

3.11 – RATES AND CHARGES DEBT RECOVERY POLICY

1 POLICY PURPOSE

Council has a responsibility to recover monies owing to it in a timely, fair and effective manner to fund the delivery of its services and ensure effective financial management for ongoing financial sustainability.

The purpose of this policy is to provide guidance to management, staff and the community to ensure that rates and charges are collected in a consistent, transparent and equitable manner in accordance with relevant legislation.

This policy shall be applied when Council recovers rates and charges based levied on each parcel of rateable land.

This policy guides the administrative process that will be used in the collection of overdue rates and charges, which may include payment arrangements and / or the selection of various recovery actions, including the sale of land in accordance with legislative requirements.

2 POLICY OBJECTIVE

The policy seeks to:

- Ensure a fair and equitable process regarding the timely collection of overdue rates and charges;
- Ensure both transparency and consistency in relation to the processes and procedures used to collect overdue rates and charges;
- Ensure that ratepayers are given every opportunity to pay their rates and charges prior to debt recovery proceedings commencing;
- Minimise the amount of rates and charges owed to Council ensuring cash flows are collected to fund services and financial sustainability is maintained; and
- Ensure that Council meets its legislative obligations under applicable legislation.

3 POLICY SCOPE

This policy applies to the collection of overdue rates and charges, as well as accrued interest and any amounts incurred by Council in the recovery of overdue rates and charges (e.g. court and professional costs).

This policy does not extend to the collection of other Council fees and charges which have legislated debt recovery requirements or existing policies in relation to debt recovery, for example: electricity and Telecom.

This policy applies to all Council ratepayers, Councillors, staff and agents of Council, as well as any other entity involved in Council rates and charges recovery.

4 DEFINITIONS

TERM	DEFINITION
Arrangement to pay	An agreement between Council and a ratepayer to pay rates and charges and interest outside of the normal instalment due dates.
Charges	Charges levied annually on the land shown on the annual rates and charges notice. These may include waste management service charges and other annual charges.
Costs	Amounts incurred by Council in recovering overdue debt (for example Court, interest and professional costs) which can be legally recovered from the ratepayer.
Council	Norfolk Island Regional Council.
Debt collection agent	An independent external agency collecting a debt on Council's behalf.
Debt recovery action	Any communication with the ratepayer in regard to their overdue rates and charges.
General Manager	A person who holds an appointment under section 334 of the Local Government Act 1993 (NSW) (NI). This includes a person acting in this position.
Hardship	Any situation where an individual is having difficulty paying legally owed rates and charges. This can result from life changes (for example, because of illness, unemployment or changed financial circumstances) restricting the short-term capacity to pay.
Interest	Interest raised in accordance with the <i>Local Government Act 1993 (NSW)(NI)</i> and as adopted by Council in the Revenue Policy.
Pensioner	An eligible pensioner as defined in clause 134 of the <i>Local Government (General) Regulation 2005 (NSW) (NI)</i> .
Rateable land	Land that is rateable to an ordinary rate or a special rate, or both
Ratepayer	The person or persons liable for payment of Rates and Charges levied on a property.
Rates	Council rates levied annually on the land shown on the annual Rates and Charges Notice. These may include Ordinary Rates, Special Rates, and Charges.
Sale of Land	In accordance with section 713 of the <i>Local Government Act 1993 (NSW)(NI)</i> a council has the authority to sell land which has any unpaid rates or charges for more than 5 years, or 1 year for vacant land, where rates and charges owing exceeds the land valuation.
The Act	<i>Local Government Act 1993 (NSW)(NI)</i>
The Regulation	<i>Local Government (General) Regulation 2005 (NSW) (NI)</i>

TERM	DEFINITION
Write off	The accounting process for interest incurred on outstanding rates and charges that is no longer collectable resulting in its removal from the ratepayer's receivable account.

5 LEGAL AND POLICY FRAMEWORK

Legislation, Policies and Documents:

Legislation:

- *Local Government Act 1993* (NSW) (NI).
- *Local Government (General) Regulation 2005* (NSW) (NI).

Policies:

- Hardship Policy – Rates and Charges.

Documents:

- Office of Local Government (New South Wales) – Debt Management and Hardship Guidelines November 2018.

6 IMPLEMENTATION

Communication

This policy and any related documents are to be communicated to all Councillors, staff members and the community via Council's external website and intranet.

