

POLICY



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Policy title: **MANAGEMENT OF OUTSTANDING RATES, WATER, WASTEWATER, OTHER CHARGES AND SUNDRY DEBT ACCOUNTS**

Directorate: ORGANISATIONAL SERVICES

Branch: FINANCE

Policy objective: To follow up and take the appropriate action in order to ensure that all rates, water, wastewater, other charges and sundry debts, as well as other monies owed to the Council are collected without controversy.

Policy scope:

The administrative procedures as outlined below cover the activities of the Council's Finance branch and recoveries section for the collection and follow up of outstanding amounts for rates, water, wastewater, other charges and sundry debts. These procedures are in accordance with the provisions of the *Local Government Act 2009*, *Local Government Regulation 2012*, *Integrated Planning Act 1997*, *Sustainable Planning Act 2009*, *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, *Customer Water and Wastewater Code (SE QLD)*, *Magistrates Courts Act 1921*, *Magistrates Courts Regulation 2007*, *Uniform Civil Procedure Rules 1999*, *ACCC Debt Collection Guidelines* and any other such relevant legislation or code that may govern the collection of overdue monies.

Definitions:

Not applicable.

Policy statement:

Part one - management of outstanding rates, water, wastewater, and other charges

1. Reminder notices For unpaid rates, water, wastewater and other charges

Rate notices are issued for a property on a quarterly basis. Where the account has not been settled in full by the due date, a reminder notice is to be sent within 10 days after the due date with the exception of those accounts that comply with the following conditions:

- (a) the property owners have a confirmed arrangement/extension of time for payment; or
- (b) the property owners have an approved instalment plan in accordance with the hardship conditions mentioned in this policy; or
- (c) the account is subject of existing recovery action under this policy; or
- (d) circumstances exist where the Senior Recoveries Officer considers that the notice is not warranted or appropriate; or

- (e) the amount is less than the minimum amount as determined by the Senior Recoveries Officer.

Where other such circumstances exist and rates continue to remain unpaid with no arrangements made for settlement, then correspondence considered more appropriate may be forwarded instead.

2. Extensions to pay rates, water, wastewater and other charges

An extension of time may be granted to ratepayers with current rates only to the end of the current rating quarter if requested. Other extensions may be granted at the discretion of the Senior Recoveries Officer.

3. Arrangements to pay rates, water, wastewater and other charges

A request for an arrangement to pay may be accepted by a Recoveries Officer on the basis of the following conditions:

- (a) where the ratepayer owes current rates and charges and cannot settle the pending balance by the end of the current rating quarter but has the ability to have the account paid in full by the end of the next rating quarter
- (b) an arrangement to pay the pending balance of the rates and charges may be combined with an estimate of the rates and charges for the next rating quarter to have the account settled in full by no later than the end of that quarter
- (c) settlement is to be achieved by the payment of specific amounts either on weekly, fortnightly or monthly intervals that would achieve settlement by or prior to the end of the agreed period.

Arrangements outside of this may be granted at the discretion of the Senior Recoveries Officer.

4. Cancellation of arrangements to pay rates, water, wastewater and other charges

- (a) Ratepayers who default on "extensions" or "arrangements to pay" may be forwarded correspondence requesting payment as demanded. Should this result in cancellation then, recovery action in the court may be considered at the discretion of the Senior Recoveries Officer.

5. Recovery of rates, water, wastewater and other charges from small customers experiencing financial difficulties/hardship as determined by the Customer Water and Wastewater Code and the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

6. Court proceedings for the recovery of rates, water, wastewater and other charges

- (a) Where overdue rates, water, wastewater, and other charges accounts as identified by the Senior Recoveries Officer continue to remain unpaid, court proceedings may be considered for recovery action. Before such action is taken, ratepayers must be issued with at least the following:
 - (i) an initial letter of demand which is sent during the discount period and then
 - (ii) a final letter of demand sent during the last month of the rating quarter.
- (b) At the beginning of the next rating quarter, accounts that received the final letter of demand will be reviewed and legal action instigated at the discretion of the Rates Recoveries Officers.

