

# 2021-22 Rates and Charges Collection - Council Policy

<b>Effective Date</b>	1 July 2021
<b>Policy Owner</b>	Finance
<b>Link to Corporate Plan</b>	Sustainable Organisation
<b>Review Date</b>	June 2022
<b>Related Legislation</b>	<ul style="list-style-type: none"> <li>• Qld Local Government Act 2009</li> <li>• Local Government Regulation 2012</li> <li>• Fire &amp; Rescue Service Act 1990</li> <li>• Fire and Rescue Service Regulation 2011</li> <li>• Australian Competition and Consumer Commission Debt Collection Guidelines</li> <li>• Information Privacy Act 2009</li> </ul>
<b>Related Documents</b>	<ul style="list-style-type: none"> <li>• Western Downs Regional Council - Register of Delegations</li> <li>• Revenue - Council Policy</li> <li>• Revenue Statement</li> <li>• LARMAQ Sale of Land Best Practice Guide 2017</li> <li>• Western downs Regional Council - Sale of Land Process Workflow</li> </ul>

Policy Version	Approval Date	Adopted/Approved
1	23/06/2021	Special Meeting of Council - Adopt 2021/22 Budget

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.**



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## 1. PURPOSE

The objectives of this Policy are to:

- provide transparency by defining the obligations of the ratepayers and the processes utilised by Council in assisting them to meet their financial obligations
- make the processes used to recover overdue property rates and charges clear, simple to administer and cost effective
- ensure equality by providing the same processes to ratepayers with similar circumstances
- adhere to the debt collection guidelines developed by the Australian Competition and Consumer Commission, and
- comply with all relevant legislation including the Queensland *Local Government Act 2009* and *Local Government Regulation 2012* and *Information Privacy Act 2009*.

## 2. SCOPE

- This Policy applies to all ratepayers of the Western Downs Regional Council.
- All overdue rates and charges are subject to the actions contained in this Policy.

## 3. POLICY

Council is committed to the collection of overdue rates and charges and water consumption charges in a fair, equitable and timely manner but with due concern for any financial hardship faced by individual ratepayers. Council employees will be diligent in the application of administrative procedures relating to payment arrangements and the selection of various actions for the recovery of overdue rates and charges.

### Initial Recovery Action

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

1. Fourteen (14) days after the due date of the notice, property owners who have rates and charges outstanding for which no payment arrangement has been negotiated, will be issued with a "First Reminder Notice". This notice will be in the form of a letter advising the ratepayer(s) they have fourteen (14) days from the date of the letter to satisfy the outstanding amount and, if the debt remains unpaid after that period, recovery action will proceed.
2. Twenty-eight (28) days after the due date of the notice, property owners who have rates and charges outstanding for which no payment arrangement has been negotiated, will be issued with a "Second Reminder Notice". This notice will be in the form of a letter advising that:
  - i. The ratepayer will have a further fourteen (14) days from the date of the letter to satisfy the outstanding amount and will advise that if the debt remains unpaid after that period, further recovery action will be taken by a debt collection agency.
  - ii. If the debt exceeds the Magistrates Court recovery action threshold of \$749.99, the "Second Reminder Notice" will be issued to the rate payer, along with a copy of the "Notice of Intention to Commence Proceedings".
3. Should the ratepayer(s) fail to satisfy the outstanding balance as shown on the "Second Reminder Notice", the account may be passed to Council's Debt Collection Agency for collection of amounts above the Advanced Recovery Action Threshold of \$50.00.

### Advanced Recovery Action

Where a rate and/or charge remains overdue after the initial recovery actions have been completed, the



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account and any relevant "Notice of Intention to Commence Proceedings" will be referred to Council's appointed Debt Collection Agency which shall follow the processes as follows:

1. A letter will be sent to the ratepayer on the appointed Solicitor's letterhead (from Council's appointed debt recovery agency) requesting full payment of the overdue rates and charges within fourteen (14) days.
2. Should the ratepayer fail to respond to the Solicitor's letter, Council will authorise the Debt Collection Agency to commence legal action for recovery of outstanding rates and charges through the Magistrates Court for debts above the Magistrates Court recovery action threshold of \$749.99.
3. If the debt remains unpaid following service of a claim in the Magistrates Court, Council will authorise the debt collection agency to apply for judgement through the Magistrates Court and proceed with further recovery action.

