Property Rate Debt Management Policy

Policy Type:	Council
Version:	006
Date Adopted:	5 August 2026
Service Unit	Revenue Services
Directorate:	Customer and Corporate Services
Review Date:	August 2030

1. Purpose

The purpose of this Policy is to establish a clear, consistent and transparent framework for the collection and management of property rates and charges at Moorabool Shire Council. The Policy aims to ensure that all collection and recovery activities are undertaken fairly, equitably and consistently, while supporting Council's strategic objectives and sound financial management in accordance with the *Victorian Local Government Act 1989 and 2020.*

This Policy aims to:

- Ensure timely and efficient collection of rates and charges to support Council's financial sustainability and service delivery.
- Provide equitable and transparent processes for ratepayers experiencing hardship and financial hardship.
- Promote early genuine engagement and flexible payment options to minimise the need for legal or enforcement action.
- Ensure that all recovery activities are undertaken lawfully, respectfully, and in accordance with:
    - *Local Government Act 1989*
    - *Local Government Act 2020*
    - Ministerial Guidelines relating to the Payment of Rates and Charges
    - ACCC/ASIC Debt Collection Guidelines for Collectors and Creditors
    - Local Government (General) Regulations 2015

2. Definitions

Council	Moorabool Shire Council
Ratepayer	The person or persons liable to pay rates and charges as recorded on Council's rate record.
Ministerial Guidelines	Ministerial Guidelines relating to the Payment of Rates and Charges.

Rates and Charges	Any rates, municipal charges, service rates, service charges, special rates or special charges levied by Council under the *Local Government Act 1989*.
Financial Hardship	A situation where a ratepayer is willing but unable to meet their rate payment obligations due to circumstances beyond their control, as assessed in accordance with this Policy and relevant legislation and regulations.
Financial Hardship Application	An application made under this Policy seeking assistance in accordance with ss171 and 171A of the *Local Government Act 1989* and the Ministerial Guidelines.
Payment Plan	An agreed schedule for the payment of overdue rates and charges, in accordance with the *Local Government Act 1989*, including s171B (payment plans for rates and charges).
Deferral	An arrangement whereby payment of rates and/or charges is deferred under section 170 of the Local Government Act *1989*, subject to conditions determined by Council.
Waiver	A decision to waive, in whole or in part, any rate, charge or interest under sections 171 or 171A of the Local Government Act *1989*.
Debt Collection Agency (DCA)	An external service provider contracted by Council to assist with the recovery of overdue rates and charges.
Principal Place of Residence (PPR)	The property that is the ratepayer’s primary home, as determined for rating purposes.
Secured Charge	A charge over land created in accordance with the *Local Government Act 1989* in respect of unpaid rates and charges, interest and recovery costs.
CEO	Chief Executive Officer
GM C&CS	General Manager Customer and Corporate Services
CFO	Chief Financial Officer
CR	Coordinator Revenue

TLRS	Team Leader Revenue Services
SRO	Senior Revenue Officer
RO	Revenue Officer

3. Scope

This Policy applies to:

- All property rates and charges levied by Council under the *Local Government Act 1989*.
- All ratepayers with overdue rates and charges, including residential, commercial, industrial, farming, extractive industries and vacant land.
- All Council officers and contractors involved in the billing, collection, management, and recovery of rates and charges.

This Policy does not apply to other sundry debtor accounts (e.g. infringements, leases, user-pays services), unless specifically stated in a separate Council policy.

4. Non-Compliance

Council is committed to the fair and lawful collection of property rates and charges.

Ratepayer Non-Compliance

Where rates and charges remain unpaid and no approved payment arrangement is in place, Council may take recovery action in accordance with the *Local Government Act 1989* and *2020*, including:

- applying penalty interest
- issuing reminder and final notices
- referral to debt recovery or legal proceedings
- sale of property where legislative requirements are met

Internal Non-Compliance

Council officers and contractors must comply with this Policy and related procedures. Failure to do so may result in corrective action, further training, disciplinary measures, or contract management action.

Significant breaches may be escalated to management and reported as required.

5. Policy

This Policy provides the Revenue Services Team with clear, documented guidelines for the efficient, lawful and consistent collection and management of property rate accounts, including support for ratepayers experiencing hardship or financial hardship.

The Policy considers all payment options manageable within the Revenue Services Team and aims to:

- Establish principles for the overall collection of property rate accounts.
- Define payment options (Full Payment, Instalments, Alternative Payment Arrangements, and Payment Plans).
- Outline the types of assistance that may be offered by Council.
- Provide guidelines for assessing financial hardship applications.

5.1 Principles and Objectives

Council is committed to managing outstanding rates and charges in a fair, consistent and transparent manner while providing appropriate support to ratepayers experiencing hardship and financial hardship.

