

OFFICIAL

Strathbogie
Shire Council
Rates Payment and
Collection
Policy and Procedures

September 2023



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Rates Payment and Collection Policy and Procedure

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PART 1 POLICY

1. PURPOSE

The purpose of this Policy is to enable Strathbogie Shire Council to advise and assist on:

1. The payment of rates and charges, including the State Revenue Office’s Fire Services Property Levy,
2. Entering into Payment Plans,
3. Applications for financial hardship,
4. Applications to defer payment of rates and charges,
5. Applications to have rates and charges waived,
6. Understanding the levying of penalty interest on outstanding rates and charges, and
7. Recognising Council’s debt recovery process.

2. APPLICATION OF THIS POLICY

This Policy applies to all ratepayers in relation to the collection of Rates and Charges levied by Council including the Fire Services Property Levy.

The Policy allows Council to ensure that monies owed are recovered in a manner acceptable to Council and the person/organisation experiencing financial hardship. Hardship can arise in numerous ways for our community. Having the means available to temporarily assist the community member to allow them time to overcome their hardship in a sensible and sensitive way is appropriate.

This Policy does not apply to waivers which may be granted under Acts other than the *Local Government Act 1989* (or *Local Government Legislative Amendment (Rating and Other Matters Act 2022)*). This includes the *Cultural and Recreational Lands Act 1963*.

3. ACCOUNTABILITY AND RESPONSIBILITIES

Council’s Rates and Revenue Coordinator is to maintain the currency of this Policy and its administration. Several processes are subject to oversight by either the Chief Financial Officer or Director of People and Governance.

Role	Responsibilities
Rates and Revenue Coordinator	<ul style="list-style-type: none"> • Ensuring that the Policy remains current and formally updated • Administration of the Policy • Presentation of Policy updates to CFO/DPG.
Chief Financial Officer	<ul style="list-style-type: none"> • Review of Policy and approval for any changes made by RRC

Director People and Governance	<ul style="list-style-type: none"> • Presentation of Policy change to Council for approval • Upon approval, advise RRC to proceed with changes required
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4. PRIVACY CONSIDERATIONS

Applications for consideration of financial hardship will be treated as strictly confidential in accordance with Council's Privacy Directive.

Strathbogie Shire Council and its Officers will treat all information provided by ratepayers and others under this Policy with the utmost of confidentiality as per the *Privacy and Data Protection Act 2014 (Vic)* which protects the personal information of individuals who provide their information to Victorian Government departments including local Councils.

5. DEFINITIONS

Term	Meaning
Waiver	No rates to be levied
Deferral	Suspension of payment for a period of time
Council	Strathbogie Shire Council
Payment Plan	Agreement to a payment of money at regular intervals outside the levied Instalment Due Dates
DPG	Director People and Governance
CFO	Chief Financial Officer
RRC	Rates and Revenue Coordinator
FC	Finance Coordinator

6. RELATED POLICIES AND LEGISLATION

The following Council, State, regional and national plans, and policies are relevant to this policy under each subtitle.

- *Local Government Act 1989*
- *Local Government Act 2020*
- *Local Government Legislative Amendment (Rating and Other Matters) Act 2022*
- *Penalty Interest Rate Act 1983*
- *Fire Services Property Levy Act 2012*
- *Civil Procedures Act 2010*
- *Privacy and Data Protection Act 2014 (Vic)*
- *Charter of Human Rights and Responsibilities Act 2006*

- *Equal Opportunity Act 2010*
- Council's Authorisations and Financial Delegations

In particular *the Local Government Act 1989* (the Act) provides legislated payment options to facilitate the payment of rates and charges. The *Local Government Legislation Amendment (Rating and Other Matters) Act 2022* has inserted some additional provisions into the 1989 Act which are relevant to Council's Hardship Policy.