## Sale of Land

At any stage, if any part of the overdue rates and charges remain unpaid for three (3) or more years or for one (1) or more years for vacant land or land used only for commercial purposes, Council may decide by resolution of Council, to proceed with the sale of land under *Section 140 of the Local Government Regulation 2012* The sale will proceed in accordance with *Chapter 4, Part 12, Division 3 of the Local Government Regulation 2012*.

Council will select properties that have any part of their overdue rates and charges remaining unpaid for three (3) or more years or for one (1) or more years for vacant land or land used only for commercial purposes, and shall issue the ratepayer(s) of those properties a "Potential Sale of Land Warning Notice". This notice will be in the form of a letter requesting the ratepayer(s) to finalise the outstanding arrears, or arrange a suitable payment plan within twenty-eight (28) days of the date of that letter.

Should the ratepayer(s) fail to satisfy the outstanding balance as shown on the "Potential Sale of Land Warning Notice", it may be decided by resolution of Council, to sell the property for arrears of rates and charges to recover costs.

Should it be resolved by Council to sell a property for arrears of rates and charges and costs, the ratepayer(s) will be issued a "Notice of Intention to Sell Land", in accordance with the provisions of *Section 140 of the Local Government Regulation 2012*. This notice will be in the form of a letter advising the ratepayer(s) of the resolution made by Council to sell the property at public auction, without further reference to the property owner. This letter will further advise, if the arrears of rates and charges and costs remain unpaid for three (3) months after the date of the "Notice of Intention Sell Land", the proceeds of the auction will be used to discharge all overdue rates and charges including costs.

The Mortgagee(s) listed on the current Certificate of Title for the property, will be advised of the auctioning of the property in the form of a letter ("Mortgagee Letter"), including a copy of the "Notice of Intention Sell Land".

Should the ratepayer(s) fail to satisfy the "Notice of Intention to Sell Land" and the overdue rates and charges and costs remain unpaid for three (3) months after the date of the notice, the ratepayer(s) will be issued a "Sale of Land Auction Notice". The Sale of Land Auction Notice must be provided at least 14 days but not more than 35 days before the day of the auction. This Sale of Land Auction Notice will be in the form of a letter advising the ratepayer(s) of the details of the auction (time, place and full description) and further that the sale proceedings will only be discontinued if the amount of 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, are paid prior to the auction.

An "Auction Notice" will be given to everyone who was given a notice of intention to sell and publish the auction notice on Council's website. Where the notices were returned unclaimed, Council may advertise the auction notice in Queensland Government Gazette and the Courier Mail. The "Auction Notice" must be displayed in a conspicuous place in Council's public office, until the day of the auction; and in a conspicuous place on the land unless it is not reasonably practicable to do so because the land is in a remote location or difficult to access. All reasonable steps to publish the "Auction Notice" in another way to notify the public about the sale of the land must be taken. This may include advertising on Realestate.com. The "Auction



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Notice" must advise of the date, time and location of the auction and a full description of the land. Other details can be set at the discretion of the Chief Executive Officer.

An "Auction Listing" (list of properties for potential sale), will be included as part of the "Auction Notice" on Council's website and Newspapers. The "Auction Listing" will be updated each day (up to and including the day of the auction) on Council's website.

Prior to the public auction, a reserve price must be set by the Chief Executive Officer of the Western Downs Regional Council. 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 and 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 Arrangements

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 increase, within fourteen (14) days from the date of the correspondence, will result in the outstanding account being referred to Council's Debt Collection Agency.