Council will:

1. Encourage the payment of rates, charges and other debts by the prescribed due dates and ensure overdue debts are managed in accordance with this Policy and within appropriate timeframes.
2. Apply debt management and recovery practices that are fair, equitable, transparent and accountable, and consistent with applicable legislation, Ministerial Guidelines and relevant regulations.
3. Recognise its responsibility to recover monies owed in a timely and efficient manner to support the delivery of Council services and maintain sound financial management.
4. Minimise the level of outstanding debt through early intervention, effective communication and appropriate recovery action.
5. Promote ratepayer responsibility for meeting their financial obligations while ensuring appropriate information, support and assistance are available to those experiencing hardship or financial hardship.
6. Ensure ratepayers are informed of their rights and obligations, including available payment options, financial hardship assistance, internal review and complaints processes, and any proposed debt recovery action.
7. Ensure all debt recovery activities undertaken by Council officers and any appointed Debt Collection Agency (DCA) are conducted professionally, respectfully, without coercion or harassment, and in accordance with the ACCC/ASIC Debt Collection Guideline: *For collectors and creditors*.

8. Consider the individual circumstances of each ratepayer when determining appropriate recovery action, including their engagement with Council, any identified vulnerability, demonstrated willingness to pay, and capacity to meet their obligations.
9. Recognise that early engagement is the most effective means of resolving overdue rates and charges and make genuine and reasonable efforts to work collaboratively with ratepayers before commencing legal recovery proceedings.

Council will not commence legal recovery proceedings unless the ratepayer has first been notified in writing at their last known postal or registered address held by Council of the proposed action. However, Council may proceed with legal recovery where the ratepayer:

- fails to respond to Council's communications;
- fails to enter into a reasonable payment plan; or
- defaults on an agreed payment arrangement without making further contact with Council.

Before commencing legal proceedings, Council will make genuine and reasonable attempts to contact the ratepayer and, where appropriate, offer payment plans and financial hardship assistance in accordance with the Ministerial Guidelines.

This Policy also establishes the framework for Council to assess and determine applications for financial hardship assistance and outlines the support available to eligible ratepayers.

5.2 Issue of Notices and Legislative Payment Options

5.2.1 Issue of Annual Rate and Valuation Notices

Annual Rate and Valuation notices are typically issued towards the end of August each year, in accordance with the adopted budget and the approved General Valuations applied. These notices will include all necessary information about rates, payment due dates, and options for payment in accordance with the *Local Government Act 1989*, Local Government (General) Regulations 2015 and the Ministerial Guidelines.

5.2.2 Legislative Payment Options for Property Rate Accounts

Payment due dates (as set by the Minister and published in the Government Gazette):

- 1st Instalment – 30 September
- 2nd Instalment – 30 November
- 3rd Instalment – 28 February
- 4th Instalment – 31 May
- Full Payment – 15 February

5.2.3 *Legislative Payment Option – Pay by 4 (Legislative Instalments)*

After the issue of the Annual Rate and Valuation notice, ratepayers who have elected to pay their rates via the instalment method will be issued reminder notices for the remaining three instalments at least fourteen (14) days prior to the legislated payment due date, or as otherwise required under the *Local Government Act 1989* and any Ministerial directions.

The week before each instalment due date, a reminder notice will be posted on Council's website, social media channels and on Council's Antenno mobile app to remind ratepayers of the upcoming instalment payment due date.

The week after the second, third and fourth instalment, a reminder SMS message will be issued.

Within fourteen (14) days after the due date for each of the second, third, and fourth instalments, a penalty interest update will be applied, and a reminder notice will be issued to all ratepayers who have not fully paid the instalment amount.

Reminder letters will allow an additional ten (10) days for ratepayers to pay the outstanding balance (including any incurred penalty interest) in full, or to contact the Revenue Services Team to negotiate a suitable payment plan or seek financial hardship assistance.

Instalment accounts will not be escalated to Council's Debt Collection Agency until after the final instalment due date (4th Instalment), and only if communication has not been established, or a suitable payment arrangement has not been entered into with the ratepayer by that date.

If there is no communication from the ratepayer after the reminder notice for the fourth instalment due date, the account may be referred to Council's Debt Collection Agency in accordance with the provisions of this Policy and s180 of the *Local Government Act 1989*.

5.2.4 *Legislative Payment Option – Full Payment (Lump Sum)*

Approximately three weeks prior to the full payment due date, Council will issue a reminder to ratepayers of their obligation to pay annual rates and charges by the legislated due date. This reminder will be advertised in Moorabool News, posted on Council's website, social media channels and a notification via Council's Antenno mobile app to remind ratepayers of the upcoming full payment date.

Fourteen (14) days after the legislated full payment due date, reminder letters will be issued to ratepayers who have not paid the full amount. The reminder letter will not include penalty interest and will allow ratepayers an additional seven (7) days to pay their outstanding balance without penalty.

Seven (7) working days after the reminder letter due date, penalty interest will be applied, and a final notice will be issued to all ratepayers who have not made the full payment.

If there is no communication from the ratepayer following the final notice due date, the account may be referred to Council's Debt Collection Agency in accordance with the provisions of this Policy.

5.2.5 Council Instalment Option – Pay by 10 (Alternative Instalments)

To assist ratepayers in managing their financial obligations, Council offers the option to pay annual rates by ten (10) equal monthly instalments from September to June each financial year. Instalments will be due on or around the 15th day of each month.

