

Property Rate Debt Management Policy



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Version:	005
Date Adopted:	6 February 2019
Service Unit	Revenue Services and Procurement
Directorate:	Infrastructure
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1. Purpose

The purpose of this Council Policy is to establish a framework for Moorabool Shire Council to manage and implement a consistent approach to the collection of property rates and charges that is consistent with Council's Strategic Objectives.

2. Definitions

MSC	Moorabool Shire Council
RS&PC	Revenue Services and Procurement Co-ordinator
CFO	Chief Financial Officer
LGA	Local Government Act 1989

3. Scope

This policy will apply to Council, its employees and its contracted service providers, in particular all staff of the Revenue Services Team and Council's contracted Debt Collection Agency.

4. Policy

The purpose of this policy is to ensure that the Revenue Services Team has clearly documented guidelines for the efficient and consistent collection of all outstanding property rate accounts. It will take into account all payment options that can be managed within the Revenue Services Team and aims to:

- Establish principles to apply to the overall collection of property rate accounts;
- Establish options of payment (Full, Instalment, Alternative and Special Arrangements);
- Identify the type of assistance that may be offered by Council; and
- Establish guidelines for the assessment of financial hardship applications.

4.1. Principles and Objectives

4.1.1. Principles and Objectives

- To ensure all debts owed to Council are paid, where possible, by the due date and followed up within specified timeframes;
- To ensure a fair, equitable and accountable approach to Council's debt management and collection decisions and practices;

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- Council has a responsibility to recover monies owing to it in a timely and efficient manner to finance its operations and ensure effective cash flow management;
- Council aims to minimise the amount of outstanding monies that it is owed;
- Rate debtors are expected to take responsibility of their Council debt obligations and to organise their affairs in such a way as to be able to discharge these obligations when required;
- Council and its officers will explain the rate debtor's rights and obligations in relation to any action that Council might take to recover debt;
- Council will not instigate legal action without the debtor first being advised of such action via their registered mail address held by Council. However, Council will proceed with legal action without further notice where:
 - A debtor fails to respond to communications from Council; or
 - Fails to enter into realistic arrangements to meet outstanding debt; or
 - Fails to meet repayments as agreed;
- Establish the framework for the Council and ratepayers to consider applications for financial hardship.

4.2. Issue of Notices and Legislated Payment Options

4.2.1. Issue of Annual Rate and Valuation Notices

Annual Rate and Valuation notices are generally issued towards the end of August or start of September in accordance with adopted budget and approved General Valuations being applied.

4.2.2. Legislated Payment Options for Property Rate Accounts

Payment Due Dates: (in each financial year)	1 st Instalment	30 September
	2 nd Instalment	30 November
	3 rd Instalment	28 February
	4 th Instalment	31 May
	Full Payment	15 February

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

4.2.3. Legislated Payment Option - Instalments

After the issue of the annual Rate and Valuation notice, those ratepayers who have elected to pay their rates via the instalment method will be issued with reminder notices for the remaining three instalments, at least fourteen days prior to the legislated payment date.

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The week prior to the instalment due date, a small reminder notice will be placed in the Moorabool News, reminding ratepayers of the instalment due date and at the same time the reminder will be posted on Council's Social Media avenues.

Within fourteen (14) days after the due date for each of the second, third and fourth instalments, a penalty interest update will occur and a reminder notice will be issued to all instalment ratepayers who have failed to meet the full payment of the instalment amount.

Reminder letters will allow a further ten (10) days to pay the outstanding balance (including incurred penalty interest) in full or contact the Revenue Services Team to negotiate a suitable special payment arrangement.

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 and a suitable payment arrangement has not been entered into with the ratepayer at the date.

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

4.2.4. Legislated Payment Option – Full Payment (Lump Sum)

Approximately three weeks prior to the full payment due date, an advertisement will be placed in the local newspaper (Moorabool News and Ballarat Courier) and a post will be made on Council's Social Media avenues reminding ratepayers of their obligations to pay their annual rates and charges by the legislated due date.

