
SALE OF LAND FOR RATE ARREARS

Datworks Filename: FM Sale for Overdue - SO-10



Authorising Officer:

Bill Lyon
Chief Executive Officer

Responsible Officer:

Deborah Corbett-Hall
Acting Chief Financial Officer

Author:

Noela Barton
Service Manager Revenue & Collections
Management

PURPOSE

The purpose of this report is to submit to council a list of properties for resolution to sell the land for overdue rates and charges.

BACKGROUND

Land identified in the attached list meets the requirements of section 140(1) of the *Local Government Regulation 2012* (the Regulation).

The overdue rates and charges on the land are considered non-recoverable via other collection avenues.

ISSUES

Full details of the properties identified as eligible for sale of land for overdue rates or charges are provided in the attached Schedule SO10.

In summary Schedule SO10 includes:

Six residential dwellings:

- All 6 are rated for the purposes of the differential general rate as non owner occupied.
 - Years overdue:
 - Property number [REDACTED] – 5.3 years
 - Property number [REDACTED] – 3.8 years
 - Property number [REDACTED] – 4.5 years
 - Property number [REDACTED] – 3.3 years
 - Property number [REDACTED] – 5 years
 - Property number [REDACTED] – 5.8 years
-

- Three dwellings are on the mainland – 2 at Capalaba and 1 at Thorneside
- Three are on the Southern Moreton Bay Islands – 1 on Macleay Island and 2 on Russell Island.
- Five of the properties have a mortgage registered on the Title and one has a number of writs lodged by the Body Corporate.
- The owners of 2 of the properties on the mainland are unable to be traced.
- Three of the properties, the registered owners died intestate. In 2 of these cases the Public Trustee of Queensland has been unable to resolve the ownership of the properties, while the other also appears to be in dispute.

Any property with a residential dwelling will be sold at auction as vacant possession being the responsibility of the purchasers.

Thirty-two vacant land properties:

- One property on Lamb Island zoned SMBI Residential
- Nine properties on Macleay Island zoned SMBI Residential
- Twenty-two properties on Russell Island
 - One zoned Island Industry
 - One zoned Island Centre
 - Twenty zoned SMBI Residential
- Average years overdue 4.1 years
- Twelve properties have a mortgage registered on the Title
- One property has a registered caveat on the Title

A 'sale of land for overdue rates or charges' action follows a process legislated in the Local Government Regulation 2012:

- s.140(2) – Resolution made to sell the land.
- s.140(3) – Notice of Intention to Sell given to all interested parties.
- s.141(1)(b) & s.141(2) – If overdue rates or charges are not paid in full within 3 months procedures commence to sell the land within 6 months of giving the Notice of Intention to Sell.
- s.141(3) – Procedures to sell must cease if the amount of overdue rates or charges and all expenses incurred in attempting to sell the land are paid.
- s.142(3) & s.142(5)(a) – Fourteen days, but not more than 35 days, before the day of the auction an Auction Notice must be given to everyone who was given a Notice Of Intention To Sell the land.

- s.143(1) — Set the reserve price for the auction as either the market value of the land or the higher of the following:
 - i) The amount of overdue rates or charges on the land;
 - ii) The value of the land.
- s.143(2) — If the reserve price is not reached at the auction, negotiations may be entered into with the highest bidder at the auction to sell the land by agreement.
- s.143(3) — The price for the land under the agreement must be more than the highest bid for the land at the auction.
- s.143(4) — If the highest bidder at the auction does not agree to buy the land, the land is taken to have been sold at the auction to the local government for the reserve price.
- s.146(1) — sale proceeds must be distributed in the following order:
 - i) to pay any amount agreed for the release of a State encumbrance under section 138(4)(b) or (5);
 - ii) to pay the expenses of the sale;
 - iii) to pay land tax owing on the day of sale;
 - iv) to pay the overdue rates or charges for the land;
 - v) to pay any other amounts relating to the land that the owner of the land owed Redland City Council immediately before the sale;
 - vi) to pay any rates or charges, other than overdue rates or charges, for the land;
 - vii) to pay any registered encumbrances, other than State encumbrances, in order of their priority under the Land Title Act;
 - viii) to pay any body corporate fees that the owner of the land owed immediately before the sale;
 - ix) to pay the person who owned the land immediately before the sale.
- s.146(2) — Any proceeds of sale that remain unclaimed after 2 years must be paid to the public trustee as unclaimed money.

The statistics for the last five 'sale of land for overdue rates' actions indicates that on average 56 percent of properties remain unpaid as at the date of auction and are subsequently sold at auction.

