

# Debt Management and Hardship Policy

Description of policy	Policy to assist all ratepayers experiencing any degree of hardship
Policy applies to	All debtors, ratepayers, employees and consumers of Council services
Policy category	Revised Policy
Description of revision and Version Number	Version Number: 1.0

Approved by	
Approval date	
Effective date	1 August 2025
Date of last revision	March 2025
Date of next review*	March 2029

\*Unless replaced, this policy will still apply beyond the review date.

Related legislation, standards and guidelines	<i>Local Government Act 1989 (the Act)</i> <i>Local Government Act 2020 (will be referred to by full title where required, so as to differentiate from the Local Government Act 1989)</i> <i>Local Government Legislation Amendment (Rating and Other Matters) Act 2022</i> <i>Fire Services Property Levy Act 2012</i> <i>Local Government (General) Regulations 2015</i> <i>Penalty Interest Rates Act 1983</i> <i>Competition and Consumer Act 2010</i> <i>Valuations of Land Act 1960</i>
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## 1. PURPOSE

This policy outlines and details Council's debt management and recovery decisions, process and practices. The policy aims to ensure overdue general debts, rates and charges are collected in a fair and reasonable manner, and where required in line with Council's hardship provisions, also contained within this policy. Council is committed to ensuring all ratepayers and general debtors are treated equally and given a fair opportunity to pay outstanding debts.

## 2. SCOPE

This policy applies to all Council staff and departments recovering or managing funds owed to Council including:

- Rates and charges;
- Fire Services Property Levy;
- Special Charge Schemes;
- Associated property debts;
- User fees and charges
- Administrative charges and Grant receivables;
- Commercial, community and residential leases and on-costed utilities; and
- All other Sundry Debtors

## 3. DEFINITIONS

**ACCC** means the Australian Competition and Consumer Commission

**Act** means the *Local Government Act 1989* (Vic)

**ASIC** means the Australian Securities and Investments Commission

**CCA** means the Competition and Consumer Act 2010 (Cth)

**Council** means Nillumbik Shire Council

**CIV** means Capital Improved Value

**Debt** means an amount of money owed, including an alleged outstanding balance

**General debtor** means any individual, organisation, business or other entity owing monies to Council other than rates, charges and levy collection through the rating and valuation process.

**Rates and charges** includes rates and charges and levy collection through the rating and valuation process, levies and other charges collected on behalf of the State Government, including but not limited to the Emergency Services and Volunteers Fund Levy and the Victorian Waste Levy (landfill levy, waste levy) and Special Charge Schemes.

**SOE** means Summons of Oral Examination

#### 4. PRINCIPLES

The management and recovery of overdue debts is an important aspect of Council's financial management function. Debtor management is an essential element of Council's budget monitoring, cash management and Council's Revenue and Rating Plan. The principles that apply to the management and recovery of overdue debts are as follows:

**Transparency and accountability** – Council will provide targeted and consistent information, payment terms and advice for the type of service being charged. This includes processes around the follow up of non-payment, and decisions made in accordance with the relevant legislation. This policy provides the community with the overarching principles associated with applying for hardship ensuring transparency of the process.

**Consistency** – Council will consistently apply and interpret the policy across all debts.

**Equity** – ensuring the fair and consistent application of lawful recovery principles without bias, taking into account all relevant considerations.

