

## 1. Policy Statement

This Policy sets Council's framework for the recovery of overdue rates and charges.

## 2. Scope

This Policy applies to all ratepayers with overdue rates and charges levied by Council.

## 3. Responsibility

Council is responsible for approving this policy.

The Director Corporate and Financial Services, assisted by the Finance Manager, is responsible for the implementation and maintenance of this Policy.

## 4. Definitions

In this Policy, the following terms have the corresponding meaning:

**Rates and charges** are as defined in Section 91 of the *Local Government Act 2009* (the Act). Without limiting the detail of the legislation, in general rates and charges are levies that a local government imposes on land and for a service, facility or activity that is supplied or undertaken by the local government or someone on behalf of the local government.

**Overdue rates and charges** are defined in Section 132 of the *Local Government Regulation 2012* (the Regulation). Without limiting the detail of the legislation, in general overdue rates and charges are rates and charges that are not paid by the due date for payment stated in the rate notice. The rates or charges become overdue on the day after the due date for payment of the rates or charges.

## 5. Policy

### 5.1 Safeguarding Council's and Community's Interests

The Chief Executive Officer or delegate may direct that recovery action for any debt be conducted in a way that differs from the processes set out in this Policy when that is considered to be in the Council's or the community's best interest.

Where the collection process is varied or procedural steps are not followed, the underlying debtors obligation to pay the debt when due is not changed, i.e. the debtor balance must be repaid.

### 5.2 Principles

Council has the responsibility to manage financial resources and ensure the recovery of rates and charges for the purposes of prudently managing revenue sources and maintaining Council service delivery.

When recovering unpaid rates and charges, Council will:

- Make the recovery processes as clear and cost effective as possible;
- Be transparent with debtors regarding their payment obligations and the processes used by Council to assist them to meet those obligations;
- Consider each debtors capacity to pay, while endeavouring to treat debtors consistently; and
- Demonstrate flexibility when necessary in responding to changes in the local economy.

### 5.3 Rates and Charges

Legal action for the recovery of outstanding rates and charges may commence any time after the rate or charge becomes overdue. Unless there are special circumstances which justify taking an alternative course of action, the Council's process to recover overdue rates or charges is set out in this section.

#### Steps

##### *Overdue Reminder Letter*

Council will issue an overdue reminder letter if:

- Seven days after the due date on the rates notice, the ratepayer has \$20 or more in rates or charges owing to Council; and
- A current payment plan has not been entered into; and
- No other recovery action has been commenced.

##### *Overdue Reminder Phone Call*

Council Finance and Administration Staff will attempt to make one overdue reminder phone call if:

- A phone number for the ratepayer is held on file;
- Seven days after the due date on the overdue reminder letter the ratepayer has \$1,000 or more in rates or charges owing to Council;
- A current payment plan has not been entered into; and
- No other recovery action has been commenced.

##### *Demand Letter*

Demand letters are issued via Debt Collection Agency in consultation with Council Management Staff to those accounts who fail to either respond to the reminder notice or reminder phone call, and/or fail to abide by a payment commitment from a reminder notice. Council will issue a demand letter if:

- Seven days after overdue reminder phone call the ratepayer has \$1,000 or more in rates or charges owing to Council;
- A current payment plan has not been entered into; and
- No other recovery action has been commenced.

##### *Claim and Statement of Claim*

The practice of Council is that legal action will be commenced if:

- Seven days after expiry of the demand letter, the amount referred to in the letter has not been paid;
- The ratepayer has \$1,000 or more in rates or charges owing to Council; and
- There is no current payment plan to pay the outstanding rates, or the payment plan has not been adhered to.

Once the Statement of Claim is served, Council must wait 28 days for the defendant to pay the account or enter into a payment commitment.

### *Pre Judgement Letter*

Pre Judgement Letters are issued to those accounts that have had a Claim issued and served upon them and either:

- Have made no contact or failed to abide by a payment commitment after being served with the Claim; and/or
- Seven days have passed after the 28-day waiting period after service of claim has expired.

### *Default Judgement*

Default judgements are issued in court against those ratepayers who have not responded to the pre judgement warning letter or have failed to abide by payment commitments from the pre judgement warning letter.

