

POLICY



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Policy title: **RECOVERY OF OVERDUE ADOPTED INFRASTRUCTURE CHARGES NOTICE AND OTHER CHARGES ARISING FROM FAILURE TO TAKE ACTION REQUIRED UNDER A REMEDIAL NOTICE**

Directorate: ORGANISATIONAL SERVICES

Branch: FINANCE

Policy objective: To minimise the risk of loss and to follow up and take the appropriate action in order to ensure that all Adopted Infrastructure Charges Notices (AICN) and other charges in relation to works carried out on the land are collected.

Policy scope:

This policy covers the activities of Council's Finance branch and Recoveries Section for the collection and follow up of the following accounts that are raised either on the Accounts Receivable or the Priority Infrastructure Planning Ledger.

1. Adopted Infrastructure Charges Notice (AICN) that is overdue for payment.
2. Other charges in relation to works carried on land after the owner or occupier of a property (the responsible person) fails to take action required under a remedial notice. Such charges include the erection of permanent pool fencing, temporary pool fencing, land clearance charges, removal of dangerous trees and any other work performed on the land by a local government worker.
3. Written and Infrastructure Agreements where the debtor has defaulted on the agreement.

The terms of this policy are in accordance with the provisions of the *Local Government Act 2009*, *Local Government Regulation 2012*, *Sustainable Planning Act 2009*, *The Building Act 1975*, ACCC Debt Collection Guidelines and any other such relevant legislation or code that may govern the collection of overdue monies.

Definitions:

Term	Definition
AICN	Adopted Infrastructure Charges Notice
ARLEDGER	Accounts Receivable Ledger
PPLEDGER	Priority Infrastructure Planning Ledger

Policy statement:

Part one - recovery of Adopted Infrastructure Charges Notice (AICN)

1. An Adopted Infrastructure Charges Notice (AICN) is issued with a decision notice when an application is approved. AICN have "triggers" for payment as follows:

- (a) if the charge applies to reconfiguring a lot that is assessable development or development requiring compliance assessment—before the local government approves the plan of subdivision for the reconfiguration; or
 - (b) if the charge applies to building work that is assessable development or development requiring compliance assessment—before the certificate of classification for the building work is issued; or
 - (c) if the charge applies to a material change of use—before the change happens; or
 - (d) (d) if paragraphs (a), (b) and (c) do not apply—on the day stated in the infrastructure charges notice or negotiated infrastructure charges notice.
2. Once this occurs an invoice is raised in the PP Ledger and issued to the applicant/owner.
3. Once an invoice becomes overdue, **for the purposes of recovery, it is taken to be rates** in accordance with Section 648L of the *Sustainable Planning Act 2009*.
4. The following action will be undertaken by the Recoveries Section:
 - (a) An initial letter will be issued requesting payment within 14 days. This letter will also offer the debtor a payment plan over a maximum term of 12 months.
 - (b) If not paid after the 14 days, a final letter of demand is to be issued requesting payment within seven days and informing the debtor that if the account remains unpaid after that date, the amount will be transferred to the relevant rate account and interest is to apply in accordance with the *Local Government Act 2009*.
 - (c) Unpaid accounts are to be transferred to the relevant rate account by the Friday of the first week in the next rating period. The amount is to be shown as a separate charge on the Rates Notice that issues for that period.
 - (d) Interest is to apply in accordance with Council's adopted 'Revenue' policy.
 - (e) The discount for prompt payment will not be allowed if the rate account is not paid in full by the due date.
 - (f) Any unpaid amount relating to this charge will roll to the subsequent period as a balance owing.
 - (g) Council's normal recovery procedures will be implemented in terms of its policy "Management of Outstanding Rates, Water, Wastewater, other charges and Sundry Debts"
5. **Written agreements**

Council will consider any request in writing for an interest free payment plan prior to the amount being transferred to the relevant rate account. The Finance Manager is granted the authority to approve an agreement to pay instalments over a preferred maximum term of 12 months. Longer terms may be approved where special circumstances exist. Once approved, the applicant is to be informed of Council's decision detailing the required payments. Should the agreement default, the action detailed above is to be undertaken.