Ten (10) days after the legislated full payment date, reminder letters will be issued to ratepayers who have not paid the full payment amount. The reminder letter will not have any penalty interest calculated and will allow ratepayers a further seven (7) days to pay their accounts penalty free.

Five (5) working days after the reminder letter due date, a penalty interest update will occur and a final notice will be sent to all full payment ratepayers who have failed to meet the full payment amount.

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

Legislation: LGA – Section 167 – Payment of Rates and Charges

Policy Statement

Council will allow the payment of rates via a lump sum payment by the date set by the Minister and declared in the Government Gazette.

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4.3. Alternative and Additional Payment Options

4.3.1. Alternative Instalment Payment Option

To assist ratepayers in managing their finances, Council will offer ten equal instalments over each financial year at nominated dates. If the ratepayer wishes to pay via this option they will need to sign into the direct debit payment channel and Council will automatically process payments on each months nominated date.

Legislation: LGA – Section 167 – Payment of Rates and Charges

Policy Statement

Council will provide 10 monthly instalment payments within each financial year period for the payment of Rates and Charges.

Council will not calculate and levy interest on these accounts where payments are made by the designated monthly dates.

Ratepayers opting for this payment option must pay via the direct debit payment channel.

4.3.2. Additional Payment Options

If ratepayers opt to pay their rates via the direct debit payment channel, they can elect to “pay off” their annual rates by the full payment lump sum date via regular weekly, fortnightly or monthly payments between September and February each year.

The rationale is that weekly payments made between 1 September and 15 February (approximately 23 weekly payments) could be more easily managed, in comparison to being able to meet the complete amount in one payment.

Legislation: NIL

Policy Statement

Council will provide additional payment frequencies within the declared full payment date, to assist ratepayers in managing their debts and utilising the direct debit payment channel.

4.3.3. Special Payment Arrangement Options

Ratepayers experiencing financial difficulties who are unable to pay outstanding rates and charges via the legislated full payment or instalment options, or the other additional payment options outlined in this policy can apply to Council’s Revenue Services Team to pay via a special payment arrangement.

Special Payment Arrangement accounts must maintain regular payments (weekly, fortnightly or monthly) and if entered into early enough can ensure that penalty interest is not incurred. However, Special Payment Arrangements which continue past the legislated payment dates will incur penalty interest. Rate Debtors will be able to apply for waiver of penalty interest in accordance with provisions within this Policy.

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Special Payment Arrangements should clear the outstanding debt within a 12 month period. If the offer of the arrangement does not clear the rate debt within a 12 month period, financial hardship provisions may need to be considered.

When a ratepayer enters into a special payment arrangement, the following documentation is issued to the ratepayer:

- Payment Arrangement Covering Letter;
 - This document is a summary of the Payment Arrangement Agreement documentation
- Payment Arrangement Agreement;
 - This document outlines:
 - The registered property owner(s) name(s);
 - The property address that the arrangement relates to;
 - The payment regularity (weekly, fortnightly or monthly);
 - The minimum amount of the regular payment;
 - Notification that any balance outstanding after the legislated full payment date will incur penalty interest at the prescribed rate;
 - The payment channels available to maintain the agreement;
 - That default of the agreement may result in the account being escalated to Council's Debt Collection Agency; and
 - The requirement for all property owner(s) to sign the agreement.
- Laminated payment Card
 - This card provides the rate debtor with the required details to be able to maintain their arrangement via the Bpay or Billpay payment channels.

Both the Payment Arrangement Covering letter and Agreement is created as outbound document within Council's electronic document management system and relevant notes are made against the electronic property record in Council's mainframe rating system.

Legislation: NIL

Policy Statement

Council will provide assistance to ratepayers who may be experiencing financial difficulties, by offering a range of special payment arrangements. Arrangements must be within declared payment dates or beyond that, may attract penalty interest depending upon circumstances.

