

1. Policy Purpose

To establish a policy 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. Policy Scope

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

3. Definitions

Rates or charges – as per the *Local Government Regulation 2012*

Overdue rates and charges - as per the *Local Government Regulation 2012 (Chapter 4)*

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 by regular payments over a time period to the satisfaction of Council.

Approved: Formal acceptance by the Council of the commitment

4. Policy Details

Council is committed to the collection of overdue rates and charges in a fair, equitable and timely manner but with due concern for any financial hardship faced by ratepayers. In order to ensure that all ratepayers meet their obligations to pay rates and charges levied, Maranoa Regional Council will apply the following procedures to recover any overdue rate or charge in a timely manner.

4.1 Small Debt Write-offs

If a ratepayer has short paid their rates by \$10.00 or less and as a consequence would have missed their discount, Council will allow the outstanding amount to be carried forward to the next rating period.

4.2 Payment Arrangements

Council may enter into a payment arrangement to pay rates and charges by way of payment schedule. Payment arrangements will include a premium equal to the amount of interest which would have been charged (refer to section 3.4 of the Revenue Statement) if the arrangement had not been entered into. Council may approve a waiver of the premium, provided that the specified conditions of the arrangement are met and all outstanding rates

and charges are fully paid by the end of the current financial year. Requests for Payment Arrangements are by application if the rates and charges will be fully paid by the end of the current financial year. In circumstances where the request extends beyond the current financial year, this will be subject of a separate report to Council for consideration

To request a payment arrangement, the ratepayer must contact Council before the due date shown on the rate notice. All payment arrangements and the applicable premium amount will be confirmed in writing. A premium (as referred to in Section 3.5 of the Revenue Statement) may be waived if the arrangement has been approved by Council within 60 days of the date of issue of the rates notice.

- Payments must be made on the specific days agreed upon unless otherwise arranged prior to the due date of payment;
- An arrangement must clear the debt prior to the next financial year
- If Council does not receive the payment by the agreed specific day, a reminder letter will be sent advising the ratepayer, that unless payment of the outstanding amount is made within seven days their agreement will be cancelled and the matter will be referred to Council's debt recovery agency;
- If payment is not received within the seven days allowed, a letter will be issued advising the ratepayer that their arrangement has been cancelled due to non-compliance and no further arrangements will be made;
- If there is a balance outstanding and the arrangement has expired, a letter will be sent advising the ratepayer that unless payment of the outstanding amount is made in full within seven days, the total outstanding amount will be referred to Council's debt recovery agency.

4.3 Rate Recovery Process

Council requires payment of rates and charges within the specified period and has an obligation to diligently recover overdue rates and charges. When pursuing overdue rates and charges Council will have due concern for the financial hardship faced by some members of the community and as such may enter into a rate payment arrangement with ratepayers. Council will follow the below process to recover overdue rates and charges.

Where a rate becomes overdue, a minimum of fourteen (14) days after the due date of the notice:

1. Council will issue a reminder letter, in respect of assessments that have an outstanding balance above the initial recovery action trigger, where a current approved payment arrangement is not in force. The reminder letter will give the ratepayer(s) fourteen (14)

days from the date of the letter to satisfy the outstanding amount and the option to enter into a suitable payment arrangement.

2. After a minimum of 14 days, Council will issue a second reminder letter, in respect of assessments that have an outstanding balance above the recovery action trigger of \$100.00, where a current approved payment arrangement is not in force. The second reminder letter will give the ratepayer(s) fourteen (14) days from the date of the letter to satisfy the outstanding amount and the option to enter into a suitable payment arrangement. The letter will also advise the ratepayer(s) that if they fail to pay the outstanding rates or enter into a suitable payment arrangement then Council will refer the unpaid rates to Council's Debt Recovery Agency. This letter will be sent through Australia Post by Domestic Letter with Tracking.
3. A minimum of fourteen (14) days after the Second Reminder Letter, all rates assessments with outstanding rates which have not entered into a satisfactory Payment Arrangement with Council will be referred to Council's Debt Recovery Agency for the issuing of a Letter of Demand.
4. Council will proceed with legal recovery action against the ratepayer who has not satisfactorily responded to any Notices/Letters previously sent, by issuing a Claim that will be served on the ratepayer. Further action will proceed as outlined in the Rates Recovery Process shown in diagram 1.
5. Separate correspondence may be issued:
 - a) Payment arrangement confirmation letter.
 - b) Payment arrangement default letter advising those in default that legal action may be taken should the default not be rectified within fourteen (14) days.
 - c) Payment arrangement cancellation letter due to non-compliance advising that the payment arrangement has been cancelled and the outstanding amount will be referred to Council's debt recovery agency.
6. Further action will be suspended at any point in the process up to obtaining judgement if:-
 - a. Payment is made in full; or
 - b. The ratepayer enters into and maintains an approved payment commitment.

