

### 1.0 AUTHORITY

- Local Government Act 1989, Section 181.

### 2.0 INTENT

The purpose of this policy is to establish a clear and concise framework in which to pursue all unpaid rates, charges and special charges which have been:

- outstanding for a period of 3 years or more and where the amount exceeds \$5000 and,
- have no current arrangement in place, or
- have defaulted on a payment plan;
- where the ratepayer is not subject to Council's Hardship Policy

### 3.0 SCOPE

This policy applies to property owners with an outstanding debt to Council that has been overdue for 3 years or more. Council may sell the land to recover unpaid rates or charges under the provisions of Section 181 of the Local Government Act 1989 or under Division 2 of the Bankruptcy Act 1966, and after expiration of the all other legal processes.

### 4.0 GOVERNANCE PRINCIPLES

Under the Local Government Act 2020, Council must give effect to the following overarching governance principles:

- a) Council decisions are to be made and actions taken in accordance with the relevant law.
- b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- c) The ongoing financial viability of Council is to be ensured.
- d) Ensure the transparency of Council decisions, actions, and information

### 5.0 POLICY STATEMENT

This policy applies to property owners with outstanding debt to Council.

Section 181 of the LG Act 1989 permits a council to sell land to recover unpaid rates or charges in limited circumstances, where the amount is more than 3 years overdue, no current arrangement exists for the repayment of that amount, and the Council has a Court order requiring payment of the amount or part thereof.

The main principles refer to outstanding debt to Council 3 years or greater:

#### 5.1 Section 181

Authorisation to forward a section 181 Notice is obtained from the Chief Financial Officer.

5A.2 If the Outstanding Debt is not paid within 28 days of sending the section 181 Notice, a resolution will be sought by Council to sell the property.

## 5.2 Bankruptcy

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 have not lapsed since the debt was accrued, and the property has entered into and defaulted an approved Payment Plan.

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.

## 5.3 Matters relevant to Council's decision to recover unpaid rates and charge by sale of real estate

The debtor has consistently refused to engage with Council with respect to the outstanding debt.

The debtor is to all intents and purposes delinquent and acts in a manner suggestive of the fact that they have no intention to make payment of the outstanding debt.

The property is a commercial property or is not the ratepayer's principal place of residence.

The ratepayer is not a pensioner, aged or infirmed.

## 5.4 The debt is of a size which warrants action for public policy reasons in so far as:

- failing to take action sets an adverse precedent to other ratepayers and the community.
- taking no action would be inconsistent with community expectations.

## 5.5 Which option should be applied

A section 181 sale should be sought where the real estate is vacant or is not the owner's principal place of residence.

Bankruptcy should be contemplated where the real estate is occupied

## 5.6 General

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.

In relation to either sale under section 181 or bankruptcy, Council's solicitors will be engaged.

## Three yearly reviews

Council will review each property annually where there is an Outstanding Debt exceeding \$5000 and three years in arrears, to determine if this policy should be applied and the property be sold.

## 6.0 ASSOCIATED DOCUMENTS

Approved by: Council

Approval date: 25/02/2025

Scheduled Review Date: 01/09/2026

Page 2 of 4

Version #: 002

- Financial Hardship Policy
- Local Government Act 1989
- Local Government Act 2020

## 7.0 DEFINITIONS

- 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:
1. Section 181
- (a) Council has obtained judgement against the ratepayer for outstanding rates or special charges (including interest and legal costs).
  - (b) the judgement debt remains unpaid.
  - (c) the rates have been outstanding for a period exceeding 3 years with no payment arrangement in place.
- The following material needs to be included in a submission to Council:
- (a) The period of time over which the debt is accrued.
  - (b) The amount of the debt.
- 1.2 Submission of Resolution
- (c) The related details Council should consider in its deliberation.
  - (d) Aerial photographs of the property
  - (e) Details of attempts made to contact the debtor and the responses.
  - (f) Details of any application in relation to hardship.
- 2.1 The Trustee in Bankruptcy can sell a ratepayer's real estate to pay the outstanding debt where:
2. Bankruptcy
- (a) Council has obtained judgement against the Debtor.
  - (b) the judgement debt remains unpaid, and:
  - (c) the debt is more than \$5,000 (this is a requirement of bankruptcy law)

## 8.0 POLICY SPONSOR

The Team Leader, Revenue is responsible for overseeing the application and review of the Sale of Properties for Unpaid Rates policy.

## 9.0 DOCUMENT CONTROLS

This policy shall take effect for three (3) years following adoption by Council.

The policy shall be subject to review no later than 1 September 2026, to ensure consistency with the Council Plan.

### Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Shire department, the change to an existing policy or document referred to in this policy, and minor updates to legislation and the like which does not have a material impact. However, any change or update which materially alters the document must be by resolution of Council.