Implementation

Implementation of this policy will reference supporting procedures, documents and relevant guidelines.

7 POLICY STATEMENT

7.1 Background

Rates and charges levied by Council provide a major source of revenue, and effective collection processes are vital to ensure services provided to the community can be paid for and that Council remains financially sustainable.

Council requires payment of rates and charges within a specified timeframe and will pursue the collection of overdue rates and charges diligently.

The non-payment of rates and charges by some ratepayers places an unfair burden on other ratepayers who meet their payment obligations within the required timeframes.

When pursuing the collection of overdue rates and charges, Council will give due consideration to any genuine financial hardship faced by individual ratepayers.

7.2 Annual Instalment Due Dates

Rates and Charges notices are issued annually prior to 31 July each financial year. Notices can be paid in full by the end of the first instalment due date (31 August of the financial year) or via four instalments due on 31 August, 30 November, 28 February and 31 May of the financial year.

Instalment reminder notices will be issued at least one month prior to the instalment due date in accordance with section 562 of the *Local Government Act 2003* (NSW) (NI) (the Act).

Any amount that is not paid by the instalment due date is an overdue amount.

Interest accrues on all overdue rates and charges.

7.3 Reminder and Final Notices for Overdue Rates and Charges

Reminder and Final Notices will be issued to ratepayers whose rates and charges remain outstanding after the due date and who have not entered into a payment arrangement:

- Reminder Notice: issued 14 days after the due date; and
- Final Notice: issued 28 days after the due date.

The Reminder and Final Notices will advise:

- The amount of any overdue rates and charges;
- That interest charges applying to the overdue amount (included as part of the overdue amount); and
- That the ratepayer should contact Council prior to the date on the notice to make a payment arrangement if they are not in the position to pay all of the overdue rates and charges.
- Subject to the criteria set in this policy, debt recovery proceedings may be taken if a reasonable payment arrangement has not been entered into.

At this stage, no formal legal action has commenced, and no legal costs have been incurred by the ratepayer by receiving Reminder and Final Notices.

7.4 Debt Recovery Options

Where there is a failure to respond to the Final Notice for overdue rates and charges, and no arrangement to pay has been entered into, further recovery proceedings will commence based on an assessment applying the following criteria:

- Outstanding rates and charges are greater than \$500; or
- Any other amount that in the view of the General Manager requires collection action to mitigate the community's risk of lost cash flow; and
- The amount has been overdue for more than 60 days.

Those accounts assessed as meeting the criteria will be forwarded to Council's debt collection agent for recovery action.

Those accounts where the ratepayer has not complied with agreed requirements of a Financial Hardship (Rate Relief) arrangement or defaulted on the agreed payment arrangement may also be forwarded to Council's debt collection agent for recovery action.

Debt recovery costs and fees (including listing fees and legal costs) payable by Council, will be passed on to the ratepayer and will subsequently remain a charge on the property until paid.

Recovery action may include: personal visits / service, written correspondence, reminder notices, telephone calls, Notices /Letters of Demand, Statement of Claim, Court Judgement, Summonses, Writs, Garnishee Orders, Warrant of Apprehension, notices to wind up a company, bankruptcy, and the sale of land for overdue rates under section 713 of the Act.

In order to proceed with the sale of land under section 713 of the Act, a resolution of Council must be passed authorising the General Manager to proceed. No sale of land will proceed without this authorisation.

7.5 Payment Arrangements

Where ratepayers are experiencing financial difficulties in meeting the required payment of rates and charges, they are requested to contact Council with a view to entering into a suitable payment arrangement. Refer to Council's Hardship Policy – Rates and Charges for further details.

Council has the authority to accept payment arrangements of rates and charges due and payable in accordance with an arrangement made with the ratepayer (section 564 of the Act).

It is Council's intention to have outstanding balances paid within three months of an arrangement being made. However, Council is sympathetic to ratepayers with special circumstances and may consider the payment of outstanding amounts with the intention to be settled within 18 months from the date the arrangement is made (including current and future instalments that fall due within that period). In all such cases, unpaid rates will remain attached to the property as an enforceable caveat.

In the case where the hardship still persists beyond the term of the agreement, then the ratepayer will need to reapply by submitting a new application.

All approved hardship applications will be reviewed at least annually, or at any other time the Council deems necessary, to ensure the circumstances in which the original application was approved remains relevant.

Where a payment arrangement has expired and an overdue balance still exists, debt recovery proceedings will recommence at the stage where it has ceased.