Ratepayers who elect to pay by monthly instalments must register for Council's direct debit payment service. Monthly instalments will be automatically deducted from the nominated bank account on the agreed payment date.

Legislation:
Local Government Act 1989 – Section 167 – Payment of Rates and charges.

5.3 Payment Plan Options

Any ratepayer who is unable to pay their rates and charges by the prescribed due dates may apply for a payment plan in accordance with section 171B of the *Local Government Act 1989*.

Council will work collaboratively with the ratepayer to establish a reasonable, flexible and sustainable payment arrangement that reflects their individual circumstances and capacity to pay.

Where a ratepayer is experiencing hardship or financial hardship, Council will discuss the additional support available under this Policy, including options to defer or waive interest and charges where permitted.

Payment plans will be administered in accordance with section 171B of the *Local Government Act 1989* and the relevant Ministerial Guidelines. Council will ensure that all payment plans are fair, reasonable, and tailored to the individual circumstances of each ratepayer.

Council is committed to offering eligible ratepayers payment plans that comply with the requirements of section 171B of the *Local Government Act 1989*.

5.3.1 Payment Plan Terms

Payment Plans require regular weekly, fortnightly, or monthly payments. Council will work with the ratepayer to agree on a reasonable repayment schedule that reflects their capacity to pay. Where possible, arrangements should aim to clear the outstanding balance within a 12-month period; however, Council may extend this timeframe where the ratepayer's circumstances justify additional flexibility, consistent with the Ministerial Guidelines.

Upon entering into a payment plan, penalty interest on the rate account will be suspended. No penalty interest will accrue for the duration of the payment plan, provided the ratepayer complies with the agreed terms.

If the payment plan is not maintained, penalty interest will be reinstated from the date the plan is cancelled. The ratepayer will be notified in accordance with relevant legislation and Council policy.

If the arrangement cannot reasonably clear the debt within 12 months, Council may assess whether financial hardship provisions apply before considering any change to the arrangement or escalation of the debt.

Council is committed to supporting those in financial hardship and encourages ratepayers experiencing genuine difficulties to seek assistance through Council's Financial Hardship Provisions before or in conjunction with entering into an arrangement.

Council will not levy additional penalty interest while an approved payment plan is maintained, in accordance with this Policy.

Interest accrued prior to any payment plan established on a rate account remains payable unless waived under the financial hardship provisions of this Policy.

5.3.2 Review and Monitoring

Payment Plans will be reviewed each month. If an arrangement falls into arrears, Council will issue a reminder letter advising non-compliance and encouraging the ratepayer to re-engage or make payment.

If no payment or contact occurs by the following month's payment plan review, Council will then issue a payment plan cessation letter and may commence recovery action.

If a ratepayer fails to comply with two or more payment plans within a financial year and subsequently requests an additional payment plan, the following procedure shall be implemented:

- The ratepayer must make payments for a period of three (3) months via a Council-managed direct debit system.
- Once the ratepayer demonstrates compliance with this direct debit arrangement, a formal payment plan may be offered.
- If the ratepayer defaults on this third payment plan, they will become ineligible for any further payment arrangements for a period of 12 months.
- During this period of ineligibility, Council may proceed with debt recovery actions as outlined in the Policy.

Debt recovery action will only proceed where reasonable attempts to engage the ratepayer have been unsuccessful.

5.3.3 Financial Hardship Support

Council is committed to supporting ratepayers experiencing genuine financial hardship and encourages early engagement. Ratepayers who are experiencing hardship are strongly encouraged to seek support under Council's Financial Hardship Provisions, which operate in accordance with the *Local Government Act 1989* and the Ministerial Guidelines.

5.3.4 Documentation Issued for Payment Arrangements

When a Payment Arrangement is approved, the following documentation will be issued to the ratepayer:

- Payment Arrangement Confirmation Letter outlining:
    - the agreed payment frequency (weekly, fortnightly, or monthly)
    - the agreed instalment amount
    - the duration of the payment plan
    - the available payment methods

All documentation will use clear and accessible language and will set out the ratepayer's rights, obligations, and available support options, in accordance with the *Local Government Act 1989* and Ministerial Guidelines.

5.3.5 Record Keeping and Compliance

All requests for Payment Arrangements—whether received via email, online form, or verbally—will be recorded as an inbound service request in Council's Electronic Document Management System (EDMS).

Payment plans established in accordance with s171B of the *Local Government Act 1989* and the Ministerial Guidelines will comply with those provisions.

5.4 Calculation of Interest

Council may charge interest on unpaid rates and charges.

If a ratepayer does not pay either:

- the first instalment by the legislated due date; or
- the full lump sum payment by the legislated due date,

5.4.1 Rate of Interest

Interest will be charged and calculated daily at the prescribed rate as set by the Attorney-General under Section 2 of the *Penalty Interest Rates Act* 1983. The applicable penalty interest rate may vary over time and will be updated accordingly.

Interest continues to accrue until the overdue amount is paid in full, unless waived under this Policy.