## Payment Arrangements in Default

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 Collection Agency should the default not be rectified within fourteen (14) 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) have demonstrated substantial



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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.

## Direct Debits

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 with written advice issued in the form of a letter. This letter will advise the ratepayer(s) that the Direct Debit has been cancelled and the account may be referred to Council's Debt Recovery Agency. 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:

- deceased estates in probate
- receivership/administration
- bankruptcy liquidations
- approved hardship\*
- property sale where an unconditional contract has been signed, or
- special circumstances\*\*.

\*. Delegate power, under Section 157 (1) b of the Local Government Act 2009, to the CEO 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.

## DEFINITIONS:

### Rates and Charges:

Rates and charges are levies that a local government imposes;

- a) on land; and
- b) for a service, facility or activity that is supplied or undertaken by -
  - i. the local government;
  - ii. someone on behalf of the local government (including a garbage contractor, for example).

There are several types of rates and charges as defined by *section 92* of the *Local Government Act 2009*:

- General rates (including differential rates); and
- Special rates and charges; and
- Utility charges; and
- Separate rates and charges; and
- As advised in *section 105* of the *Local Government Regulation 2012*



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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 may also be included in the debt recovery actions included in this Policy.

**Overdue Rates and Charges** or costs include:

- Rates and charges that are not paid by the due date for payment stated on the rates notice.
- Court awarded costs; and
- Interest on rates and/or charges.

## **Water Consumption Charges**

Water consumption charges are charges that a local government imposes for each property connected to a water supply scheme and shall be charged for each kilolitre of water consumed, separate to the access charge.

## **Interest**

It is Council Policy to charge 8.03 percent (%) interest per annum, compounding daily on any amounts outstanding, thirty (30) days after the due date, pursuant to *Section 133 of the Local Government Regulation 2012*.

## **Initial Recovery Action Threshold**

An action carried out by Council's delegated officers following Council's policies in an effort to recover overdue rates and charges.

The total debt amount above which initial recovery actions will be triggered is \$5.00.

## **Advanced Recovery Action Threshold**

An action carried out by Council's appointed Debt Recovery Agency following the agreed terms and conditions of the appointment in the effort to recover overdue rates and charges on behalf of Council.

The total debt amount above which advanced recovery actions will be triggered following unsuccessful completion of Initial Recovery Action is \$50.00.

## **Magistrates Court Action Recovery Threshold**

The total debt amount above which Magistrates Court recovery actions will be triggered following unsuccessful completion of Advanced Recovery Action is above \$749.99.

Council may also use the Magistrates Court to obtain warrants for Authorised Persons, Categorisation Officers and Local Government Workers, to enter private property. These warrants can be used to exercise disconnection, restriction and/or removal of Council infrastructure, for non-payment of accounts or non-compliance with service agreements. This is pursuant to *Chapter 5 of the Local Government Act 2009*, and the *Gas Supply Act 2003* and also, but not limited to, investigation of matters related to categorisation as set out in *Section 85 of the Local Government Regulation 2012* and in accordance with the *Water Supply (Safety and Reliability) Act 2008*.

## **Sale of Land**

Sale of Land refers to the process, compliant with the *Local Government Regulation 2012*, where Council resolves to auction a property for the recovery of overdue rates and charges on that property, when some or all of the rates and charges have been overdue for at least three (3) years in the case of residential property and (1) year for all other property.

## **Payment Plan**



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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.

## **Direct Debit**

An arrangement made with a bank that allows Council to transfer monies from a person's account on an agreed date.

## **Default on Arrangement**

Failure to repay overdue rates and charges when due, defined by an Approved Payment Plan.

## **Approved Hardship**

A 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.

## **REVIEW TRIGGER:**

List of factors which require the policy to be reviewed e.g.: -

- Periodic review.
- Change in Legislation; Corporate Plan, Planning Scheme etc affecting this policy.
- Change in community priorities or circumstances relating to this policy; and
- Natural Disaster.

