

## Debt recovery – ordinary rates and annual charges

<b>Policy, procedure, protocol</b>	Policy
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<b>Related documents</b>	Privacy Management Plan
<b>Author</b>	Revenue Coordinator
<b>Section / Department</b>	Finance & Supply
<b>Linkage to Our Community Plan</b>	5 Leadership
<b>Objective</b>	5.2 We will have an effective and efficient organisation
<b>Strategy</b>	5.2.1 Operate in a financially responsible and sustainable manner

## 1. Purpose

To establish guidelines for the General Manager and staff on appropriate debt recovery procedures to fulfil the statutory requirements of the Local Government Act, 1993 with respect to the recovery of outstanding ordinary rates and annual charges.

## 2. Definitions

*Rateable person – includes the Crown in respect of rateable land owned by the Crown and means:*

- a) *An owner in any case where the Local Government Act 1993, provides that a rate is to be paid to the Council by the owner, and*
- b) *A holder of a lease in any case where the Local Government Act 1993, provides that a rate is to be paid to the Council by the holder of the lease.*

## 3. Background/legislative requirements

Local Government Act 1993

Local Government (General) Regulation 2005 (NSW)

## 4. Policy statement

Council may proceed with legal action to recover outstanding ordinary rates and annual charges where a payment arrangement plan has defaulted or if the rateable person has failed and/or neglected to pay one or more instalments or a suitable attempt has not been made to clear the outstanding debt on rateable land.

## 5. Procedures

### Rates and Annual Charges

Rates Notices are issued prior to 31st July each year in accordance with Section 562 of the Local Government Act 1993. Instalment notices will be issued one month prior to the instalment due date in accordance with Section 562 (5) of the Local Government Act, 1993.

Instalments are due on the following dates each year:

- 31 August
- 30 November
- 28 February
- 31 May

### **Interest on Overdue Rates and Annual Charges**

Interest is calculated daily on overdue rates and charges at the maximum rate announced by the Minister for Local Government each year in accordance with Section 566 (3) of the Local Government Act, 1993.

Interest is not charged on legal costs.

### **Rates Reminder Notice**

A Rates Reminder Letter shall be issued where applicable within 14 days after the due date of an instalment to those ratepayers who have an outstanding instalment balance greater than \$20.00 and have not made previous satisfactory payment arrangements with Council. This Reminder gives the ratepayer the balance outstanding and the option of paying this debt off via a suitable payment arrangement.

The Reminder Letter will request payment within 14 days from the posting date of the letter. If a reminder letter does not result in payment in full or a suitable payment arrangement being made, a notice of intent to commence legal action will be issued by Council's Debt Recovery Agent.

### **Recovery Action**

If no payment is received or no suitable arrangement made to have the outstanding balance paid following the issue of the Reminder Notice, a Notice of Intent will be issued on all accounts with an outstanding balance greater than \$1,000.

If no payment is received or no arrangement made following the issue of the Notice of Intent, a Statement of Claim will be prepared, issued and served by Council or its recovery agent. Following the expiration of the statutory period, to protect Council's interest in the matter and all available actions to recover the amount outstanding, if the debt is not cleared, a Notice of Motion Default Judgement for liquidated Claim will be lodged.

Recovery action by Council or its agent to recover outstanding debts that will be considered may include, but not be limited to:

- A garnishee of income;
- Writ of execution on goods and chattels;
- Examinations summons;
- Service or a rent order where the property is tenanted;
- Sale of land for unpaid rates in accordance with Section 713 of the Local Government Act 1993.

Arrangements for payment may be accepted after legal action has commenced, subject to the continuation of legal action should the ratepayer not adhere to the approved arrangement.

Section 712 (1) of the Local Government Act 1993 provides that proceedings for the recovery of a ordinary rate or annual charge may be commenced at any time within 20 years from the date when the rate or charge became due and payable.

All legal costs and expenses incurred in recovering outstanding rates and charges shall be charged against the property in accordance with Section 605 of the Local Government Act, 1993.

In accordance with Section 459 of the Corporations Act 2001, where the ratepayer is a company and has been served with a creditors statutory demand (Section 459E of the Corporations Act 2001) and the ratepayer has not complied within the 21 day period, Council has the right to commence proceedings to have the debtor company wound up and a liquidator appointed. All debts regarding the issue of a creditors' statutory demand must exceed the sum of \$2,000.00.

#### **Sale of Land for Unpaid Rates and Charges**

Where any rate or charge is overdue and has remained unpaid for more than five (5) years from the date on which it became payable, Council may proceed to sell the land in accordance with Division 5, Part 2, Chapter 17 of the Local Government Act, 1993.

Where any rate or charge is overdue in respect of vacant land and the amount exceeds the Valuer General's current valuation of the property, Council may proceed to sell the land in accordance with Division 5, Part 2, Chapter 17 of the Local Government Act, 1993.

On an annual basis, a report shall be referred to Council for consideration listing all ratepayers who fall into the above category. The report will provide a detailed history of the circumstances of each case together with a recommendation in relation to the possible sale of the land to recover the overdue rates and charges.