4.4 Debt Recovery Agency

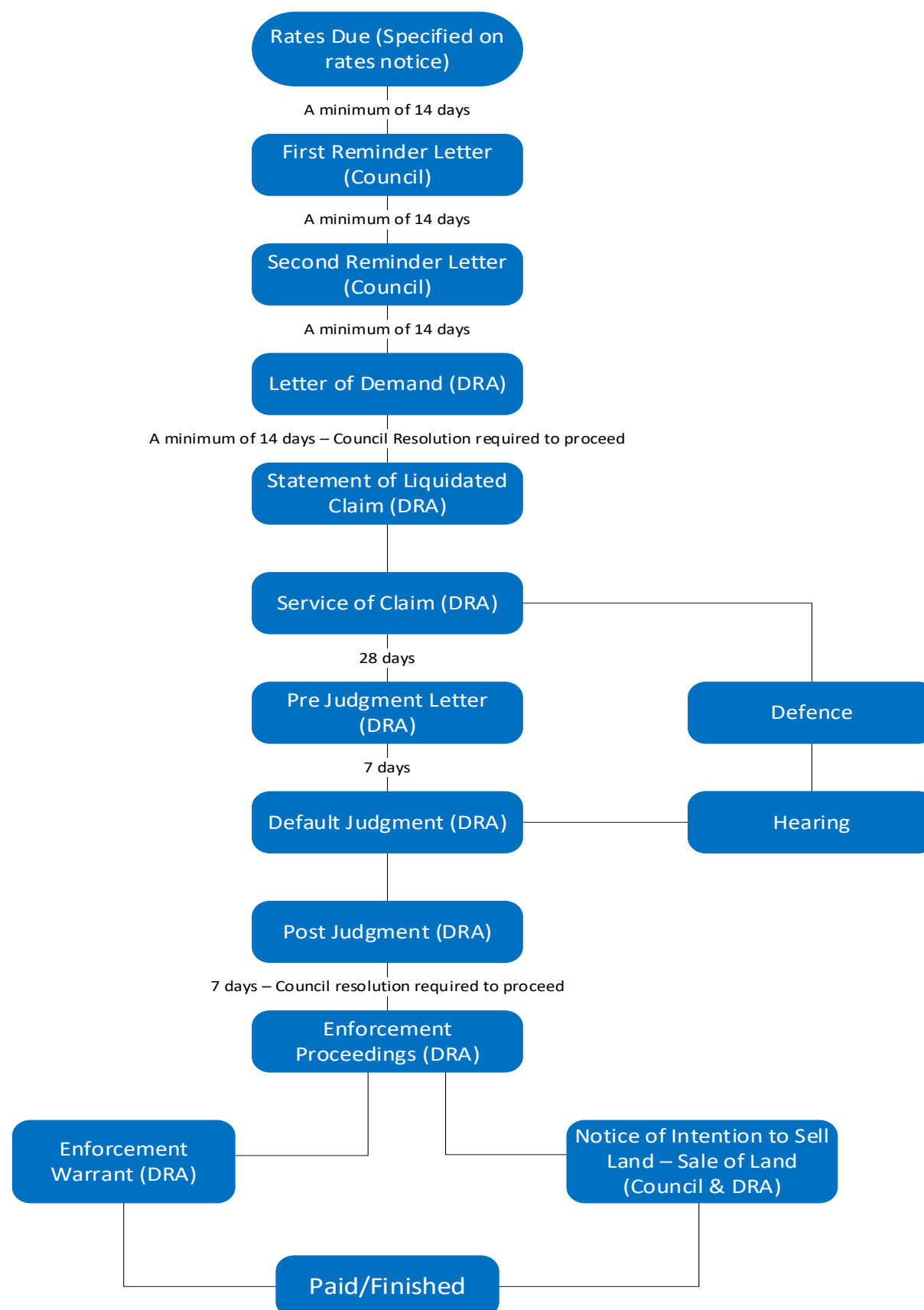
The following procedures will apply when the ratepayer list has been forwarded to the Debt Recovery Agency;

1. A letter of demand will be sent from Council's recovery agency/law firm to all accounts that have a rates arrears, advising the subject ratepayers that Council will instruct its recovery agency/law firm to commence legal proceedings against them if the rates and

charges in arrears are not paid or a suitable payment arrangement is not entered into with Councils recovery agency/law firm within fourteen (14) days from the date of the letter;