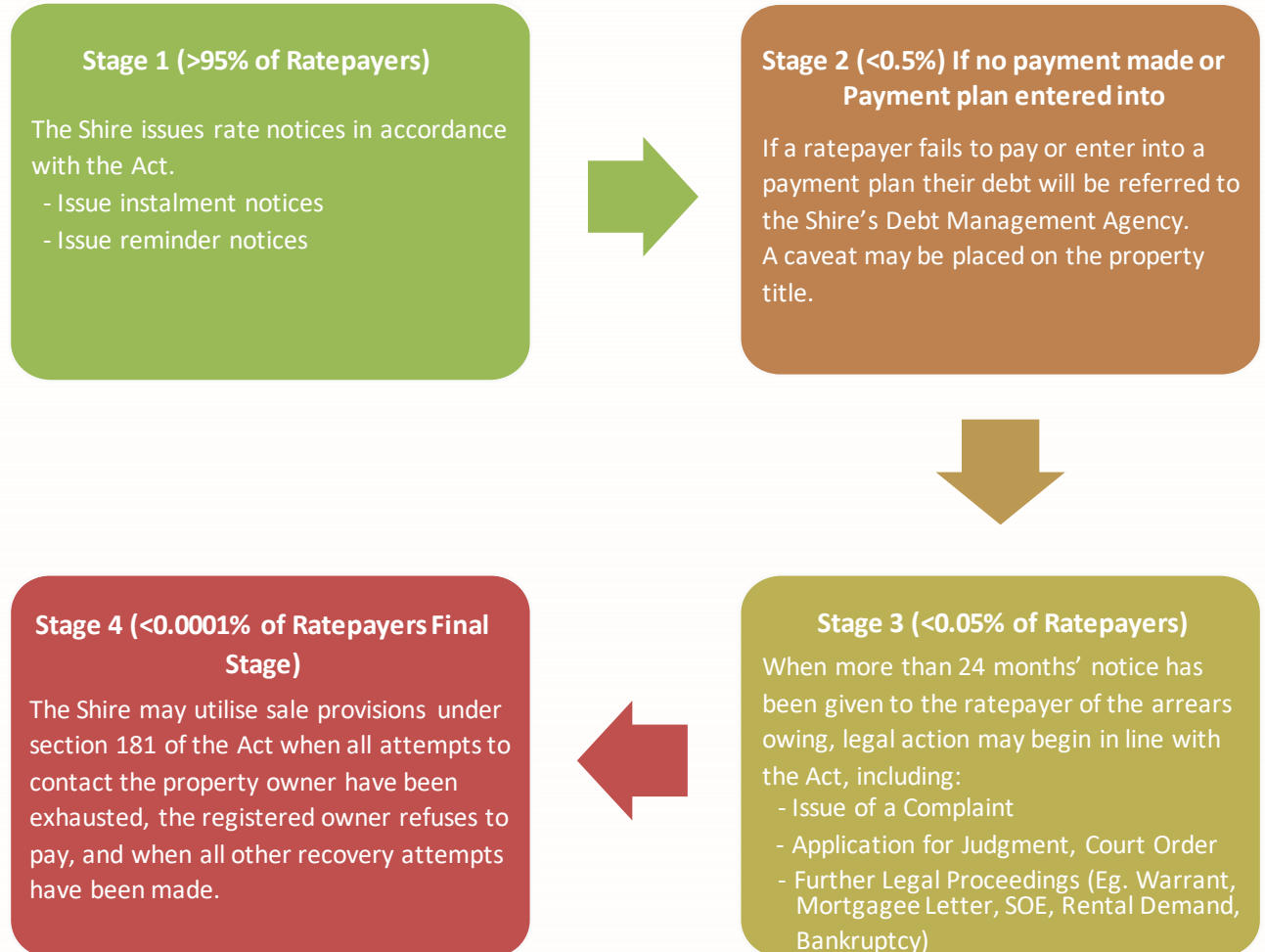
**Fairness and sensitivity** – requests for assistance will be treated consistently, objectively and in a sensitive and confidential manner.

**Financial Viability** – The ongoing financial viability of the Shire is ensured. The provision of hardship relief must not affect the ongoing financial viability of Council.

## 5. POLICY

### 5.1 Rates Collection Process

*(For more detailed information regarding the stages of debt collection please refer to Appendix 2)*



