

## RECOVERY OF OUTSTANDING RATES AND CHARGES POLICY 2024

### 1. PURPOSE

The purpose of this policy is to provide direction on recovery of rates and charges levied, to achieve fair and consistent treatment of all ratepayers who have outstanding rates and charges.

### 2. SCOPE

This policy applies to all ratepayers who have an overdue rate or charge levied by council, unless specified otherwise.

### 3. DEFINITIONS

The following definitions apply to this policy:

Act	means the Local Government Act 1993 (Tas)
Council	means the Clarence City Council.
Rates and charges	means a general rate, separate rate, construction rate and service rate and includes any penalty imposed and interest charged under section 128 of the Act.
Ratepayer	means the person liable to pay rates or an averaged area rate in respect of land in accordance with the Act.

### 4. POLICY STATEMENT

This policy provides the framework for council to:

- recover outstanding rates and charges in accordance with provisions of the Act
- facilitate pro-active, customer-focussed outstanding rates and charges recovery processes
- provide a clear rationale for timely transparent, equitable and fair decision-making regarding recovery processes, and
- provide for the due concern of any financial hardship faced by ratepayers.

## 5. RELATIONSHIP TO COUNCIL STRATEGIC PLAN

The following objectives are identified in council' Strategic Plan 2021 – 2031:

- **Governance and Leadership**

- 5.2 *Formulating and maintaining policies to provide a framework for the establishment and implementation of council's plans, strategies, programs, and services.*

- 5.3 *Continuing to focus on providing transparency in our decision-making processes.*

- **Council's Assets and Resources**

- 6.3 *Making affordable and equitable rates and charges.*

- 6.11 *Effectively administering compliance with statutory obligations, legal responsibilities and governance standards.*

## 6. RELATED DOCUMENTS

The legislation and documents listed below form the framework to give effect to this Policy:

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### 6.1. Legislative (acts, regulations and standards)

- *Local Government Act 1993 (Tas)*

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### 6.2. Council policy, plans, procedures and guidelines

- Financial Hardship Policy

## 7. POLICY REQUIREMENTS

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### 7.1. BACKGROUND

Rates are levied and collected according to powers contained within the Act. The Act details the types of rates which may be made, the circumstances under which they may be made, how they are to be levied to ratepayers, and how they may be collected. The Act also provides the power of sale for the recovery of outstanding rates, specifies the circumstances under which this may occur, and the manner in which that process is to be undertaken.

The Annual Plan establishes the rating requirement for each financial year, detailing the amount required from each rate type. A specific rating resolution is made by council each year following adoption of the Annual Plan. This resolution determines the amount of each rate or charge, together with dates instalments are to be paid, the amount of interest and penalties to be charged on outstanding rates, and any remissions which may apply to particular property types.

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## 7.2. RATIONALE

Council relies on the timely collection of rates and strong cash flows to maintain service continuity and financial stability. The community has an expectation that council will manage its income in a responsible and commercially sound manner.

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## 7.3. THRESHOLD

This policy considers outstanding rates and charges where:

- a. more than one rates instalment is outstanding, and
- b. the amount of the debt outstanding rates and charges exceeds \$300.00.

The above threshold ensures ratepayers are not unduly penalised for a single oversight, there is the opportunity for any payment errors to be identified before collection action commences, there is the opportunity for specific disputes to be addressed, and council is not unnecessarily hasty in collection actions.

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## 7.4. PROCESS

Rates notices are issued each July for the financial year to which they relate. Reminder notices (including details of arrears) are issued approximately 4 weeks before the due date of subsequent instalments.

The following process applies to outstanding rates and charges which meet the threshold outlined in this policy unless alternate arrangements have been agreed.

- a. Overdue/Final notices are issued after council's 2<sup>nd</sup> and 4<sup>th</sup> instalments, identifying arrears and providing notice that a collection agency will be engaged if no action is taken within 14 days.
- b. Payments may be subsequently received and/or mutually accepted payment arrangements made (in accordance with section 8.0 below).
- c. If, after 14 days, no response is received to the arrears letter, the debt is lodged with council's collection agency unless action is deferred for reasons outlined below:

- deceased estate in probate, or
  - bankruptcy liquidation, or
  - mortgagee in possession
  - circumstances of genuine financial hardship, as approved under council's Financial Hardship Policy.
- d. The collection agency issues a request for payment providing a further 14 days. Should no payments be received, or no mutually agreed payment plan commences, or no hardship application completed, the debt will proceed to claim/summons. This will incur additional fees.
- e. The ratepayer has 21 days after service of the claim to make payment or enter into a mutually agreed payment plan. If there is a failure to respond, council has the option to proceed to judgement. This will incur additional fees. After judgement council may garnishee wages or proceed to a rent order (refer to section 8.5 below).
- f. If Collection Agency determines that recover of debt is unlikely, the debt is removed from the Collection Agency and monitored in future by Council.