2. When the fourteen (14) day time period has expired, Councils recovery agency/law firm will obtain instructions from Council on which accounts to commence legal action who have not complied with the letter of demand;
3. A statement of liquidated claim ("Claim") will then be filed at the Local Magistrates Court and served on the rate payer;
4. 28 days after the Claim has been served Councils recovery agency/law firm will obtain instructions from Council to issue pre judgement warning letter to the rate payer giving seven (7) days to pay the account or contact Councils recovery agency/law firm to enter into a suitable payment arrangement;
5. Seven (7) days after the expiry of the pre judgment warning letter Councils recovery agency/law firm will obtain instructions from Council on which accounts are to proceed to have default judgement filed against them on Council's behalf at the Local Magistrates Court;
6. Once default judgement has been obtained, Councils recovery agency/law firm will issue the rate payer a post judgement letter advising the rate payer that default judgement 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;
7. Council can then elect to proceed with the enforcement action of the judgement debt or proceed to sale of land pursuant to section 140 of the *Local Government Regulation 2012*.

Diagram 1 – Rates Recovery Process



4.5 Intention to Sell

Under, Section 140 of *Local Government Regulation 2012*, Selling or acquiring land for overdue rates or charges, applies to overdue rates or charges on the land that has remained unpaid for the following:

- Generally – 3 years; or
- If the rates or charges were levied on vacant land or land used only for commercial purposes, and the local government has obtained judgement for the overdue rates or charges – 1 year; or
- If the rates or charges were levied on a mining claim, 3 months.

Under this Division, Council by resolution, may sell the land for which the rates and charges were levied and remain unpaid. However, Council may not sell the land if the liability to pay the overdue rates and charges is the subject of court proceedings.

A report on properties listed in the 'Intention to sell land for rate arrears' must be referred to a Council meeting for a decision. Once Council has resolved to sell land for arrears of rates and charges, Council must, as soon as practicable, give all interested parties a notice of intention to sell the land.

A 'notice of intention to sell' 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 or charges, as at the date of the notice, including –
 - Details of the rate at which interest is payable on the rates or 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 general outline of Section 133 of the *Local Government) Regulation 2012*.

The Council must start the procedure for selling the land within the required period after the notice of intention to sell, unless the amount of all overdue rates or charges on the land has been paid. If the overdue rates or charges have not been paid in full within:

- Generally – 3 months after the local government gives the notice of intention to sell the land; or

- If the rates or charges were levied on a mining claim – 1 month after the local government gives the notice of intention to sell the land.

The Council must start the procedures of Section 141 for selling the land within 6 months after the local government gives the notice of intention to sell the land. However, the Council must end the procedures if the Council is paid –

- The amount of rates or charges in full; and
- All expenses that the Council has incurred in attempting to sell the land.

Once the required period of three (3) months has expired, a further report is to go 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.

The Council must prepare an auction notice, stating the time and place of the auction and a full description of the land.

At least 14 days, but not more than 35 days, before the day of the auction, the Council must –

- Give a copy of the auction notice to all interested parties who were given a notice of intention to sell the land; and
- Advertise the auction notice in a newspaper that is circulating generally in the local government area; and
- Display the auction notice in a conspicuous place in the local government's public office, until the day of the auction; and
- Display the auction notice in a conspicuous place on the land, unless it is not reasonable practicable to do so because the land is in a remote location or difficult to access.

Under Section 143 of the *Local Government Regulation 2012*, the local government must set a reserve price for the auction that is at least:

- The market value of the land; or
- The higher of either the amount of the overdue rates or charges on the land or the value of the land.

If the reserve price is not reached at auction, the local government 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 the local government for the reserve price. This however, does not apply if the land is held on a tenure the local government is not competent to hold.

Under Section 146 of the *Local Government Regulation 2012*, the local government must use the proceeds of the sale in the following order:

- i. The pay any amount agreed for the release of a State encumbrance;
- ii. To pay the expenses of the sale

- iii. To pay the overdue rates or charges for the land;
- iv. To pay any other amounts relating to the land that the owner of the land owed the local government immediately before the sale;
- v. To pay any rates or charges, other than overdue rates or charges, for the land;
- vi. To pay any registered encumbrances, other than State encumbrances, in order of their priority under the Land Title Act;
- vii. To pay the person who owned the land immediately before the sale.

If any of the proceeds of the 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 of Declarations.

Any two (2) of the following documents will be accepted:

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

4.6 Deferment of Recovery Action

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

- Deceased estates in probate
- 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.

5. Special Provisions (e.g. Privacy Provisions etc)

Council respects and protects people's privacy and collects, stores, uses and discloses personal information responsibly and transparently in the delivery of Council services and business. Council will comply with all relevant legislative requirements relating to the

collection, storage, use and disclosure of personal information acquired for the purposes of administering this policy

6. Related Policies and Legislation

Local Government Regulation 2012
Local Government Act 2009
Revenue Policy

7. Associated Documents

Revenue Statement