

<b>SUBJECT:</b> <i>WRITING OFF DEBTS POLICY</i>	<b>FILE NO:</b>	FIN/0501
<b>ADOPTED BY COUNCIL ON:</b> 17 March 2016	<b>MINUTE NO:</b>	53.03.2016
<b>AMENDED BY COUNCIL ON:</b>	<b>MINUTE NO:</b>	
<b>AMENDED BY COUNCIL ON:</b>	<b>MINUTE NO:</b>	

## 1. Introduction

Section 76 of the *Local Government Act 1993 (Act)* grants Council the power to write off any debts owed to the Council if there are no reasonable prospects of recovering the debt or if the costs of recovery are likely to equal or exceed the amount to be recovered.

## 2. Purpose of this Policy

The purpose of this policy is to:

- (a) specify the procedures for exercising the power in s.76 of the Act; and
- (b) satisfy the requirements of s.22(2)(ba) of the Act concerning the delegation by Council of the power in s.76 of the Act.

## 3. Requirements of the Act

Section 76 of the Act provides that:

- (a) Council may write off any debts owed to it if in all the circumstances:
  - i. there are no reasonable prospects of recovering the debt; or
  - ii. the costs of recovery are likely to equal or exceed the amount to be recovered; and
- (b) Council must not write off a debt unless the General Manager has certified that:
  - i. reasonable attempts have been made to recover the debt; or
  - ii. the costs of recovery are likely to equal or exceed the amount to be recovered.

## 4. Definition of Debt

Council incurs two types of debts; those that are charged against a property and those that are not charged against a property. Debt which is not charged against a property is referred to as 'sundry debt'.

# Flinders Council Policy Manual

## 5. Procedure for General Manager

A debt may be written off by the General Manager acting under delegated authority where:

- (a) the debt is equal to or less than \$500;
- (b) reasonable efforts have been made to recover the debt; and
- (c) either:
  - i. the cost of attempting to recover the debt would equal or exceed the amount of the debt owed to Council; or
  - ii. there are no reasonable prospects of recovering the debt because:
    - A. if the debtor is an individual, the debtor is not in a financial position to have a garnishee placed on their income or does not have sufficient assets to satisfy the debt; or
    - B. if the debtor is a company, there are insufficient unsecured assets held by the company to satisfy the debt; or
    - C. the debtor cannot be located.

## 6. Referral to Council

The decision of whether or not to write off a debt exceeding \$500 must be referred to Council for a decision along with a report prepared by the General Manager containing:

- (a) the following details regarding the debt:
  - i. the amount of the debt;
  - ii. the type of debt; and
  - iii. how long the debt has been outstanding; and
- (b) certification in accordance with s.76(2) of the Act that either:
  - i. reasonable attempts have been made to recover the debt; or
  - ii. the costs of recovery are likely to equal or exceed the amount to be recovered

## 7. Related Legislation, Regulations and Policies

- *Local Government Act 1993, s.76.*

## **8. Responsibilities**

Responsibility for this policy rests with the General Manager.

DRAFT