- Under *Section 170* of the Act, Council may defer, in whole or part, any payment due on the grounds of hardship.
- *Section 170* of the Act enables Council to defer the payment for rates, charges, and interest.
- *Sections 171 and 171A* of the Act enable Council to waive the whole or part of any rates and charges, based on financial hardship, upon application from the ratepayer
- *Section 171B* provides for Payment Plans for unpaid rates or charges
- *Section 172* of the Act enables Council to charge interest on unpaid rates and charges.
- *Section 172 A* provides for the Minister to set a maximum Interest rate charged on unpaid rates and charges and the Act allows Councils to charge interest on a payment plan instalment if it is not paid by the date specified in the payment plan.
- *Section 180A* of the Act prevents Councils from commencing proceedings for recovery of unpaid debt unless Council has been notified and advised of payment options available and including deferrals and payment plans, and it has been at least 24 months since the person was notified and the person has not deferred payment, entered into a payment plan or used any other available payment option
- *Section 180 AA* allows the Minister to issue Guidelines in relation to meaning of hardship, content of hardship policies, circumstances in which a Council may apply hardship policies, process for applying for a payment plan and waiver of interest.

7. POLICY REVIEW

Council may review this policy at any time however at minimum, each two years from the date of adoption.

Minor amendments to the policy may be authorised by the Chief Executive Officer at any time where such changes do not alter the substance of the policy (e.g., a change to the name of a related document, or a change in legislation).

Should there be a change due to State or Federal government requirements, then this should be authorised by the CEO or Council as required.

8. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006 AND THE EQUAL OPPORTUNITY ACT 2010

The Council acknowledges the legal responsibility to comply with the *Charter of Human Rights and Responsibilities Act 2006* and the *Equal Opportunity Act 2010*. The *Charter of Human Rights and Responsibilities Act 2006* is designed to protect the fundamental rights and freedoms of citizens. The Charter gives legal protection to 20 fundamental human rights under four key values that include freedom, respect, equality, and dignity.

PART 2 PROCEDURES

9. PAYMENT OF RATES AND CHARGES INCLUDING FIRE SERVICES PROPERTY LEVY

Owners, or their nominated ratepayers, are responsible for the payment of property rates on properties owned within the Council area. Council, each year, issues a copy of the annual Rate Notice which shows the details of the property and the rates and charges applicable to that property as set in the Council budget along with legislated costs associated with the Fire Services Property Levy. Rebates are also indicated where applicable covering Pension Concession, Trust for Nature, and Single Farm Enterprise application.

Section 167(1 & 2A) of the Act provides that a Council must allow a person to pay a rate or charge in 4 instalments or may allow a person to pay in a lump sum. Strathbogie Shire Council will accept a lump sum payment option however, to avoid interest charges on rates, the lump sum payment must be paid on or before the first instalment due date of 30 September.

For Ratepayers who pay by instalments, the due dates for payment in each financial year is set by the Minister and declared in the Government Gazette. They are as follows:

Payment Due Dates

First instalment	30 September
Second instalment	30 November
Third instalment	28/29 February
Fourth instalment	31 May

If any of the above dates fall on a non-business day, the payment date is moved to the next business day.

A person who gives any information to Council which is false or misleading in any material, particularly in respect of a request for a Special Payment Arrangement, Deferment or Waiving of Interest or other Hardship application *or* who fails to notify Council of any change in circumstances which is relevant to an application, is guilty of an offence. Failure to divulge change will deem all arrangements cancelled and could result in further action in respect to the recovery of payments.

The Chief Financial Officer will report to Council, on an annual basis, statistics pertaining to debt outstanding, interest written off and any further actions around this policy.

10. PAYMENT PLANS

Should a Ratepayer be experiencing difficulty in meeting payments reflected by the due dates of the four (4) Instalments in any rateable year, they can request consideration for a Payment Plan outside of these four instalment due dates. Ratepayers may find it easier to pay per week / fortnight / month and for lesser or greater amounts than indicated on the Instalment Notices.