4.4. Calculation of Interest

If payment was payable either in instalments or in a lump sum, and neither the first instalment or the lump sum were paid by the legislated payment dates, on and from the date on which each instalment was due, interest will calculate. Interest will be charged and calculated at the prescribed rate.

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4.4.1. Rate of Interest

Interest will be charged and calculated at the rate fixed from time to time by the Attorney-General under Section 2 of the Penalty Interest Act 1983.

Legislation: LGA – Section 172 – Council may charge interest on unpaid rates and charges
Penalty Interest Rates Act 1983 – Section 2

Policy Statement

NIL

4.5. Pension Rebate

The LGA provides that eligible pensions shall receive a rebate of rates and charges levied. Pensioners who hold eligible concession cards may be entitled to receive a rebate, at the amount prescribed by the Department of Health and Human Services.

The rebate applies only to the principal place of residence of the pension card holder, which is determined by the address appearing on the ratepayers' pension card.

The Health Care Card, certain Seniors cards and certain Department of Veteran Affairs (DVA) cards are not eligible cards. Application forms are available from Council's customer service office or website.

Legislation: LGA – Section 171 Sub Section 4 – Waiver
Pension rebate is administered in accordance with Department of Health and Human Service Guidelines at the amount prescribed by the Minister

Policy Statement

NIL

4.6. Late Payment and Escalation of Rates and Charges

Once Council's Revenue Services Team has been through the MSC documented in-house process of escalation (Reminder and Final Notices), Council may then recover any outstanding rates or charges via the Magistrates' Court.

This process entails the lodgement of outstanding accounts with the Debt Collection Agency appointed by Council, who then take the following steps to attempt to recover the outstanding debt:

- Letter of Demand
 - Sent to each property as notified by Council. Letter allows seven days for the ratepayer to make full payment or enter into a suitable payment arrangement with the Collection Agency. Prior to any further escalation by the Collection Agency, if a contact phone number is held for the Rate Debtor, the Collection Agency will attempt contact.

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- Field Call
 - If no response to the Letter of Demand or Phone Call (where possible), the Collection Agencies appointed agent will endeavour to make a Field Call to either the mail or rated property address to verify the Rate Debtor is aware of the debt.
- Complaint
 - If no response to the Letter of Demand or Field Call, the account will be further escalated and issued with a Complaint to the registered property owner(s).
 - A complaint is issued by the appropriate Court and once legal costs have been incurred, the complaint is then issued to the Process Server for service of documents on the registered owner(s).
 - Once the documents are served, the rate debtor(s) have rights under the court processes to resolve or further dispute the debt.
- Judgement
 - If account remains unresolved or there has been no action by the rate debtor(s), a Judgement Order will be issued
 - A letter is sent to the rate debtor(s) advising order has been registered and requesting payment. This debt will now appear on the rate debtor(s) credit rating.
- If the account remains unpaid after this point, Council can then further escalate via civil proceedings available through court processes.

All costs incurred from the Debt Collection Agency are levied back to the property rate account and are a secured charge against the property as are rate transactions. Even where a property changes ownership, costs are secured and recoverable.

Due to the costs associated with escalation of accounts via the Magistrates Court, rate accounts with balances below \$1,500 will not be escalated to the Debt Collection Agency. The debt will remain outstanding and continue to accrue interest until the balance outstanding reaches \$1,500 at which point the debt will be escalated.

For further information pertaining to the above escalation steps, please refer to Council's Revenue Services Team.

Legislation: LGA – Section 180 – Unpaid Rates and Charges
LGA – Section 175 – Person acquiring rateable land

Policy Statement

NIL

4.7. Deferral of Rates, Charges and Interest

Ratepayers may have rates and charges, or part thereof, deferred in accordance with the LGA. Ratepayers will be encouraged to enter into and maintain special payment arrangements as a commitment to reduce obligated debt. Special Payment arrangements must be co-ordinated and implemented by the Revenue Services Team.

