advised that he would be accountable for the additional costs to clean the unit in an attempt to remove the odour caused from smoking inside.

Thereafter, substantial cleaning was undertaken to restore the unit back to its original level of standard so that it can be rented out again. The cost of cleaning the unit was \$1,683 after the retention of the bond.

The invoice for the cleaning of unit was posted to the new address of the tenant, who is now in residential aged care. The aged care provider has since advised the Council that tenant is not accepting any correspondence from Council. The invoice was also sent to the daughter of the tenant but no response was received.

This debt was referred to Council's debt collection agency, who were unsuccessful in recovering the debt from the tenant or his family. Legal actions were not pursued as:

- a) Council management considers that there is no reasonable prospect of recovering the debts given the level of response Council has received for previous communications
- b) Given the amount involved, the costs of recovery are likely to equal or exceed the amount to be recovered.

As per Council's Rates Arrears and Debtor Management Policy any debt write off exceeding \$1,000 must be approved by Council. Therefore, Council management recommends that the Audit Committee recommend to the Council to write-off this overdue debt.

Conclusion

For the past 12 months, Council has tried to recover a debt of \$1,683 from a former tenant of unit 4 of Mallala Aged Units without any success. Given the amount involved, it is highly likely that any further legal actions to recover the debt would not be economical and the costs of recovery are likely to equal or exceed \$1,683.

References

Legislation

Local Government Act 1999

Council Policies

Rates Arrears and Debtor Management Policy

RECOMMENDATION

“that Council, having considered the matter of Agenda Item 21.1 – *Overdue General Debts* in confidence under sections 90(2) and 90(3)(a) of the *Local Government Act 1999*, resolves that:-

1. The staff report and the minutes pertaining to Agenda Item 21.1 – *Overdue General Debts* remains confidential and not available for public inspection until further order of Council;
2. Pursuant to section 91(9)(a) of the *Local Government Act 1999*, the confidentiality of the matter will be reviewed every 12 months; and
3. Pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke this confidentiality order to the Chief Executive Officer.”