The Ratepayer can request, in writing, consideration of the 'Plan' which will be assessed based on the total amount outstanding at the time of application and the following delegation of authority:

Total Outstanding Value	Delegation
Less than \$1,000	Rates and Revenue Coordinator
\$1,001 - \$2,000	Chief Finance Officer
\$2,001 - \$10,000	Director People and Governance
\$10,001 and over	Chief Executive Officer

Council will be flexible regarding the type of arrangement entered into in order to best suit the Ratepayer's circumstances but, as a minimum, payments over a 12-month period must cover the annual rates and charges and any interest applied to arrears. Ratepayers who are unable to make this minimum repayment should be assessed under the financial hardship provisions.

The initial review for a Ratepayer to enter into a Payment Plan sits with the Rates and Revenue Coordinator. Ratepayers will be advised what they need to pay in order for all outstanding rates and charges to be paid by 31 May (end of rateable year).

If the proposed Payment Plan will not see this payment being cleared, then the Chief Finance Officer (or delegation of authority) must approve the lesser payment amount.

These arrangements can be made at any time during the recovery process but are subject to the following conditions:

- All requests for Payment Plans are to be made in writing by the Ratepayer. Council may determine the duration of the Payment Plan, the amount of each Payment Plan, the frequency of Payment Plan instalments, and any other terms relevant to the Payment Plan which will see the finalisation of the debt.
- Approval to undertake a Payment Plan is effective for 12 months from the date of approval.
- Council may cancel a Payment Plan at any time if the person is not complying with the terms of the plan.
- If a Payment Plan is cancelled the amount owing becomes due and payable and may be recovered by the Council.

Payments towards a Plan can be done by the Ratepayer using the payment methods indicated on their Rate Notice. Centrelink recipients, who are granted approval for a Plan are requested to make their payments via their regular CentrePay income.

11. DEFERRAL OF RATES AND CHARGES

A deferral suspends the requirement to pay for a specified period and may be provided in whole or in part, subject to conditions set by Council. To receive a deferral, a person must demonstrate that payment of the rates and charges would cause further hardship.

Conditions For Deferral

Ratepayers may have rates and service charges, or part thereof, deferred subject to compliance with the following conditions:

- The ratepayer must be experiencing financial hardship
- The ratepayer must request a review for eligibility of financial hardship
- The ratepayer must meet with an independent financial consultant.

Assessment of financial hardship will be a subjective assessment having regard to the applicant’s income, expenses, and obligations.

If a deferral is approved, the property will be flagged as a rates deferment property and no debt recovery action will be taken for the agreed term of the application or annually, whichever comes first. A letter will be sent to the ratepayer seeking confirmation that the hardship still exists in accordance with the time frame recommended by the consultant.

An indefinite deferral may result in the rates not being recovered until the sale of the property, or when the property is sold upon the death of the ratepayer. An indefinite deferral must have approval as per the Delegation of Authority but no less than by the Director People and Governance.

A deferral will be deemed withdrawn on the basis of any of the following conditions:

- The ratepayer advises that the hardship conditions no longer exist
- Periodic confirmation of ongoing hardship is not received within 30 days of the date of the request
- The ratepayer no longer owns or occupies the property
- The ratepayer has defaulted in meeting any agreements with Council in regarding the deferral.

Determination on applications for deferral of rates and charges will be in accordance with the table of Delegations below:

Total Outstanding Value	Delegation
Less than \$1,000	Rates and Revenue Coordinator
\$1,001 - \$2,000	Chief Finance Officer
\$2,001 - \$10,000	Director People and Governance
\$10,001 and over	Chief Executive Officer

12. WAIVER OF RATES AND CHARGES

The Ratepayer may request in writing to have interest waived. A waiver removes the liability to pay and may be offered to include the whole or part of any interest subject to conditions set by Council.

Conditions For Waiver

For the purposes of this policy, a waiver will only be considered for interest.

Ratepayers may have interest waived subject to compliance with the conditions for deferral and the following additional conditions:

- The property for which the interest waiver is being considered must be used exclusively for residential purposes and must be the ratepayer’s principal place of residence in accordance with Section 171(b) of the *Local Government Act 1989*
- Subject to approval by the Chief Financial Officer or relevant delegation of authority.