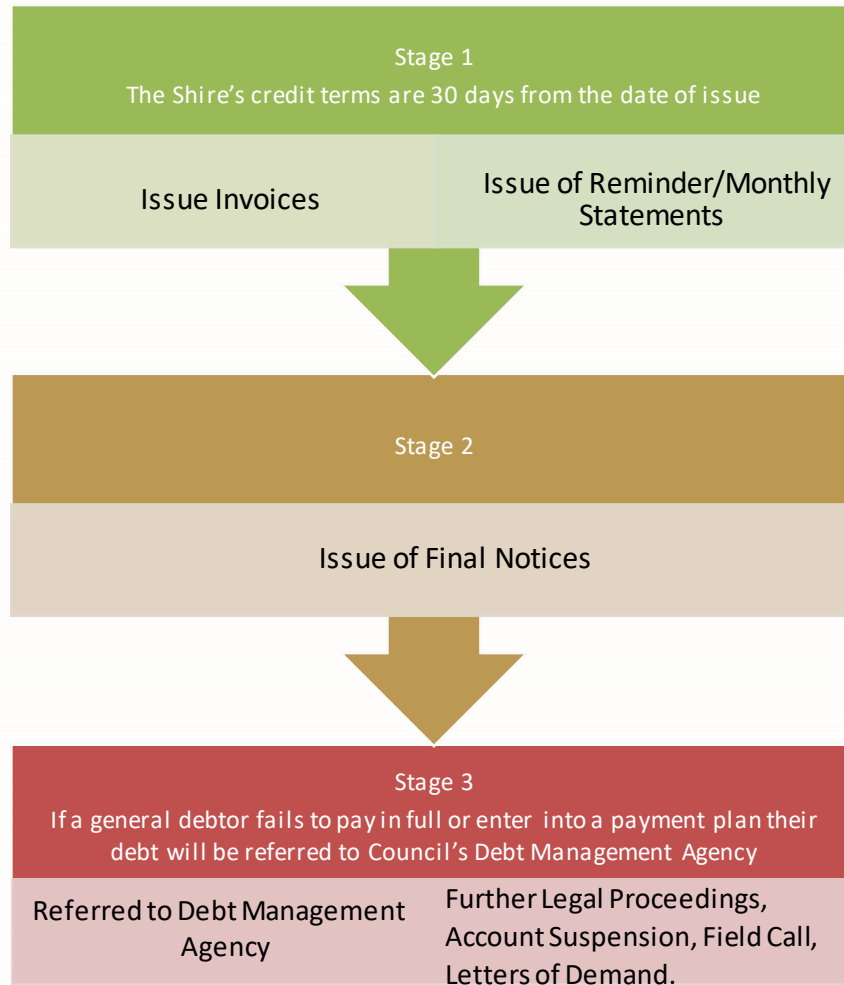
#### 5.1.1 Caveats

Where rates and charges, including special charge scheme debts, are overdue by a period of twelve months or more and the total outstanding arrears is \$5,000 or more, a caveat may be placed on the title of the property. This ensures that no transfer or sale of the property can occur without Council's knowledge.

Where there is grounds on which to reasonably assess a risk exists in relation to the collectability of current or future amounts due and payable, or where a property owner holds multiple properties in the Shire and has arrears due on one or more properties, Council may place a caveat on the title of the property/ properties in order to mitigate those risks.

## 5.2 General Debtor Collection Process

*(For more information regarding the stages please refer to Appendix 3)*



## 5.3 Calculating Interest – Rates and Charges

Interest is set by the Minister in accordance with section 172 of the Act and published in the Government Gazette

**5.3.1** Where rates are paid by instalments and they are not paid by the due date, interest will accrue from the due date of the missed instalment to the date.

**5.3.2** Interest will be charged two weeks after the due date on any overdue amounts.

## 5.4 Calculating Interest – General Debtors

Council will not charge interest on any general debt account unless permitted under legislation.

## 5.5 Authority to Waive Debt

### 5.5.1 General Debt:

Council acknowledges there are situations where recovering a general debt is difficult and it may be uneconomic to recover or pursue further action where the debt is of a low value. In these situations, the general debt may be waived.

General debts can only be waived under the following authority:

Management Level	Authorisation Level
Council (via resolution)	Over \$25,000
CEO	Up to \$25,000
CFO	Up to \$10,000
Rates and Valuations Lead	Up to \$500

### 5.5.2 Penalty interest:

Penalty **interest** related to rates and charges can only be waived under the following authority:

Management Level	Authorisation Level
Council (via resolution)	Over \$25,000
CEO	Up to \$25,000
CFO	Up to \$10,000
Rates and Valuations Lead	Up to \$500

### 5.5.3 Rates and charges:

Council will not waive rates, municipal charges or service charges unless extreme, ongoing financial hardship can be independently verified by a registered financial counsellor, and no other viable option to recover all or a portion of the debt exists. Under these circumstances a waiver or partial waiver of rates will only be considered for the owner's principal place of residence (main residence).

The value of each property provides the owner with a potential source of funds if liquidated. It is considered inequitable for the majority of ratepayers to subsidise the property assets of hardship applicants. A more equitable solution for the community is to defer payment of rates and charges.

