

Document Control	
Policy Title	Rates and Charges Debt Recovery Policy
Policy Number	P20/24
Function	Rates
Responsible Position	Lead Rates & Utilities Billing Officer
Supersedes	Rate Recovery Policy
Review Date	30/09/2025

Version	Date Endorsed at ELT Briefing	Council Meeting Date (Date of Adoption / Review)	Resolution Number
1		25 November 2020	OM/11.2020/74
2	19 October 2023	8 November 2023	OM/11.2023/06

1. Purpose

The purpose of this policy is to establish guidelines for the timely recovery of rates and charges levied which seeks to achieve fair and consistent treatment of all ratepayers who have outstanding rates and charges.

2. Scope

This policy will apply to all ratepayers who have an overdue rate or charge levied by Council, unless otherwise specified.

3. Statement

Council's objective is to provide processes that will enable any person, group or organisation to apply for a concession on their rates to alleviate the burden of rates and charges levied.

4. Definitions

Rates or Charges	As per the <i>Local Government Regulation 2012</i>
Overdue rates and charges	As per the <i>Local Government Regulation 2012</i>

Terms

Due Date	30 days from issue date of rate notice (coincides with discount period ending)
Interest Date	60 days from issue date of rate notice
Payment Arrangement	An undertaking from the property owner to pay the rates and charges by regular payments over a period of time to the satisfaction of Council.

Approved	Formal acceptance by the Council of the commitment.
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5. Policy

5.1 Rates & Charges Recovery Process

Where a rate and/or charge becomes overdue, Council shall follow the process set out hereunder in order to recover such overdue rates and charges:

- 5.1.1 Fourteen (14) days after the due date of the notice, ratepayers who have rates or charges outstanding for which no payment arrangement has been negotiated, will be issued with a “First Reminder Letter”. This letter will advise the ratepayers they have fourteen (14) days from the date of the letter to satisfy the outstanding amount and the option to enter into a suitable payment arrangement. If the debt remains unpaid after that period, recovery action will proceed.
- 5.1.2 After a minimum of fourteen (14) days from the date of the first reminder letter, Council will issue a “Second Reminder Letter” by Australia Post by Domestic Letter with Tracking, in respect of assessments that have an outstanding balance above the recovery action trigger of one hundred dollars (\$100.00), where a current approved payment arrangement is not in place.
 - i. The ratepayer will have a further fourteen (14) days from the date of this letter to satisfy the outstanding amount or enter into a suitable payment arrangement.
 - ii. If the debt remains unpaid or an approved payment arrangement has not been put in place, further recovery action will be taken by a debt collection agency.
- 5.1.3 After a minimum of fourteen (14) days from the date of the second reminder letter, all outstanding rate assessments with a value of above one hundred dollars (\$100.00) will be referred to Council’s Debt Recovery Agency for the issuing of a “Letter of Demand” on the appointed Solicitor’s letterhead (from Council’s appointed debt recovery agency) requesting full payment within fourteen (14) days or to contact them direct to enter into an approved payment arrangement.
- 5.1.4 After a minimum of fourteen (14) days from the date of the letter of demand, a report will be submitted to Council for approval by way of resolution to authorise their Debt Recovery Agency to proceed with legal action for recovery of outstanding rates and charges through the Magistrates Court for debts above Magistrates Court recovery action threshold of seven hundred and forty-nine dollars and ninety-nine cents (\$749.99), against the ratepayers who have failed to satisfy the outstanding balance or enter into an approved payment arrangement.
 - i. Council’s Debt Recovery Agency will proceed with legal recovery action against the ratepayer by issuing a Claim and Statement of Claim (lodged through the Magistrates Court) that will be served on the ratepayer.

- 5.1.5 After a minimum of twenty-eight (28) days after the Claim and Statement of Claim has been served and if the debt remains unpaid, Council's Debt Recovery Agency will obtain instructions to issue a "Pre-Judgment Warning Letter" to the ratepayer giving a further seven (7) days to pay the outstanding debt or to enter into a suitable payment arrangement.
- 5.1.6 After a minimum of seven (7) days after the expiry of the "Pre-Judgment Warning Letter", Council's Debt Recovery Agency will obtain instructions to have a Default Judgment filed against the ratepayers through the Magistrates Court
- 5.1.7 Once the Default Judgment has been obtained, Council's Debt Recovery Agency will issue the ratepayers a "Post Judgment Letter", advising them that Default Judgment has been obtained and that if the debt is not paid within seven (7) days from the date of the letter that further enforcement action will take place to recover the debt and all costs.
- 5.1.8 After a minimum of seven (7) days from the date of Default Judgment and the debt still remains unpaid, Council can authorise to proceed with enforcement action of the Judgment debt or proceed to sale of land pursuant to section 140 of the Local Government Regulation 2012.