5.4.2 Interest Waiver Application

Interest will be automatically applied within Council's rating system and will be included in reminder notices.

Instalment Payment Method:

- If a ratepayer chooses to pay by instalments but fails to make a payment by the due date, interest will be applied from the due date of each missed instalment.

Lump Sum Payment Method:

- If a ratepayer does not pay the full lump sum interest will be applied from the due date of each missed instalment.

Penalty interest may be waived under approved financial hardship provisions (refer to Section 5.9 of this Policy) or where authorised under s171 of the *Local Government Act 1989*.

Legislation:
Local Government Act 1989 – Section 172 – Council may charge interest on unpaid rates and charges and the *Penalty Interest Rates Act 1983* – Section 2

5.5 Pension Rebate

The *Local Government Act 1989* allows councils to grant waivers or rebates for eligible pensioners. Eligible pensioners who hold an approved concession card may receive a rebate on rates and charges, at an amount prescribed by the Minister and administered by the Department of Families, Fairness and Housing (DFFH).

The rebate applies only to the principal place of residence of the pension card holder, as determined by the address on the ratepayer's pension card.

Eligible Concession Cards:
- Pensioner Concession Card (PCC)
- Department of Veterans' Affairs (DVA) Gold Card (TPI, War Widow, EDA)

Application forms are available via Council's customer service office or via an online application form which can be accessed on Council's website.

<u>Policy Statement:</u>
Council will administer the pension rebate per the State Concessions Act 2004, the Local Government Act 1989 and DFFH guidelines, at the amount prescribed by the Minister.

5.6 Late Payment and Escalation of Rates and Charges

Once Council's Revenue Services Team has completed the documented in-house escalation process (which includes issuing Reminder SMS Messages, Reminder and Final Notice Letters), and the outstanding rates or charges remain unpaid, Council may initiate further recovery actions via the Magistrates' Court.

5.6.1 Escalation of Unpaid Rates and Charges

Escalation decisions will take into account the ratepayer's engagement history, vulnerability indicators, and demonstrated willingness to pay.

The next step involves lodging the outstanding accounts with a Debt Collection Agency (DCA) appointed by Council. The DCA will then take the following steps to try to recover the debt:

1. Letter of Demand
    - The DCA will send a Letter of Demand to the ratepayer, as notified by Council. This letter provides the ratepayer with a period of seven (7) days to either:
        - make full payment of the outstanding debt; or
        - enter a suitable payment arrangement with the DCA.

2. Contact Attempts
    - If a contact phone number for the ratepayer is available, the DCA will try to contact the ratepayer by phone to discuss the debt and the available payment options before proceeding with further escalation.

3. Field Call
    - If no response is received to the Letter of Demand or phone call (where possible), the DCA's appointed agent will try to make a Field Call to either the ratepayer's mailing address or the rated property address. This is to ensure the ratepayer is aware of the outstanding debt.

4. Complaint
    - If there is no response to the Letter of Demand or Field Call, the account may be escalated further, and a Complaint will be issued to the registered property owner(s) in the Magistrates' Court under s180 of the *Local Government Act 1989*.
    - Once legal costs have been incurred, the complaint will be sent to a Process Server for the service of documents to the registered property owner(s).
    - Once the documents are served, the ratepayer(s) will have the right to resolve the debt or dispute it per court procedures.

5. Judgement
    - If the account remains unresolved or no action is taken by the ratepayer(s), a Judgment Order may be issued by the Court.
    - A letter will be sent to the ratepayer(s) advising that the Judgment Order has been registered, requesting immediate payment. A judgment debt may appear on the ratepayer's credit report in accordance with applicable credit reporting laws.

6. Further Escalation
    - If the account remains unpaid after the Judgment Order, Council may initiate further escalation through available civil proceedings via court processes.

7. Cost Recovery
    - All costs incurred by the DCA are levied back to the property rate account and treated as a secured charge against the property, just as with rate transactions. These costs are recoverable even if the property changes ownership, in accordance with the *Local Government Act 1989*.

8. Escalation Threshold
    - Due to the associated costs of escalating accounts via the Magistrates' Court, rate accounts with balances below $1,500.00 will not be escalated

to the DCA. These debts will continue to accrue interest until the balance reaches $1,500.00, at which point escalation may occur.

Council will regularly review DCA performance and compliance with Council policy and Ministerial Guidelines.

For more detailed information about the escalation process, ratepayers may contact Council's Revenue Services Team.

Legislation:
Local Government Act 1989 – Section 180 – Unpaid rate or charge and Section 175 – Person acquiring rateable land.

Policy Statement:
Council will only commence legal proceedings where reasonable attempts at engagement and less intrusive collection measures have been exhausted and where the costs of legal action are proportionate to the debt.

5.7 Deferral of Rates, Charges and Interest

A ratepayer who demonstrates that payment of rates or charges would cause hardship may apply for a full or partial deferral in accordance with section 170 of the *Local Government Act 1989*.

Where appropriate, Council will work with the ratepayer to establish and maintain a mutually agreed payment arrangement to support the gradual reduction of outstanding debt while recognising the ratepayer's individual circumstances. These arrangements will be administered by the Revenue Services Team.