7. Sale of land for overdue rates, water, wastewater and other charges provisions of the *Local Government Act 2009*

Should rates continue to remain unpaid in accordance with the criteria set down by the *Local Government Act 2009* where a property can be sold for non payment of rates, then these accounts are identified by the Senior Recoveries Officer once a year and referred to Council for a resolution to sell.

Once resolved, actions are undertaken in accordance with the Act and are ceased in accordance with the applicable Council resolution, once all overdue rates are paid or the property is sold at a public auction.

Part two - recovery of overdue invoices in the accounts receivable ledger

1. The following action is to be taken to recover overdue invoices:

- (a) On or about the 15th of each month, all accounts that meet the following criteria are reviewed with the purpose of issuing an initial follow up letter:
 - (i) where an invoice has not been settled within the applicable credit terms and continues to remain outstanding
 - (ii) the debtor does not have a confirmed arrangement in place for payment; or
 - (iii) the account is not the subject of existing recovery action under this policy
- (b) A letter of demand is to be sent on or about the 15th of the following month to any of the above accounts that remain unpaid. Such letter may require the payment of all outstanding invoices and advise that the matter may be referred to the delegated officer for further recovery action.
- (c) Where the account/invoice remains unpaid as at the 15th of the third month, consideration is to be given by the delegated officer to outsource the debt to Council's Collection Agency.
- (d) The delegated officer will then liaise with the Collection Agency and authorise instigation of legal action where it is considered appropriate to do so.

2. Arrangements to pay overdue invoices

A request for an arrangement to pay by instalments may be accepted by the delegated officer where settlement may be achieved by the payment of specific amounts from an initial payment date to an agreed final date at weekly, fortnightly or monthly intervals.

3. Doubtful debts

A doubtful debts provision is raised as soon as a receivable is considered doubtful or non-recoverable, whether or not the receivable is due for payment and regardless of the type of receivable. The following doubtful debt stipulations provide the circumstances under which Council will raise a doubtful debt provision against unpaid receivables.

(a) Receivables that are not yet overdue

For amounts not yet overdue, but considered doubtful or non-recoverable, a written report is provided to the Finance Manager for assessment to determine the amount of provision necessary, and the raising of a provision is subject to the Finance Manager's approval.

The following factors are used to determine whether a debt is considered doubtful or non recoverable:

- (i) the debtor has a history of non payment or has defaulted against another debt

- (ii) the debt can't be proven
- (iii) the debtor cannot be located
- (iv) upon advice from a solicitor, collection agent or insolvency practitioner
- (v) other documentary evidence that indicates that the debt can not be collected.

(b) For receivables that are overdue

For receivables that are overdue and are include in the above category, a doubtful debts provision is raised according to the type of receivable:

(c) Overdue rates and charges

The *Local Government Act 2009* (LGA) s95 provides that overdue rates and charges are a charge over rateable land and may be recovered from the sale of the land.

The Local Government Regulation 2012 (the Regulation) s138 provides for the sale of land subject to a State encumbrance, meaning an encumbrance that gives the State or a government entity an interest in the land, including, for example, a mortgage or an interest that arises under a Housing Act contract. The Local Government may sell the land, but subject to the State encumbrance.

The following steps are undertaken for overdue rates and charges:

- (i) A doubtful debts provision is raised as soon as overdue rates and charges are considered doubtful by the senior recovery officer.
- (ii) The amount of the provision is limited to the amount considered unrecoverable after taking account of the expected market selling price of the land less any priority disbursements such as State encumbrances, expenses and other disbursements as required by the *Local Government Act 2009* or the Local Government Regulation 2012.
- (iii) Rates and charges amounts are considered doubtful or non-recoverable as soon as steps are taken to sell the land for recovery purposes or at the discretion of senior recovery officer.
- (iv) The granting of an extension to pay or the entering into an instalment arrangement, do not in themselves result in a doubtful or non-recoverable classification.