### *Post Judgement Warning Letter*

Post Judgement Warning Letters are issued to rate payers automatically after default judgment orders are received back from the court. The rate payer is provided with 14 days to either pay the judgement amount or contact the debt collection office for a payment commitment.

### *Enforcement of Default Judgement*

Council can elect to enforce the judgement debt through the bailiff or court examination of the rate payer or elect to hold account until three years to proceed to sale of residential property, or until one year to proceed to sale of vacant land or land used solely for commercial purposes.

### *Properties with a Payment Plan*

If there is a current payment plan in place, Council will commence legal action if:

- The ratepayer has not fully complied with the terms of the agreed payment plan; and
- The ratepayer has \$1,000 or more in rates (or charges) owing to Council.

Legal action may be temporarily suspended if the debtor enters into a payment plan satisfactory to Council, which includes the provision for the payment of legal costs.

### *Sale of Land – Residential*

Where rates and charges remain unpaid for three years and no approved payment plan exists, Council may, by resolution, commence proceedings to sell the property subject to and by virtue of its powers under the Act and Regulation.

### *Sale of Land – Vacant Land and Commercial Property*

Where rates and charges remain unpaid on vacant land or land used solely for commercial purpose for one year or more and no approved payment plan exists and judgment has been obtained, Council may, upon resolution, and by virtue of its powers under the Act and Regulation, commence proceedings to sell the property.

In recognition of individual privacy, and to ensure all ratepayers are treated consistently, the list of properties on which Council is required to resolve to commence land sale for rates and/or charges recovery in accordance with this policy, is to be presented identifying the property number, property location, and real property description only.

## **5.4 Costs**

Council will attempt to recover all legal costs incurred with the recovery action of rates and charges from the ratepayer which, may if required, include Council making an application to the court to formalise a costs order.

Once formal recovery action has been commenced it will not be discontinued until the amount of the claim and any further interest levied in accordance with the Act has been paid in full.

Legal action may be temporarily suspended if the debtor enters into a payment plan satisfactory to Council which includes the provision for the payment of legal costs.

## 5.5 Agreed Payment Plan

Council may grant a payment plan for the payment of rates and charges. There is no limitation of the scope of the payment plan that can be provided by the Act. Due to practical and economic reasons, Council has determined that the arrears, including any additional charges applied in return for Council agreeing to defer payment of rates or charges, should be sufficient to service rates arising in the current financial period, plus a minimum of 20% of the rates in arrears. A financial period represents a half year from 1 July 2022 – 31 December 2022 or 1 January 2023 – 30 June 2023.

All payment plans will be confirmed in writing. Failure to meet the agreed payments will result in the cancellation of the payment plan. A broken payment plan letter will be forwarded to the ratepayer upon cancellation of the agreed payment plan. The broken payment plan letter should allow the ratepayer at least 7 days in which to bring the payment plan back into order. In particular circumstances, legal recovery action may commence immediately in the event of default by the ratepayer.

## 5.6 Pensioners

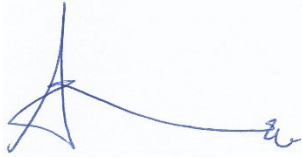
Council recognises that Pensioners as a class may face financial difficulties in meeting their obligations, however, as specific concessions are provided to them, pensioners with arrears are encouraged to take advantage of payment schedules that will ensure that the balance in arrears does not escalate beyond their means. As such, all pensioners who fall into arrears will be subject to Council's usual recovery action for overdue rates, in accordance with this Policy.

## 6. Legal Parameters

- *Local Government Act 2009;*
- *Local Government Regulations 2012;* and
- *Magistrates Courts Act 1921.*

## 7. Associated Documents

- Revenue Statement

| DOCUMENT HISTORY AND STATUS |   |                         |            |  |            |
|-----------------------------|---|-------------------------|------------|--|------------|
| Action                      | Name  |                         | Position   | Signed   | Date       |
| Approved by Council         | Kelvin Tytherleigh  |                         | CEO        |  | 25/08/2022 |
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