## 5.6 Administrative Waivers/Amendments

A debt may be waived or amended in situations caused solely by administrative issue, error, or omission, including administrative errors related to Goods and Services Tax (GST).

## 5.7 Minor Debts

When other economical avenues have been exhausted and a balance on an account within the scope of this policy is identified as less than the threshold, for a 'minor debt', the amount will be either written off or paid by Council, with the corresponding expense recorded against a budget established for this purpose.

## 5.8 Legal Costs

Legal costs will not be waived once proceedings have commenced unless there was an administrative error made by Council causing legal proceedings to be issued incorrectly.

## 5.9 Property Owner Responsibilities

A property owner is responsible for:

- Keeping their contact details (in writing) up to date with Council (e.g. residential address, mailing address, mobile number, email address)
- Communicating with Council if their financial circumstances change and they are unable to make payment by the due date
- If they are experiencing financial hardship, contacting the National Debt Helpline on 1800 007 007 or at [www.ndh.org.au](http://www.ndh.org.au) or Uniting Care on 1800 685 582 or at <https://www.unitingvictas.org.au/services/money-matters-financial-counselling/financial-counselling>

## 5.10 Confidentiality

All communication, including written communication, will remain confidential and subject to Council's Privacy Policy.

## 6. RELATED DOCUMENTS

Readers are encouraged to access relevant documents and/or resources which are available as per the below. These include:

- *Local Government Act 1989* (the Act)
- *Local Government Act 2020*
- *Local Government Legislation Amendment (Rating and Other Matters) Act 2022*
- *Fire Services Property Levy Act 2012*
- *Local Government (General) Regulations 2015*
- *Penalty Interest Rates Act 1983*

Section 5, *Family Violence Protection Act 2008*.

Section 6, *Family Violence Protection Act 2008*.

## 7. HUMAN RIGHTS COMPATIBILITY

The implications of this policy have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.



## 8. ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively. Examples include a change to the name of a Council unit, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be made through consultation with the staff Consultative Committee and with the approval of EMT or where required, resolution of Council.

## 9. DOCUMENT HISTORY

Date Approved	Responsible Officer	Unit	Change Type	Version	Next Review Date

## 10. APPENDICES

Appendix 1 – Financial Hardship Guidelines

Appendix 2 – Rates Collection Process

Appendix 3 – General Debtor Collection Process

Appendix 4 – Special Charge Scheme

Appendix 5 – The meaning of financial hardship

## APPENDIX 1

### FINANCIAL HARDSHIP GUIDELINES

Sometimes situations happen that affect your ability to pay for services. This could be illness, accident, loss of employment, some family issues, or another change in your circumstances. Council's Financial Hardship Guidelines allow for flexible payment plans and the ability to defer payments on eligible debts.

We recommend anyone facing financial difficulty seeks free financial counselling. You can be referred to a local financial counsellor by calling 1800 007 007 or you can visit the National Debt Helpline <https://ndh.org.au/financialcounselling/find-a-financial-counsellor/>.

This service provides access to a range of free support options.

Alternatively, please contact Council as soon as possible on (03) 9433 3111 or visit [www.nillumbik.vic.gov.au](http://www.nillumbik.vic.gov.au) if you are unable to pay, so that we can advise you of your options.

These guidelines outline:

- the definition of hardship
- the definition of financial hardship
- your eligibility for financial hardship consideration
- the process for applying for a payment arrangement
- the process for applying for a payment deferral.

#### 1. Hardship

Hardship is where a person is experiencing short term financial difficulty. This may include when a person has limited or low income and is temporarily unable to make a repayment on outstanding debts.

If you believe you are experiencing hardship you can apply for a short-term payment arrangement directly with Council. Please refer to section 6 below.

#### 2. Financial Hardship

Financial hardship is where a person is having difficulty providing for themselves, their family or other dependents and the financial hardship is likely to continue for the foreseeable future, longer than one year.

Financial hardship assistance will be considered on an individual basis and always with a view to the ratepayer or debtor re-establishing financial capacity and meeting their financial obligations.

If you believe you are experiencing financial hardship you may be eligible for a payment deferral or a long-term payment plan.

### **3. Eligibility**

The property must be the ratepayer's principal place of residence and only applications from the property owner will be eligible. If a ratepayer who is not the property owner would like to seek financial hardship assistance, they will be referred to the property owner.