5.2 Rates Recovery Process is outlined in Diagram 1.

5.3 Separate correspondence that may be issued:

5.3.1 Payment Arrangement Default Letter

- Advising ratepayers in default that legal action may be taken should the default not be rectified within fourteen (14) days.

5.3.2 Payment Arrangement Cancellation Letter

- Due to non-compliance advising that the payment arrangement has been cancelled and the outstanding amount may be referred to Council's Debt Recovery Agency.

5.4 Further action can be suspended at any point in the process up to obtaining Judgment if:

5.4.1 Payment is made in full; or

5.4.2 The ratepayer enters into and maintains an approved payment arrangement.

6. Payment Arrangements

Council may approve a ratepayer to enter into a payment arrangement to pay rates and charges. Payment arrangements will still incur interest payable on overdue amounts at the prescribed rate (refer to Maranoa Regional Council's Revenue Statement).

Requests for Payment Arrangements are to be applied for using Councils prescribed form – Application for Rate Payment Arrangement or by phone contact with the Rates & Utilities Team. The outstanding rates and charges must be fully paid by the end of the current financial year.

In circumstances where the request extends beyond the current financial year, this may be subject to a separate report being submitted to Council for consideration.

Council may approve a waiver of the interest accrued providing that the specified conditions of the arrangement are met, and all outstanding rates and charges are fully paid.

- Payments must be made by the specific days agreed upon unless otherwise arranged prior to the due date of payment.
- If Council does not receive a payment on the agreed specified day, a default letter may be sent to the ratepayer advising that unless payment of the outstanding amount is made within seven (7) days, their agreement will be cancelled, and the matter may be referred to Council's Debt Recovery Agency.
- If payment is not received within the seven (7) days allowed, a letter may be issued advising the ratepayer that their arrangement has been cancelled due to non-compliance and no further arrangements will be approved unless by way of Council resolution.
- If there is a balance outstanding and the arrangement has expired, a letter may be sent to the ratepayer, advising that unless payment of the outstanding amount is made in full within seven (7) days, the total amount may be referred to Council's Debt Recovery Agency.

7. Sale of Land

At any stage, if any part of the overdue rates and charges remain unpaid for:

- Generally - three (3) or more years
- Vacant land or land used only for commercial purposes – one (1) or more years
- Mining Claim – three (3) months

However, Council may not sell the land if the liability to pay the overdue rates and charges is the subject of court proceedings.

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 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”, the property will be included on a report showing properties listed as “Intention to Sell Land for Rate Arrears” and must be submitted to a Council meeting so that Council may decide by resolution 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:

7.1 The ratepayers will be issued a “Notice of Intention to Sell Land”, in accordance with the provisions of *Section 140* of the *Local Government Regulation 2012*.

7.1.1 A ‘Notice of Intention to Sell Land’ is a document, signed by the Chief Executive Officer stating:

- That the local government has, by resolution, decided under Section 140, to sell the land for overdue rates or charges; and
- The day on which the resolution was made; and
- The terms of the resolution; and
- A description of the location and size of the land, as shown in the local government’s land record; and
- Details of the overdue rates or charges for the land, as at the date of notice, including details of the period for which the rates or charges have been unpaid; and
- Details of the interest that is owing on the overdue rates and charges, as at the date of the notice; including -
 - Details of the rate at which interest is payable on the rates and charges; and
 - A description of the way the interest is calculated; and
- The total amount of overdue rates or charges and the interest, as at the date of the notice; and
- A copy, or a general outline, of Sections 141 to 144 of the *Local Government Regulation 2012*.

7.2 This notice will be in the form of a letter advising the ratepayers 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 to Sell Land”, the proceeds of the auction will be used to discharge all overdue rates and charges including costs.

