

20150520 Item 16.3.1 Report Sale of Land for Overdue Rates

Objective Reference: A181464
Reports and Attachments (Archives)

Attachment: [Schedule S011](#)

Authorising Officer:
Linnet Batz
Chief Financial Officer

Responsible Officer: Noela Barton
Service Manager Revenue & Collections
Management Unit

Report Author: Kristene Viller
Account Resolution Officer

PURPOSE

To request Council resolve to sell the properties identified in the attached 'Schedule SO11' for overdue rates and charges.

BACKGROUND

Properties identified in the attached list meet the requirements of section 140(1) of the Local Government Regulation 2012 (the regulation).

Rates and Charges on each property have been outstanding for greater than 3 years and collection activity has been unable to yield payment.

ISSUES

Full details of the properties identified as eligible for sale of land for overdue rates and charges are provided in the attached Schedule SO11.

In summary Schedule SO11 includes:

- Four residential dwellings:
 - 4 properties are rated for the purposes of differential general rate as non-owner occupied.
 - Years overdue:
 - Property number 11026 – 3.7 years
 - Property number 238760 – 6.1 years
 - Property number 14936 – 3.4 years
 - Property number 24047 – 3.0 years
 - Two dwellings are on the mainland – 1 at Capalaba and 1 at Wellington Point
 - Two dwellings are on the Southern Moreton Bay Islands – 1 on Russell Island and 1 on Macleay Island.
 - All 4 properties have mortgages registered on the Title and one has a Statutory Charge lodged by the Commissioner of Land Tax.
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- The owners of two of the properties are unable to be traced.

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

Property No	Comments
11026	No returned mail. Property Purchased 2007. Payments ceased November 2011. Judgment awarded September 2012. Property is not owner occupied. All attempts to locate the customer have been unsuccessful.
238760	Returned mail. Property Purchased 2004. Payments ceased March 2010. Property is not owner occupied. Customer cannot be located.
14936	No returned mail. Property Purchased in 2007. Payments ceased July 2012. Customer resides overseas. Property is not owner occupied.
24047	No returned mail. Property Purchased in 2008. Payments ceased April 2012. Judgment awarded April 2013. Property is not owner occupied. [REDACTED]

➤ Thirty-one vacant land properties

- One property on Stradbroke Island zoned Park Residential
- Eight properties on Macleay Island zoned SMBI Residential
- Twenty-two properties on Russell Island
 - One zoned Island Industry
 - One zoned SMBI Centre
 - Twenty zoned SMBI Residential
- Average years overdue 6.1 years
- Nine properties have a mortgage registered on the title
- Two properties have registered Caveats on the title

Property No	Comments
278550	No returned mail. Property Purchased in 2005. Payments ceased September 2011. Customer claims to have sold the property but title remains in his name.
41898	No returned mail. Property Purchased in 1990. Payments ceased in November 2010. Customer is presently incarcerated.
20239	No returned mail. Property Purchased in 1988. Payments ceased in September 2011.
14774	No returned mail since July 2014. Property Purchased in 2011. Payments ceased in February 2012. Judgment awarded in January 2015. Repeated attempts to have customer provide Form71 have been unsuccessful.
15839	Returned mail. Property Purchased in 2003. Payments ceased in November 2011. Owner unable to be located.

Property No	Comments
16887	No returned mail. Property Purchased in 1971. Payments ceased in May 2011. Legal action commenced however customer was not located so claim never served.
16979	No returned mail. Property Purchased in 1986. Payments ceased in August 2009. Judgment awarded May 2014. Customer's payment agreements broken on multiple occasions.
17047	Some returned mail. Property Purchased in 2007. Payments ceased in December 2014. Elderly customer. Last contact was September 2014.
17645	No returned mail. Payments ceased in January 2012. Customer resides overseas all contact attempts have been unsuccessful.
18939	No returned mail. Property Purchased in 2005. Payments ceased November 2009. Judgment awarded July 2012. Property was included in 2014 Sale list but removed prior to auction. [REDACTED]
19245	Returned mail. Property Purchased in 2006. Payments cease in July 2011. Owner has advised property sold in January 2015 with a 14day settlement, no rates searches undertaken and no change of ownership received.
19866	No returned mail. Property Purchased in 1974. Payments ceased in April 2013. Finalised a legal action in April 2013 however no payments received since. Copies of rate notices sent. Confirmed with customer that they are receiving rate notices.
19879	No returned mail. Property Purchased in 2007. Payments of \$40 every two months. Judgment awarded July 2012. [REDACTED]
21174	No returned mail. Property Purchased in 1986. Payments ceased in June 2011. Company deregistered.
21408	Returned mail. Property Purchased in 1991. Payments ceased in July 2007. Customer unable to be located.
21935	No returned mail. Property Purchased in 1981. Payments ceased in May 2013. Judgment awarded August 2014. All contact numbers disconnected and customer unable to be located.
22321	No returned mail. Property Purchased in 1989. Payments ceased in July 2011. Judgment awarded May 2013. Customer resides overseas.
22440	Returned mail. Property Purchased in 2007. Payments ceased in March 2011. Judgment awarded in May 2011. Contract of sale from 2014 sale terminated.
22500	No returned mail. Property Purchased in 2008. Payments ceased in July 2012. Judgment awarded in May 2013. Trustee and Guardian Office in NSW has made representation on their behalf.
23369	No returned mail. Property Purchased in 2005. Payment ceased in November 2009. Judgment awarded in July 2012. [REDACTED]