### **4. Application for Hardship Assistance**

Any eligible ratepayer may apply for hardship assistance. Applications can be made directly with Council or through a financial counsellor. Council may recommend applicants seek financial counselling via a counselling service as they provide access to a greater range of support options than what Council can offer.

### **5. Late Payments**

Late payments may be subject to interest. A late payment is a payment that is not received within two weeks after the due date.

Interest will be charged upon cancellation of a payment plan, from the cancellation date.

### **6. Payment Plans – Rates and Charges (short term)**

Ratepayers experiencing hardship causing temporary financial difficulties and are not able to pay their outstanding rates and charges can apply for a short-term payment plan.

Proposed arrangements must be regular (e.g. weekly, fortnightly, or monthly) and paid in full by June 30 of the current financial year.

Council will review and communicate with ratepayers to ensure payment plans are followed or modified as circumstances change.

No legal action will be undertaken while there is an active payment plan in place and interest will not be charged on outstanding amounts.

If two or more payments have defaulted under an arrangement Council's appointed Debt Management Agency will contact the ratepayer, and if not rectified the payment plan will be cancelled, the ratepayer advised and interest charges applied.

### **7. Payment Plans – General Debtors (Short Term)**

Limited financial assistance arrangements will be considered for general debtors. Payment plans will only be negotiated for outstanding balances at the time of granting the plan, with subsequent invoices payable on the due date.

Proposed payment plans must be regular (e.g. weekly, fortnightly or monthly) and paid in full within six months.

No legal action will be undertaken while there is an active plan in place.

Where a payment plan is in place and two or more payments have defaulted, the payment plan will be cancelled, and the debtor will be notified.

## **8. Payment Deferral and Long-Term Payment Plans – Rates and Charges**

This option only applies to long term cases of extreme financial hardship. Where a long-term payment plan is in place, Council may require the ratepayer to attend financial counselling.

Ratepayers experiencing long term financial hardship and are not able to pay their outstanding rates and charges can apply for a long-term payment plan. Payment plans negotiated will be based on weekly or fortnightly payments, but irregular arrangements will be considered based on the ratepayer's individual circumstances.

Any payment plan negotiated under this section must consider the ratepayer's capacity to pay and allow for the arrangement to be re-negotiated at the request of the ratepayer if there is a demonstrable change in their circumstances.

To support ratepayers who are unable to enter into any form of payment plan, Council will outline options for a range of programs that the ratepayer may use including information about appropriate government concession programs and financial counselling services.

Ratepayers who are experiencing financial hardship may apply to have rates and charges, or part thereof, deferred under the following conditions:

- must be the ratepayers sole or principal place of residence
- the ratepayer must be able to show they are experiencing financial hardship
- a confidential Statement of Financial Position must be submitted by the ratepayer as evidence of financial hardship
- for a debt exceeding \$500 the ratepayer may be requested to provide a confidential statement from a recognised financial counsellor, or similarly qualified person, in support of the application.

Where interest has accrued on rates and charges, a partial interest waiver may be granted on special considerations. No legal action to recover the debt will be instigated whilst the deferral is in place.

Council will review the application annually and may contact the ratepayer or nominated representative to confirm that financial hardship conditions still exist.

If two or more payments have defaulted on a payment plan, this will cause the plan to be cancelled, and the ratepayer will be notified.

## **9. Payment plan eligibility**

Where a ratepayer has defaulted on their payment plan and the plan has been cancelled, they may be considered ineligible to enter into future payment plans.

## **10. Waiving Rates and Charges**

Council will not waive rates, municipal charges or service charges unless extreme, ongoing financial hardship can be independently verified by a registered financial counsellor, and no other viable option to recover all or a portion of the debt exists. Under these circumstances a waiver or partial waiver of rates will only be considered for the owners principal place of residence (main residence).

The value of each property provides the owner with a potential source of funds if liquidated. It is considered inequitable for the majority of ratepayers to subsidise the property assets of hardship applicants. A more equitable solution for the community is to defer payment of rates and charges.

Hardship assistance is provided to support ratepayers experiencing financial difficulty and delays action that could otherwise be undertaken to recover the debt. In situations of financial hardship, rates may also be deferred in recognition of the longer term financial difficulty being experienced.