- 7.3 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 to Sell Land”.
- 7.4 The Council must start the procedure for selling the land within six (6) months after the local government gives the “Notice of Intention to Sell Land” to the registered owner of the land (Section 141 of the *Local Government Regulation 2012*)
- 7.5 The Council must end the procedures at the earliest of the following:
- 7.5.1 The Council is paid –
- 7.5.1.1 The amount of overdue rates or charges; and
- 7.5.1.2 All expenses that the Council incurs in attempting to sell the land;
- 7.5.1.3 The land is sold;
- 7.5.1.4 One (1) year after the notice of intention to sell is given to the registered owner.
- 7.5.2 If the Council ends the procedures under subsection 8.5.1.4 of this policy, nothing prevents Council from deciding to sell the land again under section 140(2) *Local Government Regulation 2012*
- 7.6 After a minimum of three (3) months and the overdue rates and charges and costs remain unpaid, a further report must be submitted to Council for consent to the time and place of the proposed auction and a recommendation on who shall hold the auction and the reserve price/s (refer Section 143 *Local Government Regulation 2012*).
- 7.7 The Council must prepare an “Auction Notice”, stating the time and place of the auction and a full description of the land.
- 7.8 At least 14 days but not more than 35 days before the day of the auction, Council must:
- 7.8.1 Give a copy of the “Auction Notice” to everyone who was given a notice of intention to sell the land; and
- 7.8.2 Publish the “Auction Notice” on Councils website; and
- 7.8.3 Display the “Auction Notice” in a conspicuous place in Councils public office, until the day of the auction; and
- 7.8.4 Display the “Auction Notice” 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; and
- 7.8.5 Take all reasonable steps to publish the “Auction Notice” in another way to notify the public about the sale of the land must be taken.
- 7.8.5.1 This “Auction Notice” will be in the form of a letter advising the ratepayers 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 the final payment and all costs incurred by Council for the intended sale, are paid prior to auction.

- 7.8.6 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.

8. Auction

8.1 Council must set a reserve price for the land at the auction that is at least –

8.1.1 The market value of the land; or

8.1.2 The higher of the following –

8.1.2.1 The amount of overdue rates or charges on the land;

8.1.2.2 The value of the land.

8.2 If the reserve price is not reached at auction, Council may enter into negotiations with the highest bidder at the auction to sell the land by agreement. However, the price for the land under the agreement must be more than the highest bid for the land at the auction. If the highest bidder at the auction does not agree to buy the land, the land is taken to have been sold at the auction to Council for the reserve price. This, however, does not apply if the land is held on a tenure the Council is not competent to hold.

8.3 Under section 146 of the *Local Government Regulation 2012*

1. *The local government must use the proceeds of the sale of the land in the following order-*
 - a. *To pay any amount agreed for the release of a State encumbrance under section 138(4)(b) or (5);*
 - b. *To pay the expenses of the sale;*

Example of expenses of the sale –
Administrative costs incurred by the local government
 - c. *To pay land tax owing on the day of the sale;*
 - d. *To pay the overdue rates or charges for the land;*
 - e. *To pay any other amounts relating to the land that the owner of the land owed the local government immediately before the sale;*
 - f. *To pay any rates or charges, other than overdue rates or charges, for the land;*

- g. *To pay any registered encumbrances, other than State encumbrances, in order of their priority under the Land Title Act;*
 - h. *To pay any body corporate fees that the owner of the land owed immediately before the sale;*
 - i. *To pay the person who owned the land immediately before the sale.*
2. *If any of the proceeds of sale remain unclaimed after 2 years, the local government must pay the proceeds to the public trustee as unclaimed money.*

Once the property has been auctioned, council will not release any remaining funds until evidence of identity from all owners is provided. Copies of identity documentation must be certified by a Justice of the Peace or a Commissioner for Declarations.