Where a payment arrangement is not appropriate or is not sustainable, having regard to the ratepayer's individual circumstances, Council may consider alternative assistance under this Policy, including the deferral or waiver of rates, charges and/or interest, subject to an assessment of the ratepayer's circumstances and the requirements of the *Local Government Act 1989*.

Legislation:
Local Government Act 1989 – Section 170 – Deferred payment of rates and charges.

Policy Statement:
Applications for the deferral of rates, charges and interest will be assessed and managed in accordance with the Financial Hardship provisions of this Policy.

5.8 Waiver of Rates and Charges

5.8.1 Rates and Charges

In certain cases, low-value rates and charges may be waived due to administrative errors. If extenuating circumstances are present, partial waivers may be approved per the Delegation of Authority section of this Policy.

In the absence of an administrative error, any decision to waive rates and charges will be made in alignment with the provisions outlined in the Financial Hardship section of this Policy and s171 and 171A of the *Local Government Act 1989*.

Ratepayers may apply for a partial waiver of rates and charges, subject to confirmation of the following conditions:

- Eligibility Criteria:
  - Waivers are available only to individuals who are experiencing financial hardship in relation to the rates on their primary or principal place of residence, unless Council determines that extenuating circumstances justify broader application.
- Future Payment Plan:
  - The applicant must commit to a financial plan outlining their intent to pay future rates and charges.
- Proof of Financial Hardship:
  - The applicant must substantiate their financial hardship and provide verifiable information, such as a Statement of Financial Position. Council may request supporting documentation from a qualified accountant or financial counsellor, taking into account the ratepayer’s capacity to obtain such support.
- Independent Recommendation:
  - Where reasonably practicable, hardship waivers (excluding interest-only waivers) should be supported by written information or recommendations from an independent financial counsellor, welfare agency, or government agency. Council may waive this requirement where it would create an unreasonable barrier to assistance.

5.8.2 Application Assessment Process

The Coordinator Revenue will review applications for a waiver or partial waiver of rates and charges where genuine financial hardship is demonstrated. If approved under delegation, the waiver will apply only for the rating year in which the application was made, and the preceding financial year, unless otherwise determined by Council.

Applications for a waiver of unpaid rates and charges older than two years will be referred to Council for resolution. These applications will be assessed based solely on genuine financial hardship and will require approval by a formal Council resolution.

5.8.3 Interest and Debt Collection Costs

Ratepayers may have interest or debt collection costs waived if the reason for overdue payment, although not related to financial hardship, is deemed reasonable. The Team Leader Revenue Services will review application received and make an assessment and recommendation in line with the Waiver Evaluation Criteria. The following conditions apply:

1. Request for Waiver
   - The request for the waiver of interest and/or costs must be submitted in writing on the prescribed form (Attachment 2), which must be in the form of a Statutory Declaration.

2. Considerations for Waiver Approval
   - When reviewing an application for the waiver of penalty interest and/or costs, the following circumstances will be considered:
     - Acceptable Circumstances:
       - Ratepayer has maintained a payment arrangement and is actively reducing debt;
       - Ratepayer has a proven payment history (no interest or costs incurred in the past two years).
       - Completion of an agreed payment plan arrangement may allow for a waiver of penalty interest.
       - Compassionate grounds, such as family illness or death, are present.
       - Failure by Council to update a postal address after formal written notification.
       - Verified communications with ratepayer(s), such as those during a field call.
     - Non-Acceptable Circumstances:
       - Mere oversight of the due date for payment.
       - Failure to contact Council prior to the due date to advise of financial difficulties.
       - Failure to maintain previous financial hardship payment plan arrangements.
       - History of overdue payments.
       - Incorrect contact details provided in a Notice of Acquisition.
       - Lack of communication from the ratepayer to alter the contact mail address.

- No subsequent action from the ratepayer after a field call resulted in direct conversation with the ratepayer or representative.

3. Waiver Evaluation Criteria
    - When assessing an application for the waiver of interest and/or recovery costs, Council may consider, but is not limited to, the following:
        - Whether the waiver relates to the ratepayer's principal place of residence, unless extenuating circumstances justify consideration for another property.
        - The ratepayer's previous payment history.
        - Any previous hardship or financial hardship assistance provided by Council.
        - Exceptional or extenuating circumstances, including serious illness, family violence, economic abuse, bereavement, or other events that have contributed to the ratepayer's circumstances.
        - The ratepayer's engagement with Council, including their willingness to communicate and work towards resolving the outstanding debt.
        - Whether an approved payment plan is in place or has been maintained.
        - Any other relevant information or circumstances that Council considers appropriate.

4. Reinstatement of Waived Interest/Costs
    - If the application for the waiver of interest and/or costs is approved, and future accounts are not paid in accordance with the required payment dates, Council reserves the right to reinstate previously waived interest and/or costs. This will be communicated to ratepayers when the approval is granted.
    - Reinstatement of interest will only occur where the ratepayer has been clearly informed of this condition and has failed to meet future obligations without reasonable cause.