## 8. INDIVIDUAL PAYMENT ARRANGEMENTS

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### 8.1. MUTUALLY ACCEPTABLE PAYMENT ARRANGEMENTS

Mutually acceptable payment arrangements may be entered into with individual ratepayers where the arrangement is sufficient to clear the debt by 30 June of the rating year. Payment arrangements that are paid by direct debit do not incur interest or penalty charges. All payment arrangements are monitored by council and / or its collection agency. Where a default in an arrangement eventuates, follow up contact will be attempted. Debts remaining in default follow the process detailed at section 7.4(c) above, if not previously lodged with council's collection agency.

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### 8.2. HARDSHIP POLICY

Individual payment arrangements may be made for recovery of outstanding rates and charges where a ratepayer has been identified as experiencing genuine financial hardship after completing council's financial hardship application. The application must include all supporting documents as outlined in the financial hardship policy. A new financial hardship application must be completed and submitted each financial year.

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## 8.3. POSTPONEMENT OF RATES

Ratepayers may be granted a postponement of rates, to be paid back at a later date, in respect of the property owned and occupied, subject to the following conditions:

- a postponement arrangement may only apply to the ratepayer's principal place of residence;
- the ratepayer must complete Council Financial Hardship application;
- a new hardship application must be completed every 12 months;
- Council must be satisfied, in each year, that any payment would cause financial hardship; and
- whilst a postponement is granted, unpaid rates are still subject to interest in accordance with section 128 of the Act.

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## 8.4. GENUINE DISPUTE

Debts will not be lodged with council's collection agency where a genuine dispute exists in relation to the debt, except where the dispute is deemed to be frivolous or vexatious, or where reasonable attempts to resolve the dispute have been unsuccessful. Disputes must be referred to the Chief Financial Officer for assessment and determination.

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## 8.5. TENANTED PROPERTIES – COLLECTION OF RENT

Where a debt remains outstanding, despite advice of recovery requirements from council's collection agency, the collection agency (in conjunction with council) may, under provisions of section 135 of the Act, collect rent from the tenants to recover the debt.

## 9. CIRCUMSTANCES OF SALE

In accordance with Division 11 of the Act, council has the power to sell land for the recovery of outstanding rates and charges where the amounts have been owed for 3 years or more. Any action for the sale of land to recover outstanding rates and charges must be authorised by a specific decision of council. Council may take this action where no practical alternative is available for the recovery of outstanding rates and where the Chief Executive Officer or Chief Financial Officer has met with, or attempted to meet with, the property owner to seek payment, this may include undertaking a welfare check where Council deem it to be warranted.

Properties which are a principal place of residence will be considered for sale for the recovery of outstanding rates and charges where the total outstanding rates and charges is greater than 50% of the property's land value as determined by the Office of the Valuer General.

Where there is consideration of sale of land to recover outstanding rates and charges, the following matters must be taken into consideration (as far as reasonably practical or available):

- a. actions already taken towards recovering the debt
- b. the circumstances of the property owner(s)
- c. the use of the property
- d. the ability of council to recover the debt by means other than sale
- e. an assessment of the likely impact of the sale on any person associated with the property (including a residential or commercial tenant)
- f. in respect of a commercial property occupied by a business, the likely effect of the sale on the livelihood of the business owner and/or the business' employees or contractors
- g. in respect of a commercial property, the likely impact of the sale on properties in the immediate vicinity, and
- h. the likely impact of the sale on the broader community in terms of economic activity, social imperatives, or any other matter likely to affect the property's overall community benefit.

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## 9.1. PROCESS FOR SALE

The process for sale of a property to recover outstanding rates is outlined in Division 11 of the Act.

## 10. IMPLEMENTATION AND COMMUNICATION

The Chief Financial Officer is responsible for the implementation of this policy.

This policy will be communicated via:

- council's website, and
- internal circulation to staff.



## 11. REPORTING

Reporting against this Policy will be provided through briefing reports to councillors through the Chief Executive Officer.

## 12. ADMINISTRATIVE ARRANGEMENTS

COUNCIL APPROVAL DATE	
REVIEW	Every 5 years
RESPONSIBLE POSITION	Chief Financial Officer
ECM REFERENCE	