

DEBT COLLECTION AND INTEREST CHARGING – RATES, CHARGES AND FIRE SERVICES PROPERTY LEVY POLICY

Policy Number:	2.2.3
Approved by:	Chief Executive Officer
Date Approved:	December 2022
Date of Next Review:	December 2023
Applicable to Unit(s):	Finance Rates
Responsible Officer:	Manager Corporate Finance
Related Policies:	Nil
Related Documents:	Revenue and Rating Plan 2021-2024 Wellington Coast Strategy Wellington Coast Subdivision Strategy Voluntary Assistance Scheme Wellington Planning Scheme Ninety Mile Beach Policy
Statutory Reference:	<i>Local Government Act 1989</i> <i>Local Government Act 2020</i> <i>Penalty Interest Rates Act 1983</i> <i>Fire Services Property Levy Act 2012</i>

OVERVIEW

The *Local Government Act 1989* and *2020* provides a legislative framework for the raising and collection of annual rates and charges, for the sections detailed herein.

It also sets out the circumstances under which a property may be determined to be non rateable, which are very restrictive. Hence Council has no discretion as to whether to rate a property or not but must rate all properties that do not meet the criteria for non-rateable status.

Annual rates and charges are determined during the budget process each year and must be formally adopted by Council before they can be officially levied (raised) against ratepayer accounts.

THE POLICY

1. Rates Notices

Council will distribute annual and quarterly rates notices at least 14 days prior to each payment due date, allowing ratepayers sufficient time to effect payment (s158 (4)(d) of the *Local Government Act 1989*).

2. Payments

2.1 Due Dates

Rates are due four times annually by the dates as published in the Government Gazette. Council **does not** offer the option to pay annually in February.

2.2 Postal Payments

Payments postmarked prior to the due date but received after the due date will be accepted without interest penalty. Payments posted on the due date with no chance of same day delivery will attract an interest penalty.

2.3 Other Payment methods

Payments made using electronic methods (i.e. BPay, Council's website) will be deemed to have been made by the due date where the date of transaction is on or before the due date.

Payments made at Australia Post outlets or at Council's service centres must be made on or before the due date.

When a property is sold the rates are due and payable at settlement where arrears exist section 175 of the *Local Government Act 1989* states that a person becoming the owner of rateable land must pay any rate or charge which is current and any arrears of rates and charges including any interest. Where there are no overdue rates or charges, a new owner may elect to pay by instalments.

3. Interest Charges

Section 172(1) of the *Local Government Act 1989* states that a Council may require a person to pay interest on any amounts of rates and charges which have not been paid by the due date, and which that person is liable to pay.

3.1 Application Date

Interest charges on unpaid rates will commence on the day immediately following the due date of each instalment.

3.2 Interest Rate

The rate charged will be the rate fixed under section 2 of the *Penalty Interest Rates Act 1983* that applied on the 1st of July immediately before the due date for payment (s172(2) of the *Local Government Act 1989*).

3.3 Weekends/Public Holidays

If the due date of an instalment falls on a public holiday or weekend, interest will begin accruing from the day after the next working day i.e. due date is Sunday, interest will commence from the following Tuesday.

3.4 Payment Arrangements

Further legal action will be deferred if a payment arrangement acceptable to Council is entered into with the ratepayer; however, interest will continue to accrue on unpaid amounts until the debt is cleared, unless otherwise agreed.

4. Financial Hardship

Where ratepayers can demonstrate significant financial hardship, Council may, on application, vary payment arrangements and waive penalty interest charges (s171A of the *Local Government Act 1989*).

5. Unpaid Rates

Council has extensive powers for the recovery of unpaid rates, as set down in the *Local Government Act 1989*.

Section 180 of the *Local Government Act 1989* gives Council the power to take legal action to recover any rate or charge that remains unpaid after it is due and payable including any instalment or any part of a rate and charge.

Section 181 of the *Local Government Act 1989* gives Council the power to sell land for unpaid rates and charges.

5.1 Final Notice

A Final Notice, including advice of the actions which may be taken, will be sent out, and Council will exhaust other options such as negotiating payment arrangements with the ratepayer, prior to instigating formal debt collection procedures.

5.2 Legal Action

Actions which may be taken include, but are not limited to the following:

- Field call
- Default Summons/Complaint
- Judgement in Magistrates Court
- Entry in ratepayer credit rating
- Summons for oral examination
- Earnings order
- Seizure of property by Sheriff

Any legal cost incurred by Council as a result of legal action will be recovered from the ratepayer.

5.3 Referral to Council

If a debt is considered unrecoverable under normal circumstances, then the matter will be referred to Council for one of the following actions:

- hold as debt against property;
- allow to accrue with/without interest; or
- sell property after three years of unpaid rates (as per section 181 of the *Local Government Act 1989*).

6. Inappropriate Subdivisions – Ninety Mile Beach

Council adopted the Wellington Coast Subdivision Strategy in September 2005, which outlined the way forward to resolving the issues of the inappropriate subdivisions, including a rating review. This was conducted, and recommendations implemented included the removal of the Municipal Charge, and a review of the policy on charging penalty interest on unpaid rates, commencing with the 2006/07 rating year.

Council adopted the Wellington Coast Subdivisions Implementation Package in April 2009, followed by the adoption and commencement of the Ninety Mile Beach Plan Voluntary Assistance Scheme in June 2011 for the 'between settlements' rural conservation areas.

Council ceased levying rates and the Waste Infrastructure Charge on undeveloped Ninety Mile Beach subdivided lots from 1 July 2019 in response to consideration of recommendations from the Ombudsman.

The following table provides a framework for the various precincts and Council's policy with regard to debt collection procedures.

The precincts are consistent with the terms used in the Wellington Planning Scheme zones and overlays and the Ninety Mile Beach Policy at Clause 22.08.

Description of land/precinct	Charge rates	Charge interest	Debt collection action
1. Urban Nodes - within the settlement boundaries of Golden Beach, Paradise Beach and The Honeysuckles	Yes	Yes	Yes
2. Rural Conservation (Between settlements) - vacant land in the between settlements area in Restructure Plan Stages R7-R18 between Firefly Road, Golden Beach and Acrux Way, Glomar Beach	Yes	No	No
3. Subject to Inundation (Vacant Land only)	Yes	No	No
4. Rural Conservation (Glomar Beach) - vacant completed restructure lots in Restructure Plan Stages R19-R22 between Acrux Way and Vegas Way - vacant single lots in Restructure Plan Stages R19-R22 between Acrux Way and Vegas Way	Yes Yes	Yes No	Yes No
All other restructure areas i.e. Rural Conservation, Coastal Dunes (former Beach Dune Buy Back)	Yes	No	No
All lots with existing dwellings	Yes	Yes	Yes

7. Seacombe And Hollands Landing

In addition, Council has the following policy on properties in Hollands Landing and Seacombe:

Description of land/precinct	Charge rates	Charge interest	Debt collection action
Seacombe/Hollands Landing – Vacant Land	Yes	No	No
All lots with existing dwellings	Yes	Yes	Yes

8. Fire Services Property Levy (FSPL) Charges and Interest

This policy applies equally to all Fire Services Property Levy charges and associated interest raised according to the provisions of the *Fire Services Property Levy Act 2012*.

HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

REVISION HISTORY

VERSION	MAJOR / MINOR UPDATE	SUMMARY OF CHANGES
1.0	Minor update	Inclusion of <i>Local Government Act 2020</i>