<u>Legislation:</u>
Local Government Act 1989 – Section 171 – Waiver of rates, charges and interest and Section 172 – Council may charge interest on unpaid rates and charges

<u>Policy Statement:</u>
Council will waive interest and costs in consideration of the above acceptable circumstances where an application has been made on the prescribed form and where such waiver is consistent with the Local Government Act 1989 and the Ministerial Guidelines.

5.9 Application For Financial Hardship

For the purposes of this Policy, financial hardship exists where payment of rates and charges would mean the ratepayer is unable to afford the necessities of life for themselves or their dependants.

5.9.1 Financial Hardship Principles:

- Early identification of financial hardship is crucial. Without communication from ratepayer(s), it becomes difficult to identify when they may be experiencing financial hardship.
- Accessibility of information: Council will ensure that information about financial hardship provisions is easily accessible, including being available on the Council website and in rate brochures, and in plain-language formats where possible.
- Referral to qualified financial counsellors: In cases where ratepayer(s) are facing financial difficulty with their rates account, Council may refer them to qualified financial counsellors, including the National Debt Helpline. Financial hardship often extends beyond rates and may involve difficulty paying other financial obligations.

5.9.2 Financial Hardship Application Criteria

Moorabool Shire Council acknowledges that financial hardship can affect ratepayers and will consider applications for financial hardship in the following circumstances:

- A confidential statement must be submitted by the ratepayer, detailing that the payment of outstanding rates and charges would cause financial hardship.
- The confidential statement must be completed on Council's prescribed form (Attachment 3) and signed as a Statutory Declaration outlining the circumstances.
- Financial hardship assistance will only be considered for residential, owner-occupied properties (PPR), unless Council determines that extenuating circumstances justify assistance for another property type.

Financial Hardship will not normally be considered for:

- Investment properties
- Commercial, industrial, and extractive industry properties
- Vacant land properties

If full disclosure is not made, or if it is found that incorrect information was intentionally provided, Council reserves the right to collect any previously waived or foregone interest and to review any hardship assistance provided.

The privacy of applicant information is of utmost importance. Every application for assistance under this Policy will be treated confidentially, with all assessments carried out on a case-by-case basis and in compliance with the *Privacy and Data Protection Act* 2014 and Council's Records Management Policy.

5.9.3 Financial Hardship Application

When a completed Financial Hardship Application is received by Council, the following process will occur:

- The application will be reviewed by the Coordinator Revenue.
- The Coordinator Revenue will engage with the applicant to gain a comprehensive understanding of the ratepayer's financial situation and determine the most appropriate assistance available under this Policy.
- The applicant will be encouraged to engage with the National Debt Helpline (phone 1800 007 007), which provides free professional financial counselling and confidential advice.
- The Coordinator Revenue will work with the applicant to establish a payment plan tailored to the applicants' financial circumstances
- The Coordinator Revenue will prepare a recommendation and supporting documentation for Council's Chief Financial Officer to determine whether an interest waiver or deferral should be granted.

5.9.4 Ratepayer Obligations and Deferral of Rate Debt

It is the responsibility of the ratepayer to notify Council as soon as they become aware that they may be unable to meet their rates obligations due to financial hardship.

If a rate deferral is approved, the ratepayer will be advised of the outcome and required to enter into, and maintain, a payment arrangement for the current year's rates for a period of 12 months.

At the end of the 12-month period, if the ratepayer's financial circumstances have not improved, they may submit a new application for financial hardship, which will be assessed in accordance with Council's policy.

The deferred rates and charges will be recorded as a charge against the property. Unless otherwise determined by Council, no additional penalty interest will accrue on the deferred balance while the ratepayer complies with the approved deferral arrangement. Council retains the discretion to charge interest on deferred amounts in accordance with section 172 of the *Local Government Act 1989*.

Where rates have been approved for deferral, the Council will undertake a review of the ratepayer's circumstances every three (3) years from the date the deferral is approved. The purpose of the review is to determine whether the ratepayer has the capacity to enter into a suitable payment arrangement to reduce the outstanding deferred balance.

As part of the review, the ratepayer may be requested to provide current financial information or other relevant documentation to support an assessment of their capacity to make payments. Where the review determines that the ratepayer has the capacity to contribute towards the deferred balance, Council may require the ratepayer to enter into an appropriate payment plan. If the review determines that the ratepayer does not have the capacity to make payments, the deferral arrangement may continue, subject to future reviews.

The deferred amount will become payable under the following conditions:

- Change in Financial Circumstances:
  - If the ratepayer’s circumstances change and they are no longer experiencing financial hardship preventing repayment of the debt.
- Default:
  - If the ratepayer defaults on any agreement associated with the deferral.
- Property Sale:
  - If the property is sold.

Legislation:
Local Government Act 1989 – Section 171 – Waiver of rates and charges, Section 171A – Waiver by application on the grounds of financial hardship and Section 170 – Deferred payment of rates and charges and the Ministerial Guidelines.

