



# Council Policy Manual

## WEST WIMMERA SHIRE COUNCIL

COUNCIL POLICY		
RATE RECOVERY POLICY	Policy No:	
	Adopted by Council:	
	Next review date:	July 2024
Senior Manager:	Director Corporate and Community Services	
Responsible Officer:	Revenue Manager	
Functional Area:	Corporate Services	
Introduction & Background	<p>The West Wimmera Shire Council raises rates and charges against properties in accordance with the Local Government Act 1989 (the Act) and provides a number of options through which payments can be made.</p> <p>Council is committed to the timely recovery of rates and charges in order to ensure adequate funding of the ongoing services and capital work projects it provides for community benefit, and to fulfil its broader business management and corporate governance responsibilities.</p> <p>In the case of the recovery of overdue amounts, Council may avail itself of the options under Sections 180 and 181 of the Act. These recovery methods include legal action and ultimately the sale of the property in question should the amount owing satisfy criteria contained in this policy.</p>	
Purpose & Objectives	<p>The key objective of the Rate Recovery Policy is to provide clear parameters to Council, Council Staff and the Debt Recovery Contractor to allow the effective and consistent recovery of overdue rates and charges.</p> <p>This Policy should be read in conjunction with Council’s Financial Hardship Policy.</p>	



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Policy Details	
1.	<p><b>POLICY STATEMENT</b></p> <p>The following key strategies may be used to achieve the policy objectives:</p> <ul style="list-style-type: none"> <li>- Council will enforce the legislative powers available under the Local Government Act 1989 (the Act) in the pursuit of outstanding rates and charges debts.</li> <li>- Council will collect outstanding monies owed using all possible means before engaging in legal action, whilst remaining acutely aware of all ratepayers experiencing genuine financial hardship.</li> <li>- Council will undertake legal action only once all other collection avenues have been exhausted.</li> <li>- Consider applications from ratepayers to deviate from the standard payment options by entering into Special Payment Arrangements, and where the ratepayer is experiencing financial hardship consider applications under Section 170 and 171A of the Act in accordance with Councils Financial Hardship Policy.</li> </ul> <p>Council is committed to:</p> <ul style="list-style-type: none"> <li>- Ensuring that the collection process is transparent</li> <li>- Treating all people fairly, consistently, respectfully and with sensitivity</li> <li>- All collection matters under this policy are strictly confidential</li> </ul> <p>Issue rate notices detailing amounts owing, due dates and payment methods available, advertise courtesy reminders prior to payment dates and issue final notices following payment due dates.</p>
2.	<p><b>PAYMENT OPTIONS</b></p> <p><b>2.1 Standard Payment Options</b></p> <p>Ratepayers can avail themselves of one of the following standard payment options:</p> <ol style="list-style-type: none"> <li>1. Lump sum payable on or before February 15 in accordance with Section 167(2B) of the Act;</li> <li>2. Four instalments payable on or before the last day of September, November, February and May in accordance with Section 167(2) of the Act;</li> <li>3. If any of the above dates fall on a non-business day, the payment date is moved to the next business day.</li> </ol> <p><b>2.2 Special Payment Arrangements</b></p> <p>Where a ratepayer is unable to make their payments by any of the standard options available a Special Payment Arrangement may be entered into as detailed in Councils Financial Hardship Policy.</p>
3.	<p><b>PENALTY INTEREST</b></p> <p><b>3.1 Late Payment Penalty Interest</b></p> <p>Interest will be charged on all amounts that are overdue in accordance with Section 172 of the Act at the rate set under the <i>Penalty Interest Rates Act 1983</i>.</p> <p>Full or partial interest waivers may be applied to specific accounts in accordance with Councils financial hardship policy.</p>



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	<p>Write-off of interest charges due to Council administrative error can be authorised by the Revenue Manager, Chief Financial Officer or the Director Corporate Community Services.</p> <p>The following will not be considered justification for write-off:</p> <ul style="list-style-type: none"> <li>- Failure of ratepayer to inform Council of updated contact details.</li> <li>- Notice not received when Council records indicate postage date.</li> <li>- Late payment of 1<sup>st</sup> instalment resulting in partial payment towards annual payment option.</li> </ul>
4.	<p><b>FAILURE TO PAY</b></p> <p><b>4.1 Recovery of Overdue Rates</b></p> <p>Where ratepayers do not make their payments in line with one of the standard options available and there is no approved Special Payment Arrangement or approved financial hardship application action will be taken to recover the money owing to Council as follows:</p> <p><u>Lump Sum Payments</u> - Where rates remain unpaid 14 days after the final date for payment set for payment under section 167 (2B) of the Act, a first and final notice requesting payment within 14 days from the date of the notice will be issued for all properties where the amount owing is equal to or greater than the amount shown under item 1 of the schedule to this policy. A reminder notice will be issued for properties where the amount owing is less than the schedule amount.</p> <p><u>Four Instalments</u> - Where rates remain unpaid 14 days after the final date for payment of the fourth instalment, a first and final notice requesting payment within 14 days from the date of the notice will be issued for all properties where the amount owing is equal to or greater than the amount shown under item 1 of the schedule to this policy. A reminder notice will be issued for properties where the amount owing is less than the schedule amount.</p> <p>Failure to respond to the final notice (by making payment in full or requesting a suitable Special Payment Arrangement) will result in the matter being referred to Council's Debt Recovery Contractor who will commence recovery actions. Recovery actions may include a Solicitor's letter demanding payment within 14 days where the amount owing is equal to or greater than the amount shown under item 2 of the schedule to this policy.</p> <p>Those ratepayers who fail to respond to the Solicitor's 14 Days demand letter (by making payment in full or requesting a suitable Special Payment Arrangement in accordance with Council's Financial Hardship Policy) will be referred to Council's Debt Recovery Contractor for legal proceedings to be commenced. This action will only be commenced for those ratepayers where the amount owing is equal to or greater than the amount shown under item 3 of the schedule to this policy as the cost of legal action is significant and is charged to the ratepayer.</p> <p>A Complaint is then prepared and lodged with the Magistrates Court for issue. Once the Complaint is lodged with the Court the associated legal costs become chargeable. Once the Complaint is issued by the Court it is then served on the ratepayer who must within 21 days from the date of service:</p> <ol style="list-style-type: none"> <li>1. Pay the claim in full plus costs; or</li> <li>2. Enter into a Special Payment Arrangement; or</li> <li>3. Lodge a completed Notice of Defence with the Court (thereby giving notice of their intention to dispute the claim).</li> </ol>