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If the maintenance of a special payment arrangement is not viable or suitable for the ratepayer(s) circumstances, a further process is available in accordance with the Financial Hardship provisions of this Policy.

Legislation: LGA – Section 170 – Deferred Payment

Policy Statement

The application for the deferral of rates, charges and interest will be managed in accordance with the Financial Hardship provisions within this Policy.

4.8. Waiver of Rates, Charges, Interest and Costs

4.8.1. Rates and Charges

On occasion there may be instances where low value rates and charges may require waiver as a result of administrative errors. Where there are extenuating circumstances in accordance with the Delegation of Authority section of this Policy part waivers may be approved.

However, where there is no administrative error, any decision to waive rates and charges will be in accordance with the provisions of the Financial Hardship section of this Policy.

4.8.2. Interest and Debt Collection Costs

Ratepayers may have interest or debt collection costs waived where the reason for the late payment, although not related to financial hardship, is considered reasonable, subject to the following:

- Request for Waiver of Interest and/or Costs, must be in writing on the prescribed form (Attachment 3), which is in the form of a Statutory Declaration.

The following items will be considered when reviewing an application for the waiver of penalty interest and/or costs:

Acceptable Circumstances	Non Acceptable Circumstances
<ul style="list-style-type: none"> • If ratepayer has maintained a special payment arrangement and is showing commitment to reduce debt and has not previously had waiver approved • If ratepayer has a proven payment history (not incurred interest and/or costs in the past 3 years) 	<ul style="list-style-type: none"> • Mere oversight of due date for payment will not be accepted • Failure to contact Council prior to the due date to advise of financial difficulties • Previous special payment arrangements not being maintained • Previous history of late payments

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<ul style="list-style-type: none"> • At the completion of an agreed payment arrangement, waiver of penalty interest may be considered • Failure by Council to update a postal address after formal written notification • Incorrect contact details provided in a Notice of Acquisition • Compassionate Grounds (family illness or death) 	<ul style="list-style-type: none"> • Lack of communication from ratepayer to alter contact mail address • Field call resulted in direct conversation with ratepayer(s) or appropriate representative and no subsequent action from ratepayer
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The application for waiver of interest and/or costs will be assessed and approved in accordance with the delegated authority section of this policy and will consider above circumstances and the following criteria:

- A 3 year (if owner has owned property for this period of time) good payment history (E.g.: No escalation in that time);
- No previous waivers of interest and/or costs;
- Special Circumstances (Health, Family, etc);
- Any verified verbal communications with ratepayer(s) and Council or Collection Agency (E.g.: via field call, etc); and
- No other money owing to Council.

Where an application for the waiver of interest and/or costs is approved, if future accounts are not paid in accordance with the required payment dates Council will have the right to re-instate any previously waived interest and/or costs. This right will be communicated to rate debtors at the time of the approval being communicated.

Legislation: LGA – Section 171 - Waiver
LGA – Section 172 – Council may charge interest on unpaid rates and charges

Policy Statement

Council will waiver interest and costs in consideration of the above acceptable circumstances where application has been made on the prescribed form.

4.9. Application for Financial Hardship

4.9.1. Financial Hardship Principles

- Early identification of financial hardship is key and where there is no communication from the ratepayer(s) it can be very difficult to identify financial hardship
- Accessibility of information about Council hardship provisions, including material on Council websites and rate brochures
- Referral of financial hardship applications to qualified financial counsellors. If the ratepayer(s) are experiencing financial difficulties with their rate account, there are generally other accounts which they are having difficulty paying.

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4.9.2. Financial Hardship Application

The MSC recognises that financial hardship can arise with some ratepayers and will consider applications for financial assistance in the following circumstances:

- A confidential statement must be submitted by the ratepayer as evidence that the payment of the outstanding rates and charges would cause hardship to the ratepayer(s)
- The confidential statement must be on Council's prescribed form (Attachment 4) and must be signed as a Statutory Declaration of that person(s) circumstances
- Financial Hardship will only be considered for residential, owner occupied properties
- Financial Hardship will not be consider for:
 - Investment properties;
 - Commercial, Industrial and Extractive Industry properties; and
 - Vacant Land properties.
- If full disclosure is not made by the applicant or it is found that incorrect disclosures were deliberately made, Council reserves the right to collect any interest previously foregone or waived
- The privacy of applicant information is paramount and every application for assistance under this Policy will be treated confidentially and all assessments will be made on a case by case basis.