Policy Statement:
Council will only defer rates and charges as a charge against the property up to 10% of the Capital Improved Value of the property. The deferral of rates and charges as a charge against the property in subsequent years must ensure that the total charge does not exceed 10% of the Capital Improved Value of the property.

Where the deferral of rates and charges is more than 10% of the Capital Improved Value, the ratepayer will be required to pay a portion of the rates and charges.

5.10 Trauma-informed and Safe Engagement

Council recognises that some ratepayers may be experiencing family violence, economic abuse, or other forms of financial hardship that impact their ability to engage with debt recovery processes.

In administering this Policy, Council will apply a trauma-informed approach, which seeks to promote safety, dignity, choice, and respect, and to avoid re-traumatisation. This includes:

- Engaging with ratepayers in a respectful, non-judgemental, and supportive manner.
- Providing clear information about options and processes, including debt recovery and hardship assistance.
- Ensuring that ratepayers are not required to disclose personal or sensitive information beyond what is reasonably necessary to assess hardship.

Council will take reasonable steps to protect the privacy and personal safety of ratepayers who disclose experiences of family violence or economic abuse. Personal information will be handled in accordance with the *Privacy and Data Protection Act* 2014 and Council's Privacy Policy, and information will only be shared with informed consent or where required by law.

Where appropriate, Council may provide referrals to external support services, including family violence, financial counselling, or community support services, to assist ratepayers experiencing hardship.

All staff involved in the administration of this Policy must undertake appropriate training to support trauma-informed practice, privacy obligations, and safe engagement with ratepayers experiencing family violence or economic abuse.

When assessing applications for hardship or payment arrangements, Council will ensure that:

- Safety considerations are prioritised.
- Informed consent is obtained before collecting or using personal information.
- Flexible payment plans are considered to support the ratepayer's circumstances.

5.11 Lodgement of a Caveat for Unpaid Rates and Charges

Where rates and charges remain unpaid and debt recovery action has been unsuccessful, the Chief Executive Officer (or delegated officer) may authorise the lodgement of a caveat over the title of the property where permitted by law and considered appropriate to protect Council's interests.

The lodgement of a caveat may be considered where:

- rates and charges are significantly overdue;
- no satisfactory payment arrangement is in place, or an approved payment arrangement has been breached; and
- the Chief Executive Officer (or delegated officer) determines that the lodgement of a caveat is an appropriate and proportionate debt recovery action, having regard to the circumstances of the case.

Any caveat will be lodged in accordance with the *Local Government Act 1989 (Vic)*, any other applicable legislation, and Council's Instrument of Delegation.

A caveat will be withdrawn once the outstanding rates and charges have been paid in full or otherwise resolved, or where the Chief Executive Officer (or delegated officer) determines that the caveat is no longer required.

5.12 Sale of Property for Unpaid Rates and Charges

Under the *Local Government Act 1989*, Council has the authority to sell property for the recovery of outstanding rates and charges. The process to initiate the sale of property for unpaid rates and charges requires the following (s181):

- Outstanding Rates and Charges:
  - There must be rates and charges that have been overdue for a period of three (3) years or more.
- Council Resolution:
  - Council must pass a formal resolution to sell the property to recover the outstanding rates and charges.
- Court Orders:
  - Appropriate court orders must be obtained to authorise the sale, where required.
- No Payment Arrangement:
  - The property must not have any current payment arrangement in place for the outstanding rates and charges.
- Valuation:
  - A written valuation of the property must be obtained from a registered valuer.
- Notice of Sale:
  - A notice must be served on any party with an interest in the property, as registered on the Land Title Register.
- Public Notice:
  - Public notice must be provided of Council's intention to sell the property.
- Notification of Auction:
  - All interested parties and registered owners must be notified of the auction details.

Before recommending sale of property, Council will confirm that all reasonable hardship options have been explored and documented.

Once all the above requirements are met, Council's Debt Collection Agency will issue a pre-Section 181 letter to the property owner, advising that the property will be sold unless the outstanding debt is settled.

Once Council's Revenue Services Team has exhausted all other collection methods, a detailed report will be prepared, outlining the property's details and the steps taken to recover the outstanding debt. It will then be the decision of Council whether to proceed with the sale of the property.

Excess Funds:

- If the registered owner cannot be located, any excess funds from the sale of the property will be retained by Council in accordance with the provisions of the *Local Government Act 1989* and any applicable unclaimed money laws.
- These funds will be held in trust and used to offset any future sales that do not cover the full outstanding debt or will be applied towards the write-off of rate debt deemed unrecoverable, in accordance with Council's financial policies.

Deficiency in Sale Proceeds:

- If the proceeds from the sale do not cover the total outstanding debt, Council will be required to write off the remaining balance of the debt.

<u>Legislation:</u>
Local Government Act 1989 – Section 181 – Sale or disposal of land for unpaid rates and charges

<u>Policy Statement:</u>
Each recommendation for the sale of property will be considered at a confidential session of an Ordinary Council meeting.

Any excess funds from the sale of property will be placed in a trust fund. These funds will be used to offset sales that have not covered the full cost of outstanding debt or to defray the write-off of rate debt deemed unrecoverable, in accordance with legislation and Council's financial policies.