Interest shall be charged on amounts outstanding as required by the Act.

The onus is on the ratepayer to ensure that their rates and charges are paid in a timely manner in accordance with due dates.

7.6 Pensioners

Statutory Pensioner Rebates - Eligible pensioners are required to pay the amounts of rates and charges remaining following any statutory reduction in rates as required under section 575 of the Act. Such amounts shall be paid by the due date.

All conditions of this policy, including in relation to interest on unpaid rates and charges and writing off outstanding amounts apply to pensioners as they do to other ratepayers.

Recovery of amounts owed by pensioners - Council encourages eligible pensioners to meet their rates and charges payment commitments as they fall due. Where an eligible pensioner is in financial difficulty, Council officers shall consider the individual circumstances of eligible pensioners and may enter into an agreement with them for the payment of rates and charges (and accrued interest) by arrangement.

7.7 Accrued Interest Write Off

Overdue rates will be charged at the adopted rate of interest in accordance with the Act. Accrued interest will not be written off except in accordance with this policy following hardship assessment.

Ratepayers who are unable to pay accrued interest on rates and charges for reasons beyond their control, or because payment of the accrued interest would cause them undue hardship, may apply to have the accrued interest written off.

Ratepayers who have complied with the conditions of an arrangement to pay and who are unable to pay accrued interest for the reasons stated above, may apply to have the accrued interest written off on the basis of hardship.

Application for writing off accrued interest under hardship provisions shall be determined on the merits of each individual case. Refer to Council's Hardship Policy – Rates and Charges for further information regarding the process and making an application by completing the Financial Hardship (Rate Relief) Application Form.

7.8 Accrued Rates and Charges Against the Land (Pensioner)

Where the payment of rates and charges is likely to cause extreme hardship to an eligible pensioner, the General Manager may allow rates, charges and interest to accrue as a charge on the land. Recovery of the debt will occur either from the estate of the eligible pensioner or the sale of the property, whichever comes first.

An application for approval to accrue rates and charges against a property must include all relevant financial and other details which demonstrate that the payment of rates, charges and interest would cause extreme hardship. Refer to Council's Hardship Policy – Rates and Charges for further information regarding the process and making an application by completing the Financial Hardship (Rate Relief) Application Form.

Where rates, charges and interest have accrued against a property, the accrued interest shall not be written off.

7.9 Hardship Assistance in Relation to Council Fees (Non-Rates)

The General Manager will have the delegated authority to make decisions in relation to the waiving or reducing of fees up to the amount of \$3,000. For amounts over \$3,000 the decision must be a resolution made by Council. Any application for hardship assistance in relation to non-rates Council fees or charges will be assessed in accordance with the same eligibility criteria used to assess hardship assistance in respect to rates and annual charges.

7.10 Requests for Review

If the applicant does not agree with the decision made by Council, the applicant may request for a review within 30 days of the decision.

The General Manager and Manager Corporate Services will review the decision and notify the outcome to the applicant. As part of the review the applicant may be asked to provide further information to support the application. If the applicant remains dissatisfied with the decision, the applicant may lodge a complaint which will be considered in accordance with Council's Complaints Handling Policy. If a complaint does not result in a favourable outcome, the applicant may appeal the decision to Council, which has full discretion to hear the complaint in-person, on the papers or may summarily dismiss it.

7.11 Special Circumstances

Where special circumstances exist beyond this policy, individual circumstances will be considered on a case-by-case basis and presented to Council for individual consideration.

8 MONITORING AND REPORTING

A report is to be presented to Council at the end of each quarter in respect of those ratepayers with outstanding arrears over \$500. The report will contain details of the action taken by Council to recover those debts and the annual rates and charges applicable (based on the current financial year in which the report is produced).

The monitoring and evaluation of the policy will be conducted in accordance with Council's policy

review cycle.

REVIEW AND VERSION CONTROL

Policy Number:	3.11	Responsible Officer:	Manager Corporate Services
Next Review Date:	February 2028		
Version:	Resolution Number:	Effective Date:	Description:
1.0	2019/133	17 July 2019	Developed and adopted
2.0	2022/132	16 November 2022	Reviewed and adopted
3.0	2023/74	02 August 2023	Reviewed and adopted
4.0	N/A	13 May 2024	This policy has been reviewed and approved under delegation, as no changes were proposed.
5.0	TBC	TBC	Reviewed