



## SALE OF PROPERTIES FOR UNPAID RATES

<b>TYPE</b>	Organisation
<b>PURPOSE</b>	<p>The purpose of this policy applies to unpaid rates and charges and special charges which have been:</p> <ul style="list-style-type: none"><li>• outstanding for a period of 3 years or more;</li><li>• has no current arrangement in place; or</li><li>• where the amount exceeds \$5,000.00 and;</li><li>• where the ratepayer is not subject to Council's Hardship Policy.</li></ul>
<b>OBJECTIVES</b>	<p>This Policy has been developed to:</p> <ul style="list-style-type: none"><li>• Set out the process to be followed where all other legal options for recovery of the Outstanding Debt have been undertaken, and either part, or all the Outstanding Debt remains unpaid.</li><li>• Guides Council Officers on the material that they need to present to Council for the purposes of a resolution.</li></ul>
<b>SCOPE</b>	<p>This policy applies to property owners with outstanding debt to Council.</p> <p>After the expiration of all other legal processes outstanding debt can only be recovered through the process of selling the ratepayers real estate-being the subject of the outstanding rates. This is done under Section 181 of the Local Government Act or by Bankruptcy.</p>
<b>DEFINITIONS</b>	<p><b>1. Section 181</b></p> <p>1.1 Section 181 of the Local Government Act permits Council to sell a ratepayer's real estate to recover the unpaid rates and charges when:</p> <ul style="list-style-type: none"><li>(a) Council has obtained judgement against the ratepayer for outstanding rates or special charges (including interest and legal costs);</li><li>(b) the judgement debt remains unpaid;</li><li>(c) the rates have been outstanding for a period exceeding 3 years and with no payment arrangement in place.</li></ul> <p><b>1.2 Submission of Resolution</b></p> <p>The following material needs to be included in a submission to Council:</p> <ul style="list-style-type: none"><li>(a) The period of time over which the debt is accrued.</li><li>(b) The amount of the debt.</li><li>(c) The related details Council should consider in its deliberation.</li><li>(d) Aerial photographs of the property.</li></ul>



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	<p>(e) Details of attempts made to contact the debtor and the responses.</p> <p>(f) Details of any application in relation to hardship.</p> <p><b>2. Bankruptcy</b></p> <p>2.1 The Trustee in Bankruptcy can sell a ratepayer's real estate to pay the outstanding debt where:</p> <p>(a) Council has obtained judgement against the Debtor;</p> <p>(b) the judgement debt remains unpaid, and:</p> <p>(c) the debt is in excess of \$5,000 (this is a requirement of bankruptcy law).</p>
<p><b>POLICY</b></p>	<p>The main principles refer to outstanding debt to Council 3 years or greater:</p> <p><b>3. Section 181</b></p> <p>3.1 Authorisation to forward a section 181 Notice is obtained from the Chief Financial Officer.</p> <p>3.2 If the Outstanding Debt is not paid within 28 days of sending the section 181 Notice, a resolution should be sought by Council to sell the property.</p> <p><b>4. Bankruptcy</b></p> <p>4.1 Authorisation to forward a Bankruptcy Notice is to be obtained from the Chief Financial Officer. It is appropriate where the property is occupied, and if the debt exceeds \$5,000. It is permissible where three years has not lapsed since the debt was accrued.</p> <p>4.2 If the Outstanding Debt is not paid within 28 days of sending the Bankruptcy Notice. A resolution should be sought by Council to bankrupt the debtor.</p> <p><b>5. Matters relevant to Council's decision to recover unpaid rates and charge by sale of real estate</b></p> <p>5.1 The debtor has consistently refused to engage with Council with respect to the outstanding debt;</p> <p>5.2 The debtor is to all intents and purposes delinquent and acts in a manner suggestive of the fact that they then have no intention to make payment of the outstanding debt;</p> <p>5.3 The property is a commercial property, or is not the ratepayer's principal place of residence;</p> <p>5.4 The ratepayer is not a pensioner, aged or infirmed;</p>



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	<p>5.5 The debt is of a size which warrants action for public policy reasons in so far as:</p> <ul style="list-style-type: none"> <li>• failing to take action sets an adverse precedent to other ratepayers and the community;</li> <li>• taking no action would be inconsistent with community expectations.</li> </ul> <p><b>6. Which option should be applied</b></p> <p>6.1 A section 181 sale should be sought where the real estate is vacant, or is not the owner's principal place of residence;</p> <p>6.2 Bankruptcy should be contemplated where the real estate is occupied or if the debt is not 3 years old.</p> <p><b>7. General</b></p> <p>7.1 In both the instance of the section 181 Notice and the Bankruptcy Notice, correspondence should be forwarded making it clear that there is another step to the process, namely obtaining a resolution from Council to either sell the property or to declare the debtor bankrupt.</p> <p>7.2 In relation to either sale under section 181 or bankruptcy, Council's solicitors will be engaged.</p> <p><b>Three yearly reviews</b></p> <p>Council will review each property where there is an Outstanding Debt every 3-years to determine if this policy should be applied and the property to be sold.</p>
<b>RESPONSIBILITY</b>	<p><b>Chief Executive Officer</b> – is responsible for the implementation of the policy and sending s181 and Bankruptcy notices.</p> <p><b>Financial Controller</b> - is responsible for ensuring the policy and procedures are implemented and maintained.</p> <p><b>Revenue Business Support Co-ordinator</b> - for administering the Policy and procedures.</p>
<b>RELATED POLICIES</b>	Financial Hardship Policy
<b>RELATED LEGISLATION</b>	Local Government Act 1989
<b>REFERENCES</b>	Nil
<b>AUTHOR</b>	Finance
<b>APPROVED</b>	<p>Executive (23 May 2018)</p> <p>Council (28 August 2018)</p>



**MORNINGTON  
PENINSULA**  
*Shire*

## **SALE OF PROPERTIES FOR UNPAID RATES**

<b>REVIEW / APPROVAL SCHEDULE</b>	<p>This policy shall take effect for three (3) years following adoption by Council.</p> <p>The policy shall be subject to review no later than 1 September 2021, to ensure consistency with the Council Plan.</p>
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