Whilst Council has the ability to decide if a property can have rate levies and charges waived, Council still needs to recover from the Ratepayer the Fire Services Property Levy applicable to the property and owed to the State Revenue Office by each Ratepayer.

If a waiver of interest is approved, the property will be flagged as an interest waiver property will be waived for the term of the agreement or annually, whichever is the lesser. A letter will be sent to the ratepayer seeking confirmation that the hardship still exists in accordance with the time frame recommended by the independent financial consultant.

A waiver will cease to apply on the basis of any of the following conditions:

- The ratepayer advises that the hardship conditions no longer exist
- Periodic confirmation of ongoing hardship is not received within 30 days of the date of the request
- The ratepayer no longer owns or occupies the property.

Delegations for approval of Waivers are shown below:

Total Outstanding Value	Delegation
Less than \$1,000	Rates and Revenue Coordinator
\$1,001 - \$2,000	Chief Finance Officer
\$2,001 - \$10,000	Director People and Governance
\$10,001 and over	Chief Executive Officer

13. HARDSHIP APPLICATION PROCESS

There will be times when a Ratepayer is unable to undertake a Payment Plan due to Hardship and their lack of financial stability to contribute to the overdue rates and charges. Those who are not able to consider a Payment Plan will be encouraged to apply for Hardship which could result in the deferment of payment or the waiving of interest. Being a recipient of Government assistance is not enough grounds for claiming financial hardship.

An applicant is required to provide their personal information on the approved “**Rates and Charges Financial Hardship Application Form**” and having met with a Financial Counsellor who will confirm to Council the ratepayer’s current financial situation in relation to the hardship application. The Application is valid for 12 months and should be re-applied for should the approved hardship extend beyond the 12 months.

Guidelines

Applications for consideration of financial hardship will be treated as strictly confidential in accordance with Council’s Privacy Policy.

A ratepayer will be required to provide their personal information to the independent financial consultant using the “Rates and Charges Financial Hardship Application Form”. Information provided to the financial consultant will not necessarily be passed onto Council by that consultant.

A written recommendation as to the ratepayer’s eligibility for consideration will be passed on to Council by that financial consultant.

The financial consultant must provide Council with a written report of their recommendations.

The report must include:

- Whether the applicant is eligible
- Whether the applicant is suffering short-term hardship, i.e., hardship likely to be for a period of less than 12 months; or
- Whether the applicant is suffering chronic hardship, i.e., financial hardship for an indefinite period
- A recommended repayment schedule
- A time frame for review.

Council’s Revenue Coordinator will review the report and, for any short-term financial hardship applicant, implement the recommendations for deferral of payment.

All recommendations for a waiver of interest will be referred for approval to the relevant officer in line with the Delegations table above.

Payments received are allocated in the following sequence as legislated: legal costs; interest charges; arrears and current rates and charges.

Council has the authority to withdraw any agreement at its discretion.

14. PENALTY INTEREST

Interest will be charged on overdue rates and charges with the maximum applicable rate of interest being set annually by the Minister for Local Government and published in the Government Gazette.

Interest will be applied if the payment payable, either in instalments or in a lump sum, and where neither the first instalment nor the lump sum were paid by the due date, on and from the date on which each missed instalment was due and continues to be payable until the payment or the recovery of the rates or charges.

This process also applies to approved Payment Plans as well as deferred payments. Council may continue to require a ratepayer to pay interest in accordance with this section

Interest will be calculated for each calendar month within 5 working days of the new month for the month past. Recovery of interest due will be undertaken in the same way as Council may recover any other rates and charges.

A Ratepayer may apply to Council to have whole or part of any interest to be generally or specifically waived.

Application must be in writing for consideration by Delegation of Authority as outlined in the table above.

If a waiver of interest is approved, it is the responsibility of the Ratepayer to annually seek further application to confirm that the hardship still exists in accordance with the time frame determined at the time the interest waiver was granted.

Note: Council has the authority to withdraw any agreement at its discretion and within legislation.

15. COUNCIL'S DEBT RECOVERY PROCESS

Having been sent Rate Notices, Instalment Notices, Payments Reminders, via Australia Post or email, and should a debt of Council property rates exceed two (2) years by a Ratepayer, the file will be provided to Council's appointed Debt Recovery agency to proceed with legal collection.

