



## (F5) OUTSTANDING RATES COLLECTION POLICY

### POLICY OBJECTIVE

The objective of this policy is to clearly set out guidelines for the collection of outstanding rates and charges, applicable legal action requirements and associated rating procedures within the Shire of Derby/West Kimberley.

### POLICY STATEMENT

#### 1. Rates Notices and Penalty Notification

A notation is to be made on each rate notice stating the rate of interest which is to be imposed on rates and service charges which are unpaid, together with the date from which the interest will apply.

All rates notices following issue of the original notice must be clearly marked "Final Notice", "Interim Notice", "Instalment Reminder" or "Copy of Original".

#### 2. Recovery of Outstanding Rates and Charges

1. The debt recovery process is always subject to the priority positions as outlined in the F6 Financial Hardship Policy.
2. Should any amount of rates or charges remain unpaid following the due date stated on the original notice (after close of business on the 35<sup>th</sup> day after the original notice was issued) penalty interest shall be applied and a Final Notice will be issued allowing 14 (fourteen) days for payment.
3. The Final notice must state that if any amount remains unpaid after the 14<sup>th</sup> day, the assessment will be referred to a debt collection agency appointed by the Council for collection of the outstanding amounts.
4. The Manager of Finance will approve the final list to be sent to the debt collection agency. A Senior Officer of the Shire of Derby/West Kimberley is required to be consulted prior to further legal action being undertaken.
5. Final Notices are not to be issued to eligible pensioners or seniors that are entitled to receive rebates or defer rates and charges under the *Rates and Charges (Rebates and Deferments) Act 1992* as such persons have until 30 June in the applicable financial year to make payment, without incurring any late payment penalties.
6. Any assessments with outstanding rates and charges after the due date of the Final Notice shall be issued with a Letter of Demand by Council's debt collection agency, the letter shall advise of impending legal action for recovery of the unpaid amounts, allowing 7 (seven) days for payment.
7. If no response is received and no alternative arrangement is entered into following the Letter of Demand, the assessment is to be processed by Council's debt collection agency for the lodgement of a General Procedure Claim and served by a bailiff servicing the property owner's area.
8. In accordance with Section 6.56 of the *Local Government Act 1995*, the costs associated with further legal action, inclusive of the lodgement of the General Procedure Claim, are recoverable from the property owner/s and are to be debited to the rates account, exclusive of any company search fees.



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9. Property owners are required to either pay the full amount on the General Procedure Claim, inclusive of any legal charges, or enter into an alternative instalment plan as agreed between the ratepayer and Council.
10. Any payments received from ratepayers whom a General Procedure Claim has been issued, must immediately be removed from any further legal action. If costs have already been incurred then the ratepayer is responsible for payment of these in addition to the outstanding rates and charges and any applicable penalties.
11. In cases where the owner of a leased or rented property on which rates and charges are outstanding cannot be located or refuses to settle rates owed, notices may be served on the lessee or tenant under the provisions of Section 6.60 of the *Local Government Act 1995*, requiring the lessee or tenant to pay to the Council the rent due under the lease/tenancy agreement as it becomes due, until the amount in arrears has been paid.
12. In cases where the owner/s cannot be located, Council's debt collection agency can be requested to carry out a "skip trace" on the ratepayer. The costs associated with a skip trace cannot be recovered from the ratepayer.
13. If the property owner/s has not responded to the General Procedure Claim, a Property Seizure and Sale Order (PSSO) is to be lodged within 14 (fourteen) days after the date of service of the General Procedure Claim. The PSSO is to be served by a bailiff servicing the property owner/s area.
14. If rates and service charges which are due to Council in respect of any rateable land have been unpaid for at least three years a caveat may be registered on the title for the land, under the provisions of Section 6.64 (3) of the *Local Government Act 1995*. The approval of Council is to be obtained before this course of action is undertaken.
15. If rates and service charges in respect of any rateable land remain outstanding for at least three years, Council may take possession of the land and either; lease the land, sell the land, transfer to the Crown, or transfer to itself under the provisions of Section 6.64 of the *Local Government Act 1995*. The approval of Council is to be obtained before this course of action is undertaken (which can include a suitable notification to either the Audit Committee or to Council of a proposal to progress under delegation, an action outlined in s.6.64).



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| Policy Details  |   |   |                             |
|---|---|---|-----------------------------|
| <b>Original Adoption date:</b>  | 27 August 2009  | <b>Review Frequency (Annual/Bi-ennial):</b> | Tri-ennial                  |
|   |   | <b>Next Review Due:</b>                     | February 2026               |
| <b>Policy Implementing Officer or Team:</b>   | Finance Team  | <b>Policy Reviewer:</b>                     | Director Corporate Services |
| <b>Legislative Head of Power (Act, Regulation, or Local Law):</b>                     | Local Government Act 1995, Part 6, Div. 6   |   |                             |
| <b>Related Documents (other Policies, Operational Procedures, Delegations, etc.):</b> | Policy F9 Rating Administration Policy<br>Policy F12 Rates – Administration, Interims and Interest Charges<br>Delegation 1.1.22 Defer, Grant Discounts, Waive or Write Off Debts<br>Delegation 1.1.25 Agreement as to Payment of Rates and Services Charges<br>Delegation 1.1.27 Recovery of Rates or Service Charges<br>Delegation 1.1.28 Recovery of Rates Debts - Require Lessee to Pay Rent<br>Delegation 1.1.29 Recovery of Rates Debts - Actions to Take Possession of the Land |   |                             |
| Version Control Council Meeting Review Details:                                       |   |   |                             |
| Review #:   | Council Meeting Date:   | Item/Resolution#:                           |                             |
| 1.  | 28 February 2019  | Item 9.1.1 Res. 005/2019                    |                             |
| 2.  | 24 June 2021  | Item 11.2 Res. 57/21                        |                             |
| 3.  | 24 February 2022  | Item 11.5 Res. 07/22                        |                             |
| 4.  | 28 April 2022   | Item 12.1 Res. 53/22                        |                             |
| 5.  | 29 June 2023  | Item 12.3 Res. 70/23                        |                             |