Council Resolution Date	No. Of Properties	No. Of Properties Sold at Auction	% of Properties Auctioned
27/2/2008	23	18	78%
1/10/2008	43	11	26%
24/6/2009	20	17	85%
24/2/2010	13	10	77%
25/8/2010	13	2	15%
Average Percentage Auctioned			56%

STRATEGIC IMPLICATIONS

Legislative Requirements

Section 140 (1) and (2) of the *Local Government Regulation 2012* (Regulation) provides that a Council may be resolution decide to sell land for overdue rates and charges that fits the criteria of:

- There are overdue rates or charges on the land
- The liability to pay the overdue rates or charges are not the subject of court proceedings
- Some or all of the overdue rates or charges have been overdue for at least:
 - 3 years; or
 - 1 year if the land is vacant or used for commercial purposes and judgment has been obtained.

Section 140(3) of the Regulation requires a notice of intention to sell the land to be issued to all interested parties as soon as practicable after the resolution is made.

Section 140(4) of the Regulation details the content of the notice of intention to sell document.

Section 141 of the Regulation provides that if the overdue rates or charges are not paid in full within 3 months of giving the notice of intention to sell the land procedures must be started under section 142 of the Regulation to sell the land within 6 months. Procedures must end if the overdue rates and charges plus all expenses incurred in attempting to sell the land are paid.

Sections 142 to 147 of the Regulation set out the procedures that must be followed to sell land for overdue rates or charges, conduct of the auction, procedures after the land is sold, and the application of the proceeds of sale.

Risk Management

Financial Services has consulted with other departments prior to forming the final list of properties presented to Council. Each account has been reviewed by the Team Coordinator Revenue Collections & Receipting with overview from the Service Manager Revenue & Collections Management to ensure each property meets the eligibility criteria for sale of land for overdue rates and that all reasonable attempts to collect the outstanding arrears have been completed.

Financial

As at 30 May 2014, the total balance of rates and charges outstanding for the properties identified in the attached schedule is \$316,967.17.

People

Nil impact expected as the purpose of the report is to submit to council a list of properties for resolution to sell the land for overdue rates and charges.

Environmental

Nil impact expected as the purpose of the report is to submit to council a list of properties for resolution to sell the land for overdue rates and charges.

Social

Nil impact expected as the purpose of the report is to submit to council a list of properties for resolution to sell the land for overdue rates and charges.

Alignment with Council's Policy and Plans

The report is in line with Council's Operational Plan:

- 9 An efficient and effective organisation – Council is well respected and seen as an excellent organisation which manages resources in an efficient and effective way
- 9.5 Ensure robust long term financial planning is in place to protect the financial sustainability of Council.

CONSULTATION

The following council officers were consulted prior to the schedule of properties being finalised:

- Service Manager Compliance
- Group Manager Environment and Regulation
- Service Manager Development Control
- Service Manager Health & Environment
- Service Manager Property Services
- Group Manager City Planning and Assessment
- Service Manager Strategic Plan
- Senior Strategic Planner
- Spatial Business Intelligence Specialist
- Senior Conservation Officer
- Group Manager City Spaces
- Service Manager Parks & Conservation
- General Manager Community and Customer Services
- General Manager Infrastructure and Operations
- General Counsel

OPTIONS

1. Council resolve to:
 1. Issue a Notice of Intention to Sell the land for overdue rates or charges to all interested parties for each property listed in the attached schedule SO10.
 2. The land is offered for sale by public auction within the required period of 6 months if the amount of all overdue rates and charges levied on the land and all expenses incurred for the intended auction have not been paid.
 3. Prior to the auction date obtain a market value on the land that is intended to be offered for sale.
 4. Land with a residential dwelling thereon be offered for sale as vacant possession being the responsibility of the purchasers.
2. Council resolve to note the content of the report.
 1. Officers continue to attempt recovery of the outstanding rates and charges through collection activity such as phone, letter and legal action.

OFFICER'S RECOMMENDATION/ COUNCIL RESOLUTION

Moved by: Cr M Elliott
Seconded by: Cr M Edwards

That Council resolves as follows:

1. To issue a Notice of Intention to Sell the land for overdue rates or charges to all interested parties for each property listed in schedule SO10;
2. The land is offered for sale by public auction within the required period of 6 months if the amount of all overdue rates and charges levied on the land and all expenses incurred for the intended auction have not been paid;
3. Prior to the auction date obtain a market value on the land that is intended to be offered for sale;
4. Land with a residential dwelling thereon be offered for sale as vacant possession being the responsibility of the purchasers; and
5. That this report and attachment remain confidential.

CARRIED 11/0