Any two (2) of the following documents will be accepted (providing one document is photo ID):

- Drivers Licence
- Passport
- Citizenship Certificate
- Credit Card
- Full Birth Certificate

9. Deferment of Recovery Action

Recovery action in some circumstances may be deferred for the following reasons:

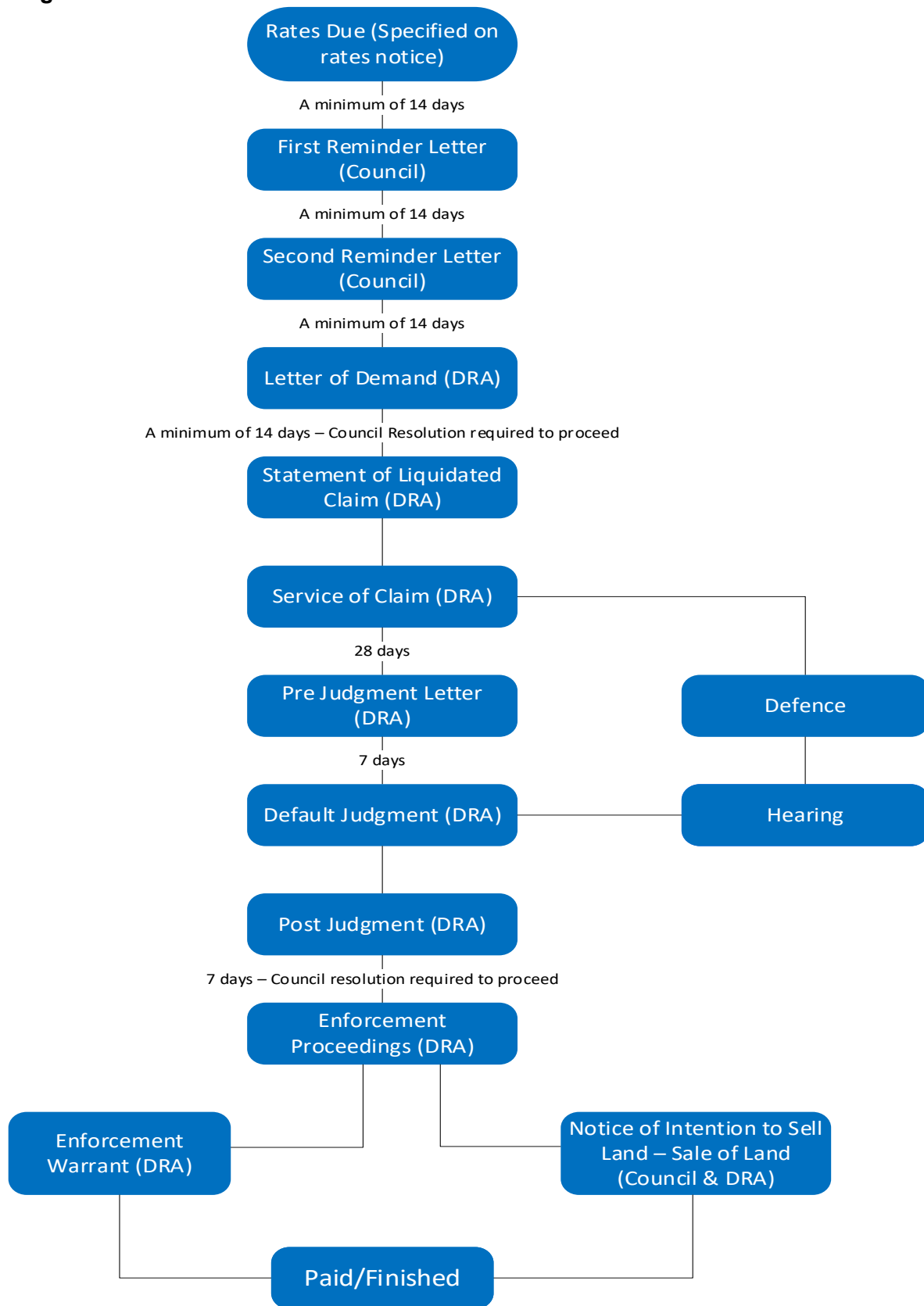
- Deceased estates in probate
- Receivership/Administration
- Bankruptcy liquidations
- Approved hardship*
- Property sale where an unconditional contract has been signed**
- Special circumstances***

*Approved hardship is determined after written submission and/or interview.

**A copy of the unconditional contract must be provided to Council for verification

***Special circumstances can be approved by Council resolution, for any overdue rates and charges not falling into any of the above categories that may benefit from the deferment of recovery action.

Diagram 1



10. Related Policies and Legislation

- *Queensland Local Government Regulation 2012*
- *Queensland Local Government Act 2009*
- *Maranoa Regional Council – Revenue Statement*