Any balance owing under a written agreement is to be paid in full in the following circumstances

 - where the relevant lot is sold; or
 - where an application is lodged that will result in the cancellation of the existing lot.

Request for payment plans after the debt is transferred to the relevant rate account will be dealt with in terms of the "Management of Outstanding Rates, Water, Wastewater, Other Charges and Sundry Debt Accounts" policy. Refer document no. 7532686.

6. Disputed charges

Should the ratepayer dispute the AICN charge which has been "written on" to the relevant rate account, the charge amount and any incurred interest will be transferred to the Accounts Receivable Ledger until such time as the matter is resolved.

Any advice in relation to disputing the AICN charge must be made in an appropriate manner acceptable to Council and contain the facts and circumstances on which the ratepayer makes that claim.

Part two - recovery of other charges arising from failure to take action required under a remedial notice

1. If the required works have not been undertaken by the owner or the occupier of a property (the responsible person) after the expiration date of a remedial notice, A Council worker may enter the property and take the action that is required under the remedial notice. Council may recover the amount that it properly and reasonably incurs in taking the action. Interest is payable on the debt at the same rate that interest is payable on overdue rates levied by the Council.
2. A written notice as to the amount of the debt is to be supplied to the responsible person. If the responsible person is the owner of the property and the debt is not paid within 30 days after the date of the written notice, the Council may recover the debt as if the debt were overdue rates.
3. It is Council's practice to issue the written notice as an invoice raised in the Accounts Receivable ledger.
4. The following action is to be taken by the Finance branch for overdue invoices:
 - (a) Issue an initial letter seeking settlement of the amount within 14 days.
 - (b) If unpaid after the 14 days, issue a final letter of demand requesting payment within 7 days. If the responsible person is the owner of the property, they are to be informed that if the amount remains unpaid, then the amount will be transferred to the relevant rate account and interest will apply.
 - (c) The amounts that fall into this category are to be transferred to the relevant rate account after the due date for the rates notices and before the end of the applicable rating period.
 - (d) The discount for prompt payment will not be allowed on future rates unless the rate account is paid in full by the applicable due date.
 - (e) Council's normal recovery procedures will be implemented in terms of its policy "Management of Outstanding Rates, Water, Wastewater, other charges and Sundry Debts"
 - (f) If the responsible person is not the owner of the property, steps 1 and 2 are to be followed except the final letter will not include a clause about transferring the debt to the relevant rate account. The debt is treated as an unsecured debt and dealt with in the same manner as other sundry debts. This may include outsourcing the debt to Council's collection agencies.

5. Infrastructure agreements

- (a) Council currently has payment plans in place for the following:
 - (i) removal of nuisance trees where the owner/s of the property is/are pensioners (refer to policy)
 - (ii) install complying swimming pool fences (refer to policy)
- (b) For all other amounts, not covered in the two policies listed above, Council will consider any request in writing for an interest free payment plan prior to the amount being transferred to the relevant rate account. The Finance Manager is granted the authority to approve an agreement of equal instalments over a preferred maximum term of 12 months. Longer terms may be approved where special circumstances exist.
- (c) Should any of the agreements default, the debt is then taken to be overdue and dealt with in terms of point 4 above.

Related policies/legislation/other documents:

DOC ID	DOCUMENT TYPE	DOCUMENT NAME
6660199	Policy	Infrastructure Agreements With Property Owners To Install Complying Pool Fences
7532686	Policy	Management Of Outstanding Rates, Water, Wastewater, Other Charges And Sundry Debt Accounts
4247390	Policy	Revenue Policy
	Legislation	<i>Local Government Act 2009</i>
	Legislation	Local Government Regulation 2012
	Legislation	<i>Sustainable Planning Act 2009</i>
	Legislation	<i>Building Act 1975</i>