

# Rates and Charges Collection- Council Policy

<b>Effective Date</b>	1 July 2023
<b>Policy Owner</b>	Finance
<b>Link to Corporate Plan</b>	Sustainable Organisation
<b>Review Date</b>	June 2024
<b>Related Legislation</b>	<ul style="list-style-type: none"> <li>• <i>Local Government Act 2009</i></li> <li>• <i>Local Government Regulation 2012</i></li> <li>• <i>Fire &amp; Rescue Service Act 1990</i></li> <li>• <i>Fire and Rescue Service Regulation 2011</i></li> <li>• <i>Information Privacy Act 2009</i></li> </ul>
<b>Related Documents</b>	<ul style="list-style-type: none"> <li>• Revenue Policy</li> <li>• Revenue Statement</li> <li>• Sale of Land Process Workflow</li> </ul>

<b>Policy Version</b>	<b>Approval Date</b>	<b>Adopted/Approved</b>
1	21/06/2023	<i>Special Meeting of Council Adopt 2023/2024 Budget - 21 June 2023</i>

*This policy may not be current as Council regularly reviews and updates its policies. The latest controlled version can be found in the policies section of Council's intranet or Website. **A***  
**hard copy of this electronic document is uncontrolled.**



## Rates and Charges Collection - Council Policy

### PURPOSE:

The purpose of this policy is to outline the administrative process which will be used to collect overdue rates and charges in a manner which is consistent, ethical, and in accordance with the *Local Government Act 2009* and *Local Government Regulation 2012*.

### SCOPE:

This policy applies to all ratepayers of the Western Downs Regional Council and all overdue rates and charges are subject to the actions contained within this policy.

### POLICY:

Council requires payment of rates and charges within a specified time period and will diligently pursue the collection of overdue rates and charges in accordance with the principles outlined in Council's Revenue Policy. Council is committed to the collection of overdue rates and charges in a fair, equitable, and timely manner but with due concern for any financial hardship faced by individual ratepayers. Due consideration and assistance will be given to ratepayers who display a genuine commitment to clearing their debt.

### Initial Recovery Action

Where a rate and/or charge becomes overdue after the due date of the notice, Council will take the following action:

Timing	Amount Outstanding	Action Type	Authority Level
Fourteen (14) days after the due date of the notice	\$10 or greater	<b>First Reminder Notice</b> This notice will be in the form of a letter advising the ratepayer(s): <ul style="list-style-type: none"> <li>(a) they have fourteen (14) days from the date of the letter to satisfy the outstanding amount or submit a Payment Plan;</li> <li>(b) if the debt remains unpaid after that period, recovery action will proceed: and</li> <li>(c) compounding interest will be charged thirty (30) days after the due date of the notice.</li> </ul>	Revenue Supervisor
Twenty-eight (28) days after the due date of the notice	\$50 or greater	<b>Final Demand (Second Reminder Notice)</b> This notice will be in the form of a letter advising the ratepayer(s): <ul style="list-style-type: none"> <li>(a) they will have a further fourteen (14) days from the date of the letter to satisfy the outstanding amount or submit a Payment Plan;</li> <li>(b) if the debt remains unpaid after that period, further recovery action will be taken by a debt collection agency;</li> <li>(c) if the debt exceeds \$1,000.00, an Intention to Commence Proceedings notice will be sent with the Final Demand and a legal charge will be applied to the account ;and</li> <li>(d) compounding interest will be charged thirty (30) days after the due date of the notice.</li> </ul>	Revenue Supervisor
Forty-two (42) days after the due date of the notice	\$50 or greater	<b>Advanced Recovery Action</b> <ul style="list-style-type: none"> <li>(a) account and Intention to Commence Proceedings Notice (where applicable) will be referred to Council's appointed debt recovery agent;</li> <li>(b) letter will be sent to ratepayer(s) on the appointed solicitor's letterhead (from Council's appointed debt recovery agent) requesting full payment of outstanding rates and charges</li> </ul>	Revenue Supervisor