5.13 Administrative Amendments

To ensure this Policy remains current and accurate throughout its review period, the Chief Financial Officer (or delegated officer) may approve administrative amendments where the changes:

- do not materially alter the intent, principles, objectives or operation of this Policy;
- correct typographical, grammatical or formatting errors;

- update legislative references, organisational titles, position titles, contact details, hyperlinks or references to related Council policies and procedures;
- reflect changes to administrative processes that do not alter Council's policy position; or
- improve clarity, readability or consistency.

Administrative amendments made under this section do not require Council adoption.

All administrative amendments will be recorded in the Policy Version Control Register, including the version number, date of amendment, approving officer and a summary of the changes made.

Policy Statement
Council recognises that administrative amendments may be required during the life of this Policy to maintain accuracy and currency. Administrative amendments will be managed under delegated authority and recorded in the Policy Version Control Register to ensure transparency and appropriate governance.

5.14 Delegation of Authority

Below are details of authority on each of the items covered within this policy.

Type / Function	Authority Limit	Delegation
Payment Plan Arrangements	Not Applicable	Revenue Services Team
Application for Financial Hardship	All Applications	CR
Escalation of Accounts to DCA	All outstanding accounts	CR, TLRS, SRO
Waiver of Interest only	Up to $50.00	CR, TLRS, SRO, RO
Waiver of interest and/or costs	Up to $1,000	CR
Waiver of interest and/or costs	Over $1,000 to $5,000	CFO
Waiver of interest and/or costs	Over $5,000	GM C&CS
Deferral of Rates, Charges, and Interest	In accordance with Financial Hardship Provisions	CFO
Waiver of Rates and Charges	Up to $1,000	CFO

Type / Function	Authority Limit	Delegation
Waiver of Rates and Charges	Up to $5,000	GM C&CS
Waiver of Rates and Charges	Over $5,000 or exceeding two years' annual rates and charges	Council resolution (confidential session)
Lodgement of a Caveat	All proposed caveats	CEO
Appeal of Decision	All Appeals	Council resolution (confidential session)
Sale of property for unpaid rates and charges	All proposed property sales	Council resolution (confidential session)

5.15 Reporting

The following statistical information will be included in the quarterly financial reports presented to Council:

- Number of current payment plans:
  - The total number of active payment plans in place for outstanding rates and charges.
- Value of interest calculated year to date within the current financial year:
  - The cumulative amount of interest applied to outstanding rates for the current financial year.
- Number of properties receiving an eligible Pension Rebate:
  - The total number of properties receiving the pensioner rebate for rates.
- Number and value of Financial Hardship applications received for the current year:
  - The total number and financial value of financial hardship applications received during the current financial year.
- Number and value of Financial Hardship applications approved for the current year:
  - The total number and financial value of financial hardship applications that were approved in the current year.
- Number and value of Rate Deferments approved for the current financial year.
- Summary of outstanding rates for properties with more than three years of unpaid rates, by Rate Category:

  - A report detailing properties with more than three years of unpaid rates, categorised by rate type.

- Balance of the property sale trust fund and any transactional movements:
  - The current balance of the property sale trust fund and any transactional movements, including deposits or withdrawals, which have occurred within the financial year.

This information is intended to ensure transparency and allow for effective oversight of Council's rate management and financial hardship procedures.

6. Right of Appeal

If an applicant wishes to appeal a delegated decision made by the Coordinator Revenue, Chief Financial Officer or the General Manager Customer and Corporate Services, they may formally request a review of the decision by Council.

The following process applies to appeals:

- **Eligibility for Appeal:**
  - The appeal must be initiated by the applicant themselves (not a third party), except where a legally authorised representative acts on their behalf.

- **Application for Appeal:**
  - A formal appeal must be made in writing by the applicant (or authorised representative).

- **Review Process:**
  - Appeals will be reviewed by Council in a confidential closed session.

- **Council Decision:**
  - Decisions made by Council following an appeal are final.

Further Appeal:

There are no additional rights to appeal to Council unless:

- New information was not available or was overlooked in the initial decision; or
- There has been a change in circumstances.

In such cases, the applicant may submit a further application for Council to reconsider the decision based on the new or updated information.

This process ensures transparency and fairness while maintaining the finality of Council's decisions, in line with the *Local Government Act 2020* governance principles.

7. Related Legislation

- *Local Government Act 1989 and 2020 (Vic)*
- Local Government (General) Regulations 2015
- Ministerial Guidelines relating to the Payment of Rates and Charges
- ACCC/ASIC Debt Collection Guidelines for Collectors and Creditors
- Moorabool Shire Council - Revenue & Rating Strategy
- *State Concessions Act 2004*
- *Magistrates' Court Act 1989*
- *Privacy and Data Protection Act 2014*
- Records Management Policy

8. Council Plan Reference

Objective 2 **A dynamic and resilient local community**
Priority 4.2 **Align services and resources to sustainably meet the needs of our community**

9. Review

At a minimum, this policy will be reviewed every four (4) years.