(d) Amounts invoiced through Council's accounts receivable ledger (sundry receivables)

Amounts invoiced through Council's accounts receivables ledger include cost recovery fees and other sundry receivables, but exclude infrastructure charges.

A doubtful debts provision is raised for overdue sundry receivables:

- (i) As soon as amounts have remained unpaid for a period greater than 90 days from the date of invoice unless there is a Council approved arrangement for payment at another date; or
- (ii) Where the receivable is considered doubtful or non-recoverable prior to 90 days from date of invoice, as soon as the debt is assessed by the originating branch as doubtful or non-recoverable.

4. **Infrastructure charges raised under the *Integrated Planning Act 1997* (planning scheme policies - conditions of development)**

- (a) The *Integrated Planning Act 1997* (IPA) s 5.1.6 provides that a local government may levy a charge for a development infrastructure item identified in an infrastructure charges plan.
- (b) Infrastructure charges raised under the IPA where the head of power to apply the infrastructure charge is a planning scheme policy (PSP) are unable to be recovered as a debt on the land. Debt recoveries of infrastructure charges under PSPs are considered non-compliance of a condition of development. Recognition of a doubtful debts provision for infrastructure charges under PSPs raised under the IPA will vary according to the type of development application:
 - (i) For a reconfiguration of a lot (ROL) application, a doubtful debts provision will be raised against unpaid infrastructure charges.
 - (ii) As soon as the debt is considered doubtful or non recoverable by the Infrastructure Planning Finance Program Leader; or
 - (iii) For charges that remain unpaid after the approval of the survey plan unless there is a Council approved arrangement for payment at another date or the Infrastructure Planning Finance Program Leader determines that the debt is not considered doubtful or non-recoverable.
- (c) For a material change in use (MCU) application, a doubtful debts provision will be raised for unpaid infrastructure charges:
 - (i) As soon as the debt is considered doubtful or non recoverable by the Infrastructure Planning Finance Program Leader or
 - (ii) For charges that remain unpaid for a period greater than 90 days from the date of invoice unless there is a Council approved arrangement for payment at another date or the Infrastructure Planning Finance Program Leader determines that the debt is not considered doubtful or non recoverable. Infrastructure charges raised under the *Integrated Planning Act 1997* (Priority Infrastructure Plans - Infrastructure Charges Notices)
- (d) The *Integrated Planning Act 1997* (IPA) s5.1.6 provides that a local government may levy a charge for development infrastructure item identified in an infrastructure charges plan.
- (e) Infrastructure charges raised under the IPA where the head of power to apply the infrastructure charge is a Priority Infrastructure Plan (PIP) are able to be recovered as a debt on the land.

The IPA s5.1.14 states that:

- (1) An infrastructure charge fixed by a local government is, for the purpose of recovery, taken to be a rate within the meaning of the *Local Government Act 2009*.

Where the infrastructure charges have been raised under the IPA and where the head of power to apply the infrastructure charge is a PIP:

- (i) A doubtful debts provision is raised for overdue infrastructure charges as soon as these are considered doubtful by senior recovery officer.

- (ii) The amount of the provision is limited to the amount considered unrecoverable after taking account off the expected market selling price of the land less any priority disbursements such as State encumbrances, expenses and other disbursements as required by the *Local Government Act 2009* or the Local Government Regulation 2012.
 - (iii) Infrastructure charges are considered doubtful or non-recoverable if unpaid by the developer and levied against the land owner:
 - a. As soon as steps are taken to sell the land for recovery purposes or
 - b. At the discretion of senior recovery officer.
 - (iv) The granting of an extension to pay or the entering into an instalment arrangement do not in themselves result in a doubtful or non-recoverable classification.
- 5. **Infrastructure charges raised under the *Sustainable Planning Act 2009* in accordance with the State Planning Regulatory Provision (adopted charges) 2012 (Adopted Infrastructure Charges Notices)**
 - (a) The *Sustainable Planning Act 2009* (SPA) s629 provides that a local government may levy a charge for supplying trunk infrastructure under an infrastructure charges schedule, a regulated infrastructure charges schedule or an adopted infrastructure charges resolution and applies to applications approved from 1 July 2011.