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	<p>If, at the expiration of the 21 days, the ratepayer has failed to carry out any of the above, an application will be made to the Court for an Order against the ratepayer for the amount of the debt plus costs. Once an Order has been made the following execution proceedings to recover the debt will be considered depending on the history of the ratepayer:</p> <ol style="list-style-type: none"> <li>1. Summons for Oral Examination (ratepayer is interviewed by the Clerk of Courts regarding their financial situation and intentions in relation to repaying the debt);</li> <li>2. Letter to mortgagee (a Court Order is not necessary, but this action would normally only be taken after a debtor has failed to respond to an order being obtained);</li> <li>3. Rent Demand (on the tenant of a rented property);</li> <li>4. Sale of property</li> </ol>
5.	<p><b>SALE OF PROPERTY</b></p> <p><b>5.1 Power to Sell Property</b></p> <p>In addition to the debt recovery procedures available through the legal system, under Section 181 of the Act, Council has the power to sell property where:</p> <ol style="list-style-type: none"> <li>1. There are rates and charges which are more than three years overdue; and</li> <li>2. There is no current arrangement for the payment of the overdue rates and charges; and</li> <li>3. There is a Court order requiring the payment or part-payment of the overdue rates and charges.</li> </ol> <p>This action may be taken if the following criteria is satisfied, after giving regard to the ratepayer's debt repayment record and ability to repay the debt, their age, state of health and family situation:</p> <p><b>5.2.1 Vacant Land</b></p> <p>If land is vacant and the total amount owing is greater than the amount shown under item 4 of the schedule to this policy.</p> <p><b>5.2.2 Improved Commercial and Industrial Land</b></p> <p>If a property is rated as Commercial or Industrial land and the total amount owing is greater than the amount shown under item 5 of the schedule to this policy</p> <p><b>5.2.3 Residential Land</b></p> <p>If a property is a residential dwelling occupied by the owner and the total amount owing is greater than the amount shown under item 6 of the schedule to this policy.</p> <p>If a property is a residential dwelling, not occupied by the owner (for instance a rental or investment property), and the total amount owing is greater than the amount shown under item 7 of the schedule to this policy.</p> <p><b>5.2.4 Farm Land</b></p> <p>If a property is rated as Farm Land with a residential dwelling occupied by the owner and the total amount owing is greater than the amount shown under item 8 of the schedule to this policy.</p>



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	<p>5.2.5 <u>Other Land</u></p> <p>For all other land if the total amount owing is greater than the amount shown under item 9 of the schedule to this policy.</p> <p>Under no circumstances will any property considered a ratepayers principal place of residence be sold to recover unpaid rates.</p>																														
6.	<p><b>Review</b></p> <p>The Policy will be reviewed every two years with the exception of the dollar thresholds contained in the schedule to the policy. These dollar thresholds must be reviewed, and may be amended, annually by Council's Director Corporate and Community Services. Any amendment must be the subject of notice to Councillors.</p>																														
<p><b>RATE RECOVERY AND HARDSHIP POLICY – SCHEDULE</b></p> <table><tr><th>Item</th><th>Rate Recovery and Hardship Policy Section</th><th>Amount</th></tr><tr><td>1</td><td>Amount owing before issue of final notice</td><td>\$500</td></tr><tr><td>2</td><td>Amount owing before issue of solicitor letter</td><td>\$1000</td></tr><tr><td>3</td><td>Amount owing before issue of Magistrates Court Complaint</td><td>\$1,700</td></tr><tr><td>4</td><td>Amount owing before land can be sold</td><td>\$5,000</td></tr><tr><td>5</td><td>Amount owing before land can be sold</td><td>\$5,000</td></tr><tr><td>6</td><td>Amount owing before land can be sold</td><td>\$5,000</td></tr><tr><td>7</td><td>Amount owing before land can be sold</td><td>\$5,000</td></tr><tr><td>8</td><td>Amount owing before land can be sold</td><td>\$5,000</td></tr><tr><td>9</td><td>Amount owing before land can be sold</td><td>\$5,000</td></tr></table>		Item	Rate Recovery and Hardship Policy Section	Amount	1	Amount owing before issue of final notice	\$500	2	Amount owing before issue of solicitor letter	\$1000	3	Amount owing before issue of Magistrates Court Complaint	\$1,700	4	Amount owing before land can be sold	\$5,000	5	Amount owing before land can be sold	\$5,000	6	Amount owing before land can be sold	\$5,000	7	Amount owing before land can be sold	\$5,000	8	Amount owing before land can be sold	\$5,000	9	Amount owing before land can be sold	\$5,000
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