4.9.3. Financial Hardship Application Referral

When a completed Financial Hardship application is received by Council's RS&PC, it will be:

- Referred to Child and Family Services Financial Counsellor for review;
- The Financial Counsellor will contact the ratepayer and either discuss over the phone or meet face to face to ensure that the counsellor understands the ratepayers financial position sufficiently to advise Council of what the ratepayer could manage in the form of an arrangement
- The financial counsellor recommendation will be incorporated into a Confidential Council Report for discussion and resolution by Council.

4.9.4. Financial Hardship Application – Consideration by Council

Once a recommendation has been received by the Financial Counsellor, a Council report will be compiled which incorporates an overview of the property:

- Property number, address locality, municipal ward;
- The rate category the property is rated under;
- The current Capital Improved Value of the Property;
- Details of any previous financial hardship applications and associated deferrals; and
- The total rate arrears, current year rates and a grand total of both.

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The Council report will also include the payment arrangement recommendation from the financial counsellor, any additional considerations which should be taken into account and an overall recommendation which will include:

- What the recommended payment arrangement will cover if the arrangement was maintained for a period of 12 months;
- Waiver of any interest incurred on the rate account during the arrangement period, if the arrangement has been maintained for the 12 month period;
- Regular payments to continue beyond the 12 month period if the ratepayer wants Council to consider any further applications for financial hardship;
- If the ratepayers financial position does not improve in future years that they re-apply for financial hardship provisions;
- At the end of the 12 month arrangement period, with the consent of the property owner that the remaining outstanding rate debt be deferred as a charge against the property.

4.9.5. Financial Hardship – Ratepayer obligations and deferral of rate debt

It is the ratepayer's responsibility to advise Council of their financial difficulties as soon as they are aware that they will not be able to meet the rate debt.

If Council adopts the recommended resolution, the ratepayer will be advised of the outcome and the requirement to maintain agreed arrangement for a period of 12 months. At the end of the 12 month period, if the arrangement has been maintained the ratepayer will be issued with a form which they will be required to sign consenting to the remaining debt to be raised as a charge against the property.

The deferral of the remaining rate account will no longer show on the ratepayers annual rate notices and will not incur ongoing penalty interest. The ratepayer would only be required to pay the deferred rate charge if:

- The ratepayers circumstances changed, which would no longer result in the ratepayer suffering financial hardship as a result of repaying the debt;
- The ratepayer defaults in any agreement associated with the deferral; or
- The property is sold.

Legislation: LGA – Section 171A – Waiver by application of Financial Hardship

Policy Statement

All applications for financial hardship must be made on the prescribed Financial Hardship Application form (Attachment 4).

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 in excess of 10% of the Capital Improved Value, the ratepayer will be required to pay a portion of the rates and charges.

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Financial hardship will only be considered for a ratepayer's principal place of residence, unless there are extenuating circumstances.

4.10. Sale of Property for Unpaid Rates and Charges

The LGA allows Council to sell property for the purposes of collecting outstanding rates and charges. To enable this process to occur:

- There must be rates and charges outstanding for a period of three (3) or more years
- Council must pass a resolution to sell the property for the recovery of outstanding rates and charges
- Council must obtain appropriate Court orders
- Council must not have an existing current arrangement for the payment of outstanding rates and charges
- Must obtain a written valuation of land by a valuer
- Serve a notice on anyone appearing from the Land Title Register as an interest in the land
- Give public notice of Council's intention to sell
- Notify interest/registered parties of auction details

Once all of the above requirements are achieved, Council's Debt Collection Agency will issue a pre Section 181 letter to the property owner advising that Council will proceed to sell the property if no action is taken.