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Timing	Amount Outstanding	Action Type	Authority Level
		within fourteen (14) days; and (c) if payment is not received, Council will commence legal action for the recovery of outstanding debts.	
Fifty-six (56) days after the due date of the notice	\$1,000 or greater	<p><b>Magistrate Court Recovery</b></p> (a) Council will authorise the debt recovery agency to commence legal action for recovery of outstanding rates and charges through the Magistrates Court; and (b) If the debt remains unpaid following service of claim in the Magistrates Court, Council will authorise the debt recovery agent to apply for Default Judgment through the Magistrates Court and proceed with further recovery action.	Revenue Supervisor
Three (3) years or more; or for vacant land, for one (1) year or more; or for land used only for commercial purposes, (1) year or more	Any amount	<p><b>Warning Notice for Potential Sale of Land</b></p> This notice will be in the form of a letter advising the ratepayer(s): (a) they will have twenty-eight (28) days from the date of the letter to satisfy the outstanding amount or submit a suitable Payment Plan; and (b) if payment is not received, it may be decided by a resolution of Council to sell the property to recover overdue rates and charges.	Chief Financial Officer
Three (3) years or more; or for vacant land for one (1) year or more, or for land used only for commercial purposes (1) year or more plus twenty eight (28) days following Warning Notice for Potential Sale of Land	Any amount	<p><b>Notice of Intention to Sell Land</b></p> This notice will be in the form of a letter advising the ratepayer(s): (a) Council has passed a resolution to sell the property at public auction without further reference to the ratepayer; (b) If payment is not made within three (3) months, the property will be sold at public auction and the proceeds used to discharge all overdue rates and charges, including interest and council costs; and (c) Any interested party listed on the Certificate of Title for the property will be advised of the auctioning of the property and will be provided a copy of the Notice of Intention to Sell land.	Council resolution
Three (3) years or more; or for vacant land for one (1) year or more, or for land used only for commercial purposes (1) year or more plus three (3) months after Notice of Intention to Sell Land	Any amount	<p><b>Sale of Land Auction Notice</b></p> This notice will be in the form of a letter at least fourteen (14) days but not more than thirty-five (35) days before the day of auction, advising the ratepayer(s): (a) details of the auction (date, time and place); (b) sale proceedings will only be discontinued if the amount of all outstanding rates and charges are paid prior to the auction. This includes all rates and charges levied on the land, including interest calculated up to the date of final payment and all costs incurred by Council for the intended sale; (c) Sale of Land Auction Notice will be given to all parties who were provided the Notice of Intention to Sell Land and will be published on Council's website; and (d) The Auction Notice will be displayed in	

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Timing	Amount Outstanding	Action Type	Authority Level
		conspicuous place on the land and in Council's public office (s) until the day of auction. Council may also advertise the Auction Notice in the Queensland Government Gazette and the Courier Mail. All reasonable steps will be taken by Council to publish the Auction Notice in a way to notify the public about the sale of land.	

A rate notice may also include an amount, other than an amount for rates and charges, payable to the local government.

A charge on land registered on the Certificate of Title may also be included in the debt recovery actions included in this Policy.

Overdue Rates and Charges or costs include:

- (1) rates and charges that are not paid by the due date for payment stated on the rates notice;
- (2) court awarded costs; and
- (3) interest on rates and/or charges.

### **Sale of Land**

Prior to the public auction, a reserve price must be set by the Chief Executive Officer. In accordance with section 143 of the *Local Government Regulation 2012*, Council must set a reserve price for the auction that is at least:

- (a) *the market value of the land; or*
- (b) *the higher of the following -*
  - (i) *the amount of the overdue rates or charges on the land;*
  - (ii) *the Unimproved capital value of the land.*

All proceeds from the sale of land for arrears of rates and charges (including costs) will be held in a trust by Council. The balance of outstanding arrears of rates and charges (including costs) will be discharged to finalise, in the first instance, any outstanding State Government land tax obligation and then rates and/or water accounts and the remainder, if any, will remain in trust until it is released to the previous property owner(s) and/or mortgagee(s), with approved written notification and/or identification.