The SPA s639 states that:

 - (1) An infrastructure charge levied by a local government is, for the purposes of recovery, taken to be rates.
 - (2) However, if the local government and an applicant or person who requested compliance assessment, enter into a written agreement stating the charge is a debt owing to it by the applicant or person, subsection (1) does not apply.
 - (b) Where the infrastructure charges have been raised under the SPA and there is no separate written agreement stating that the charge is a debt owing to the local government by the applicant or person:
 - (i) A doubtful debts provision is raised for overdue infrastructure charges as soon as these are considered doubtful by senior recovery rates officers.
 - (ii) The amount of the provision is limited to the amount considered unrecoverable after taking account of the expected market selling price of the land less any priority disbursements such as state encumbrances, expenses and other disbursements as required by the *Local Government Act 2009* or the Local Government Regulation 2012.
 - (iii) Infrastructure charges are considered doubtful or non-recoverable if unpaid by the developer and levied against the land owner:
 - a. As soon as steps are taken to sell the land for recovery purposes; or
 - b. At the discretion of senior recovery officer.
 - (c) The granting of an extension to pay or the entering into an instalment arrangement, do not in themselves result in a doubtful or non-recoverable classification.

6. Infrastructure agreements

- (a) Where the infrastructure charges have been raised under the SPA or under the IPA and there is a separate written agreement (Infrastructure Agreement) stating that the charge is a debt owing to the local government by the applicant or person:
 - (i) A doubtful debts provision is raised for overdue infrastructure charges as soon as these are considered doubtful by the Infrastructure Planning Finance Program Leader or senior recovery officer.
 - (ii) The amount of the provision is determined according to the written agreement between the applicant and the council.
 - (iii) A doubtful debts provision is raised:
 - a. As soon as the infrastructure charges have remained unpaid for a period greater than 90 days from the date of invoice unless there is a Council approved arrangement for payment at another date.
 - b. At the discretion of senior recovery officer.
- (b) The granting of an extension to pay or the entering into an instalment arrangement, do not in themselves result in a doubtful or non-recoverable classification.
- (c) Payment plans
For approved payment plans:
 - (i) The payment plan itself does not result in a doubtful or non-recoverable classification.
 - (ii) A doubtful debts provision will be raised immediately on payment default.
- (d) Review:
The provision for doubtful debts is reviewed and amended where necessary, but at least quarterly during the financial year.

7. Write offs

Where the debt remains unpaid and it is deemed to be non-recoverable, approval to write off the debt is to be sought in terms of Council's "Write-Offs" policy.

It should be noted that in accordance with the Australian Accounting Standards, it is considered that such a debt should not form part of Council's accounts i.e. it should not be recognised on the balance sheet as an asset as it is not 'probable that the future economic benefit embodied in that asset will eventuate'. The term 'probable' means that the chance of the future economic benefits arising is more likely than less likely.

8. Conclusion

This policy and its associated procedures are to be reviewed periodically.

Related policies/legislation/other documents:

DOC ID	DOCUMENT TYPE	DOCUMENT NAME
	Legislation	<i>Integrated Planning Act 1997</i>
-	Legislation	<i>Local Government Act 2009</i>
-	Legislation	Local Government Regulation 2012
-	Legislation	<i>Magistrates Courts Act 1921</i>
-	Legislation	Uniform Civil Procedure Rules 1999

DOC ID	DOCUMENT TYPE	DOCUMENT NAME
-	Legislation	<i>South-East Queensland Water (Distribution and Retail Restructuring) Act 2009</i>
-	Legislation	<i>Sustainable Planning Act 2009</i>
1728004	Procedures	Sale of Land For Overdue Rates
11761533	Policy	Recovery of Rates and Other Rates Related Charges from Small Customers Experiencing Financial Hardship
-	Guidelines	ACCC Debt Collection Guidelines
8420920	Delegation of Authority	Write-Off of Unrecoverable or Bad Debts
-	Code	Customer Water and Wastewater Code (SE QLD)