Where a rate or charge has been deferred, Council must not commence proceedings unless a notice has been sent and the person has failed to make payment.

Council must not commence a proceeding for any unpaid rate or charge that is subject to a Special Payment Arrangement unless it has been at least 24 months since the Payment Arrangement was cancelled.

Where there is no formal annual Special Payment Arrangement or where there has been a default in a Special Payment Arrangement and where no approved financial hardship application exists, the following will occur.

Payment Reminder notices will be issued to ratepayers who have more than \$50.00 rates outstanding requesting payment within 14 Days. Ratepayers who fail to respond to the Payment Reminder (by making payment in full or requesting a suitable Special Payment Arrangement) could be referred to Council's debt collection agency for a letter demanding payment within 21 days giving due regard to the age of their debt as above.

Once a debt has been placed in the hands of Council's debt collection agency, all negotiations with the ratepayer are to be handled by that agency. Copies of Rate Notices can be provided direct but should be recorded in the debt collector file for information. Any communication with a ratepayer listed with the debt collection agency must be noted on our files and also their portal for future information.

Solicitors Letter Of Demand

Ratepayers who fail to respond to the Payment Reminder (by making payment in full or requesting a suitable Special Payment Arrangement) will be referred to Council's debt

collection agency for a letter demanding payment within 21 days. These letters will generally only be issued on those Ratepayers who have an amount outstanding of \$3,000.00 or more and owing for a period beyond two (2) years, with legal costs to be incurred by the ratepayer.

Summons / Complaint

Failure to respond to the solicitor's Letter of Demand results in legal proceedings including a Summons (Complaint) to be issued to those ratepayers who have an amount outstanding of \$3,000.00 or more as the costs of legal action are significant and are charged to the ratepayer. This amount will be reviewed annually in light of applicable court and legal fees pursuant to the Magistrates Court civil procedure rules 2010 - scale of costs.

Once the debt collection agency and their solicitors have prepared and lodged a Summons/Complaint with the Court for issue, the associated legal costs become chargeable. The Summons/Complaint is then served on the Ratepayer who must, within 21 days from the date of service:

- pay the claim in full plus costs; or
- request a suitable Special Payment Arrangement; or
- Lodge a completed Notice of Defence with the Court (thereby giving notice of their intention to dispute the claim).

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:

- Summons for Oral Examination (ratepayer is interviewed by the Clerk of Courts regarding their financial situation and intentions in relation to repaying the debt)
- Letter to mortgagee (a Court Order is not necessary, but this action would normally only be taken after a Ratepayer has failed to respond to an order being obtained)
- Rent demand (on the tenant of a rented property)
- Warrant to seize goods (some goods are not able to be seized like necessary household goods, tools of trade and low valued motor vehicles)
- Garnishee of wages
- Centrepay/Centrelink payment.

16. SALE OF PROPERTY UNDER SECTION 181

In addition to the debt recovery procedures above, under Section 181 of the Act, Council has the power to sell land or cause land to be transferred to Council to recover unpaid rates and charges.

The Director People and Governance must approve any process involving a property being considered for potential sale under Section 181. Before any land is sold or transferred, it must be approved by the Chief Executive Officer and brought to the attention of Council.

Section 181 recovery action may apply if there are rates and charges (including enforcement / legal costs and interest) which are more than two years overdue and there is no current Special Payment Arrangement in place for the payment of the overdue rates and charges and there has been little or no attempt to pay the outstanding rates during the period of two (2) years.

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Section 181 (1) (b) and 181 (4) inserts provisions providing some limitations on sale of property where a payment plan has been entered into. Council must have a Court order requiring payment of the amount (or part of the amount).

Council may sell the property or cause the property to be transferred to itself for an amount equal to or more than the estimated value of the property as set out in a written land valuation by a licenced Valuer (a person holding the qualification or experience specified under section 13DA(2) of the *Valuation of Land Act 1960*).