### **Payment Plan/ Payment Arrangements**

A payment plan or payment arrangement is an agreement between a ratepayer and Council to pay overdue rates and charges by regular payments over an agreed period or by a lump sum deferment of full payment by a defined date. At any stage of the recovery process, except for the sale of land, Council will accept applications for payment arrangements through the approved Payment Plan method.

Only delegated officers, in accordance with the Delegations Authority approved by Council, may agree to the recovery of debts by periodic part payment. Council will generally not agree to the periodic repayment of debt where the term of repayment of outstanding rates and charges, including the next levy, extends beyond the end of the following rating period. Payment arrangements will be reviewed on a regular basis to confirm compliance with Council policy. Exceptions to this policy may be applied under certain circumstances (refer to *Deferment of Recovery Action* below).

If a payment plan meets the criteria set by Council and an application for periodic part payment is approved, the ratepayer(s) will be notified by correspondence from Council. This correspondence will advise that the outstanding account may be referred to Council's debt recovery agency, if the approved arrangement is not adhered to.

If a payment plan is requested and the criteria set by Council is not met, the ratepayer(s) will be requested to increase their proposed periodic payment amount to satisfy the terms of an approved arrangement. The ratepayer will further be advised that failure to respond to Council's request for the increase to the periodic payment amount within fourteen (14) days from the date of the correspondence, will result in the outstanding account being referred to Council's debt recovery agency.

### **Payment Plan/ Payment Arrangements in Default**



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Where payments have not been received in accordance with an approved payment plan a 'Default Notice' will be issued. It will advise the ratepayer(s) that the payment arrangement is in default and that the outstanding account will be passed to Council's debt recovery agency should the default not be rectified within fourteen days of the date of the 'Default Notice'.

Where a default on an approved payment arrangement has not been rectified within fourteen (14) days of the date of the 'Default Notice', a 'Notice of Cancellation' will be issued to the ratepayer(s) which will advise that the outstanding rates and charges will be referred to Council's debt recovery agency.

A payment arrangement may be reinstated when the arrears of the payment plan instalments are brought up to date. A payment arrangement may be renegotiated where the ratepayer(s) has demonstrated substantial compliance with the original arrangement. If a payment arrangement has defaulted more than once in the past financial year, a direct debit will be the only payment method acceptable in order to have the agreement reinstated.

Applications for Direct Debit shall be in writing on the approved 'Direct Debit Form'. Where there is a balance outstanding and a Direct Debit dishonours on two (2) consecutive occasions, the Direct Debit will be cancelled. Written advice in the form of a letter will only be issued to ratepayers who are defaulting on a payment plan arrangement. Reinstatement of a Direct Debit will be considered on a case-by-case basis, taking into account the frequency of the dishonour and the circumstances of the dishonour.

### ***Deferment of Recovery Action***

Recovery action may be deferred for the following reasons:

- (1) deceased estates in probate;
- (2) receivership/administration;
- (3) bankruptcy liquidations;
- (4) approved hardship (circumstance where a ratepayer fails to meet the obligation of paying rates and charges by the due date as a result of severe suffering or privation and Council agrees there is no course of action available to be taken to improve the financial position of the ratepayer)\*;
- (5) property sale where an unconditional contract has been signed; or
- (6) special circumstances\*\*.

\* Delegate power, under Section 157(1)(b) of the *Local Government Act 2009*, to the Chief Executive Officer to grant hardship relief on a case-by-case basis, in relation to the following:

- (a) Payment Plans
- (b) Discount Periods
- (c) Interest on Overdue Rates

\*\*Special circumstances can be approved at the discretion of a delegated officer, for any overdue rates and charges not falling into any of the above categories that may benefit from the deferment of recovery action.

### ***Debt Write-off***

In order to maintain an efficient rating system, minor amounts (such as rounding amounts and interest charges) not exceeding \$10 may be adjusted by the Revenue Supervisor and not exceeding \$50 by the Chief Financial Officer.