## APPENDIX 2 – Stages of Debt Management (Rates and Charges)

### STAGE 1

#### 1. Issue of Rates and Charges

Rates and charges are levied by rates notice. This notice will be issued no fewer than 14 days before the due date for payment in accordance with the Act. Rate notices will be sent to the last known mailing address or email address as advised in writing by the property owner.

Rates can be paid by four quarterly instalments. If payment is to be made by the four instalments, then the first instalment must be paid in full on or by the first instalment date being September 30. Subsequent instalment payments are due on November 30, February 28, and May 31 of each financial year. Where a due date falls on a weekend or public holiday, the next business day will be deemed to be the due date.

#### 2. Issue of Reminder Notices

Council will issue a reminder notice where:

- the ratepayer has rates or charges owing to council seven days after the final instalment due date; and
- a current payment plan is not in place; and
- a financial hardship application has not been approved; and
- no other recovery action has been commenced.

Reminder notices will also be issued to ratepayers who have been referred to Council's appointed Debt Management Agency, who have not entered into a payment plan.

Reminder notices will be mailed to the last known mailing address as directed in writing by the property owner. The notice advises the property owner that if they fail to pay in full or enter into a payment arrangement that the debt could be referred to Council's Debt Management Agency.

### STAGE 2

#### 1. Issue of Final Notice (Debt Management Agency)

If a ratepayer fails to pay in full or enter into a payment plan, their debt will be referred to Council's Debt Management Agency.

The Debt Management Agency may issue a final notice, make telephone calls and/or issue an SMS/email, as instructed by Council, giving the ratepayer 14 days to respond, pay or enter into a payment plan. Failing any contact, then a Demand Letter would be issued. All the checks listed under Sect 180(A) of the Act would need to be met before the Demand is issued.

## **STAGE 3**

### **2. Issue of a Complaint in the Magistrates Court**

If rates and charges remain unpaid Council may, recover it in the Magistrates' Court or by suing for debt in accordance with *Section 180* of the Act.

If 24 months have passed since the ratepayer was notified of the debt owing, legal action may begin where:

- Council has notified the person liable to pay the rate or charge in writing of the arrears and advised them of payment options available;
- they have failed to make payment or enter into another payment option, including deferral and payment plans;
- if payment of the rate or charge was deferred by Council, Council has sent a notice requiring payment of the deferred rate or charge and the person has failed to make payment required by that notice;
- if a payment plan was entered by the person, the plan has been cancelled by Council due to the person not complying with its terms and at least 24 months have passed since the cancellation of the plan.

Note this action is only considered following the issue of a demand letter where it was advised that legal action may be taken if debt remains unpaid.

### **3. Application for Judgment (Court Order)**

Upon the issue of a Court order relating to arrears of rates or charges, Council will take any steps it considers appropriate in the circumstances to recover the judgment debt owed. Judgments are recorded against the ratepayers credit rating.

Council may also consider utilising its power under section 181 of the Act.

### **4. Further Legal proceedings**

Further legal proceedings may be initiated which could include but not limited to:

- Summons of Oral Examination
- Issue of a Warrant of Seizure
- Attachment of Earnings (deduction from wages)
- Issue of a Rental Demand
- Mortgagee Letter
- Bankruptcy

## STAGE 4

### 1. Sale of Property for Unpaid Rates

Council may utilise the power of sale provisions under *Section 181* of the Act in any of the following circumstances:

- the amount due to Council for, or in respect of, rates or charges (including enforcement costs and interest) in respect of any ratable land is more than three years overdue.
- where all attempts to contact the registered owner are exhausted.
- no current arrangement, including a payment plan, exists for the payment of that amount to Council;
- Council has a Court order requiring the payment of the amount (or part of the amount); and
- the outstanding rates, legal and other costs do not exceed the Capital Improved Value (CIV) of the property, except in cases where the property has a CIV of less than \$10,000.

The council must serve a Notice of Intention to Sell Land on:

- The owner,
- Any mortgagee,
- The occupier, and
- Any person with a registered interest.

After the notice is served, there's a minimum 3-month waiting period during which the owner can pay the overdue amounts to stop the sale.

If no payment is made, Council can proceed with a public auction of the property. Council must sell the land at or above a fair market value.

Sale proceeds go toward:

- The outstanding debt,
- Any legal or administrative costs,
- Remaining funds (if any) are paid to the property owner or mortgagee or, if that person cannot be found, dealt with in accordance with the Act.