Once Council's Revenue Services Team exhausts all other collection options, a report will be generated outlining details of the property and the steps taken to recover the outstanding debt. It will be the decision of Council to sell the property.

In accordance with provisions of the LGA, where the registered owner is not locatable any excess funds from sale can be retained by Council after certain conditions are met.

Where Council has sold a property in accordance with these provisions and the sale price has not covered the total outstanding debt against the property, Council will be required to write off the remaining balance.

Legislation: LGA – Section 181 – Sale of property for unpaid Rates and Charges

Policy Statement

Council will consider each recommendation of sale at a confidential session at any Ordinary Council meeting.

Excess funds from property sales will be placed in a trust fund and will be utilised to offset sales that have not covered the full cost of outstanding debt or be used to defray the write off of rate debt deemed as unrecoverable.

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4.11. Delegation of Authority

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

Type/Function	Authority Limit	Delegation
Special Payment Arrangements	Not Applicable	Revenue Services Team
Escalation of Accounts to Debt Collection Agency	All outstanding accounts	RS&PC or Senior Revenue Officer
Waiver of Interest* (1)	Up to \$25	Senior Revenue Officer and Revenue Officer
Waiver of interest and/or costs*	Up to \$1,000	RS&PC
Waiver of interest and/or costs*	>\$1,000 and <\$5,000	CFO
Waiver of interest and/or costs*	> \$5,000	General Manager Infrastructure
Waiver of Rates and Charges as a result of administrative errors	Up to \$1,000	CFO
Waiver of Rates and Charges	>\$1,000 will be in accordance with Financial Hardship provisions	Council via resolution (confidential session)
Deferral of Rates, Charges and Interest	In accordance with Financial Hardship provisions	Council via resolution (confidential session)
Application for Financial Hardship	All applications	Council via resolution (confidential session)
Appeal of Decision	All appeals	Council via resolution (confidential session)
Sale of property for unpaid rates and charges	All proposed sales	Council via resolution (confidential session)

* Waiver of interest and/or costs will be considered in accordance with provisions within this policy

(1) These applications will not require the formal application form to be completed

4.12. Reporting

The following statistical information will be reported on within the quarterly financial reports presented to Council:

- Number of current payment arrangements;
- Value of interest calculated year to date within the current financial year;
- Number of properties receiving an eligible Pension Rebate;
- Type/Function, number and value of applications made under delegated authority;

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- Type/Function, number and value of approved applications made under delegated authority;
- Number and value of Financial Hardship applications received for current year;
- Number and value of Financial Hardship applications approved by Council for current year;
- Summary of outstanding rates for properties that have more than three years rates outstanding by Rate Category.
- The balance of the property sale trust fund and any transactional movements that have occurred within the current financial year

5. Right of Appeal

A delegated decision made by the RS&PC, CFO or the General Manager Infrastructure can be appealed by the applicant by making a formal request to Council for a review of the decision.

Such applications must be made by the applicant themselves (not a third party) and will be reviewed by Council in a closed session of Council. Right of Appeal applications must be on the prescribed application form (Attachment 5).

Decisions by Council are final and there are no further rights to appeal unless there is information which was overlooked in the first instance or circumstances have changed, at which point, a further application can be made by the applicant for Council to review previous decision, taking into account additional or changed information.

6. Related Legislation and Policies

- Local Government Act (Victoria) 1989
- Penalty Interest Rates Act 1983
- Municipal Association of Victoria – Hardship Policy Guidelines – November 2013

7. Council Plan Reference

Objectives:	1	Providing Good Governance and Leadership
Context:	1C	Our Business and Systems

8. Review

Council is committed to continuous improvement and will regularly review this Policy to ensure it continues to meet its objectives.

The Chief Executive Officer/Executive Team shall review compliance with this policy on an ongoing basis.

The Property Rate Debt Management Policy shall be reviewed every four (4) years.