Property No	Comments
24706	No returned mail. Property Purchased in 2008. Payments ceased in December 2010. Judgment awarded in June 2011. Company deregistered.
24971	No returned mail. Property Purchased in 1972. Payments ceased in September 2011. Customer unable to be located.
25338	No returned mail. Property Purchased in 2009. Payments ceased in July 2010. Customer unable to be located.
26526	No returned mail. Property Purchased in 1987. Payments ceased in November 2011. Customer resides overseas.
33576	No returned mail. Property Purchased in 2010. Payments of \$40 every two months. Judgment awarded July 2012. [REDACTED]
34622	No returned mail. Property Purchased in 2010. Payments ceased in August 2009. Judgment awarded July 2012. Customer's payment agreements broken on multiple occasions.
49039	No returned mail. Property Purchased in 2008. Payments ceased in July 2012. Judgment awarded in May 2013. Trustee and Guardian Office in NSW has made representation on their behalf
203402	No returned mail. Property Purchased in 2007. Payments of \$40 every two months. Judgment awarded July 2012. [REDACTED]
296470	No returned mail. Property Purchased in 2007. Payments ceased in December 2010. Judgment awarded June 2011. Company deregistered.
24138	No returned mail. Property Purchased in 2008. Payments ceased in February 2012. Judgment awarded in April 2013. [REDACTED]
17749	No returned mail. Property Purchased in 1991. Payments ceased in October 2011. Customer is waiting for Council to sell the property.

The statistics for the last six 'sales of land for overdue rates' actions indicates that on average 51.5% 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%
25/6/2014	38	17	45%
Average Percentage Auctioned			54%

Financial Services has undertaken investigation of the process adopted by other Local Authorities in respect to bidder registration in order to mitigate this risk. We believe the approach of the Gold Coast City Council (GCCC) has proven a successful mitigation tactic. Their approach requires bidders to pay a refundable deposit in order to register to bid. The registration deposit correlates to the deposit required should they be successful in purchasing a property. The deposit amount to

register to bid at a GCCC sale of land auction is \$5,000, our requirements would be a \$1000.00 deposit. .

The approach to previous sales of land for overdue rates has been to allow interested bidders to register on the day by providing photo identification. No pre-qualifying checks are completed. In 2014 we had a number of issues caused by non-interested parties registering as bidders to gain access to the auction room.

Individuals approached true bidders advising them not to bid too high as properties that don't reach reserve can still be purchased for a lower price direct from Council after the auction. In 2014 over 75% of properties did not reach reserve price and were subsequently sold to the highest recorded bidder for prices below reserve.

STRATEGIC IMPLICATIONS

Legislative Requirements

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

- There are overdue rates or charges on the land; and
- The liability to pay the overdue rates or charges are not the subject of court proceedings; and
- 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 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 and 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 Acting Team Coordinator Revenue Collections and Receipting with overview from the Service Manager Revenue and 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 1 April 2015, the total balance of rates and charges outstanding for the properties identified in the attached schedule is \$343,725.83.

All costs associated with the Auction are included in the Finance Budget and are recoverable from the owners of the auctioned properties.

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

Relationship to Corporate 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:

- Chief Financial Officer
- General Manager Infrastructure and Operations
- Senior Strategic Planner
- Spatial Information Officer
- Senior Conservation Officer
- Conservation Fire Management Officer
- Principal Property Consultant
- Senior Property Officer
- Group Manager Environment and Regulation
- General Manager Community and Customer Services
- Team Leader Local Laws
- Service Manager Revenue and Collections Management Unit

OPTIONS

Option 1

Council resolves to:

1. Issue a notice of intention to sell the land for overdue rates and charges to all interested parties for each property listed in the attached schedule SO11.
2. The land is offered for sale by public auction within the required period of 6 months if the amount of 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 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.
5. Bidders be required to pay a refundable deposit of \$1000.00 in order to bid at the auction; and
6. That this report remains confidential.

Option 2

1. That Council resolves to note the content of the report; and
2. Officers continue to attempt recovery of the outstanding rates and charges through collection activity such as phone, letter and legal action.

OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. That Council 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 SO11;
2. That 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. That prior to the auction date obtain a market value on the land that is intended to be offered for sale;
4. That land with a residential dwelling thereon be offered for sale as vacant possession being the responsibility of the purchasers; and
5. That bidders be required to pay a refundable deposit of \$1000.00 in order to bid at the auction; and
6. That this report remains confidential.

**Sale of Land for Overdue Rates or Charges
Schedule SO10**

Locality	Property No	Legal Desc	Zoning	Property Address	Site Value	Rates Balance as at 22 April 2015	Date Last Payment Received	Period Overdue as at 22-4-15	Owners	Default Postal Address	Registered Interests	Claim Filed	Judgment Awarded	Unable to Contact	Unable to Trace	Relevant Comments
Mainland																
Property Use: Residential																
	11026		MDR		180,000	\$12,789.97	4/11/11	3 Years 7 Months				x	x	x	x	
	238760		UR		320,000	\$24,182.37	24/03/10	6 years 1 Month						x	x	
Southern Moreton Bay Islands																
Property Use: Residential																
	14936		SR		44,000	\$7,908.68	27/07/12	3 Years 4 Months								
	24047		SR		16,500	\$6,688.03	2/04/12	3years 0 Months				x	x			
Southern Moreton Bay Islands																
Property Use: Vacant Land																
	278550		IS1		22,000	\$5,873.33	6/09/11	3 Years 4 Months								
	41898		PR		460,000	\$13,746.17	30/11/10	4 Years 1 Months								
	20239		SC		27,500	\$7,157.74	21/09/11	3 Years 7 Months								
	14774		SR		27,000	\$6,134.43	17/02/12	3 Years 4 Months				x	x			
	15839		SR		27,000	\$5,953.59	14/11/11	3 Years 4 Months								
	16887		SR		27,000	\$7,044.93	16/05/11	3 Years 7 Months							x	
	16979		SR		25,500	\$10,878.56	11/08/09	6 Years 4 Months				x	x			
	17047		SR		27,000	\$5,951.78	4/12/14	3 Years 4 Months								
	17645		SR		27,000	\$5,959.95	23/01/12	3 Years 4 Months						x	x	
	18939		SR		20,500	\$9,374.01	10/11/09	5 Years 1 Month				x	x			
	19245		SR		20,500	\$6,246.50	11/07/11	3 Years 7 Months								
	19866		SR		18,500	\$5,965.23	12/04/13	3 Years 7 Months								
	19879		SR		17,000	\$8,758.49	18/02/15	4 Years 10 Month				x	x			
	21174		SR		23,500	\$6,793.81	24/06/11	3 Years 4 Months								
	21408		SR		18,500	\$24,525.05	3/07/07	12 Years 1 Month								
	21935		SR		21,000	\$7,030.45	14/05/13	6 years 1 Month				x	x	x	x	
	22321		SR		67,000	\$9,024.04	21/07/11	3 Years 4 Months				x	x			
	22440		SR		20,500	\$8,379.67	17/03/11	4 Years 7 Months				x	x	x	x	
	22500		SR		19,500	\$5,554.91	23/07/12	3 Years 10 Month				x	x			
	23369		SR		21,000	\$9,779.44	10/11/09	5 Years 1 Month				x	x			
	24706		SR		18,000	\$8,171.87	20/12/10	5 Years 4 Months				x	x			
	24971		SR		24,500	\$6,168.99	6/09/11	3 Years 4 Months						x	x	
	25338		SR		18,000	\$8,031.00	27/07/10	4 Years 10 Month						x	x	
	26526		SR		21,000	\$5,391.95	18/11/11	3 Years 4 Months						x	x	
	33576		SR		36,500	\$12,782.67	18/02/15	4 Years 7 Months				x	x			

**Sale of Land for Overdue Rates or Charges
Schedule SO10**

Locality	Property No	Legal Desc	Zoning	Property Address	Site Value	Rates Balance as at 22 April 2015	Date Last Payment Received	Period Overdue as at 22-4-15	Owners	Default Postal Address	Registered Interests	Claim Filed	Judgment Awarded	Unable to Contact	Unable to Trace	Relevant Comments
	34622		SR		33,000	\$12,316.20	11/08/09	5 Years 4 Months				x	x			
	49039		SR		18,000	\$5,209.64	23/07/12	3 Years 4 Months				x	x			
	203402		SR		21,000	\$7,445.40	18/02/15	4 Years 4 Months				x	x			
	296470		SR		49,500	\$16,162.73	20/12/10	5 Years 4 Months				x	x	x	x	
	24138		SR		15,000	\$4,662.64	29/02/12	3 Years 0 Months				x	x			
	17749		SR1		41,500	\$7,218.25	26/10/11	3 Years 4 Months								
Total Rates & Charges outstanding 30 May 2014						\$ 315,262.47										