In exercising its rights under *Section 181* of the Act, Council will strictly comply with the various procedural requirements prescribed by the Act.

The CEO must provide approval to commence proceedings under *Section 181* of the Act.

A resolution of Council will be required to proceed with the sale of a property via public auction under *Section 181(1)* of the Act.



## APPENDIX 3 – General Debtors

### STAGE 1

#### Issue of Invoice

An invoice is raised showing the details of the goods and/or services provided and a due date for payment. Council's credit terms are strictly 30 days from the date of issue.

### STAGE 2

#### Issue of Reminder and Final Notices of General Debt

Where an invoice remains outstanding after 30 days from the date of issue of the invoice, reminder notices will be issued 14 days after the invoice due date. If the invoice remains unpaid, a final notice will be issued 14 days after the reminder notice is issued.

### STAGE 3

#### Debt Management Services

If a debtor has failed to pay in full or enter into a payment plan, their debt will be referred to Council's Debt Management Agency.

The Debt Management Agency will:

- contact the debtor via SMS, mail, phone, email or other methods; and
- administer any legal action on behalf of Council.

#### Examples of Legal Action

Further legal proceedings may be initiated which could include but not limited to:

- Letter of demand
- Notice of Complaint (summons)
- Judgment Order
- Summons of Oral examination
- Issue a Warrant of Seizure
- Attachment of Earnings
- Bankruptcy

## APPENDIX 4 – Special Charge Scheme

### STAGE 1

#### Issue of Invoice

New scheme invoice raised and the property owner can decide to pay the amount in full or by 40 quarterly instalments over 10 years.

An invoice is raised each quarter including interest (interest amount unique to each scheme) on the pending balance of the scheme. Invoices are raised in January, April, July and October and the due date of invoice is approximately 30 days from the date of issue.

### STAGE 2

#### Expired Schemes

Once the 10 year period lapses and the scheme expires, the owner is issued with a final invoice.

If scheme remains unpaid, the penalty interest rate of 10 percent is applied to the balance of the scheme each quarter and a statement is issued to the owners.

### STAGE 3

#### Debt Management Services

If owner/s have failed to pay in full or enter into a payment plan, their debt will be referred to Council's Debt Management Agency.

The Debt Management Agency will:

- contact the debtor via SMS, mail, phone, email or other methods; and
- administer any legal action on behalf of Council.

#### Examples of Legal Action

Further legal proceedings may be initiated which could include but not limited to:

- Letter of demand
- Notice of Complaint (summons)
- Judgment Order
- Summons of Oral examination
- Issue a Warrant of Seizure
- Attachment of Earnings
- Bankruptcy

## APPENDIX 5 – The meaning of financial hardship

Financial hardship is a category within the broader concept of hardship described above. Many situations can contribute to financial hardship, including (but not limited to):

- Bereavement
- Financial misfortune such as fraud or electronic scamming
- Illness; or
- The impacts of natural disaster.

Inconvenience or difficulty in making a payment is not financial hardship. An inconvenience or difficulty may require the reorganising of finances, prioritising of other payments, or reducing expenditure on social activities and discretionary goods and services, in order to make a timely payment.

Financial hardship denotes more serious circumstances and requires that a person:

- Cannot afford the necessities of life for themselves and/or dependants.
- To be in such a circumstance that paying rates and charges means that they would be unable to afford necessities of life for themselves and/or dependants.

Necessities of life that would be impacted if making a payment of all or part of any rates, charges and any interest would:

- Prevent the ratepayer (or a dependant) from seeking essential medical treatments or supplies;
- Prevent the ratepayer from payment of essential utility services (including water and energy);
- Prevent the ratepayer (or a dependant) from access to basic living needs, such as:
  - Food;
  - Accommodation;
  - Clothing;
  - Education for dependent children; or
- Place the ratepayer (or dependent) in any form of harm or danger, including (but not limited to):
  - Family violence
  - Economic abuse

In contrast, financial hardship is not present where a ratepayer is able to afford goods and services such as (but not limited to):

- Restaurants and takeaway meals;
- Services such as hairstyling, beauty treatments, sport and recreational activities, and holidays;
- Entertainment such as streaming services, movies, concerts and theatre; and
- Alcohol and tobacco.