

19.1 REBATE OF RATES AND CHARGES THAT HAVE NOT BEEN PAID AFTER SALE OF LAND AUCTION

Objective Reference:

Authorising Officer: Deborah Corbett-Hall, Chief Financial Officer

Responsible Officer: Deborah Corbett-Hall, Chief Financial Officer

Report Author: Thomas Turner, Team Leader Accounts Receivable and Payments

Attachments: Nil

The Council is satisfied that, pursuant to Section 275(1) of the *Local Government Regulation 2012*, the information to be received, discussed or considered in relation to this agenda item is:

(d) *rating concessions.*

PURPOSE

The purpose of this report is to request that Council resolves to waive rates and charges that have not been repaid after land was sold at auction for overdue rates and charges.

BACKGROUND

Local government legislation provides an avenue for Councils to grant a concession to land owners to enable a transfer of unencumbered land to persons who purchase the land at auction for unpaid rates and charges. Unencumbered land is land that is not mortgaged or otherwise encumbered.

ISSUES

Council resolved to sell thirty-eight (38) properties on 6 February 2019 under section 140(2) of the *Local Government Act 2009* for unpaid rates and charges. Twenty-one (21) property owners or interested parties paid all outstanding rates and charges after receiving a notice of intention to sell. Seventeen (17) properties were presented at auction on 13 June 2019, fourteen (14) properties were sold and three (3) properties were passed in.

Table 1 provides details of the rates and charges recovered prior to the day of auction.

Table 1

Resolved Prior to Auction	Rates Recovered	Resolved At Auction	Rates Recovered	Total Rates Recovered
21	\$271,241	14	\$138,054	\$409,295

Two (2) properties were sold at auction for less than the outstanding rates and charges. Table 2 provides details of the sale shortfall.

Table 2

Owner at Date of Auction	Property	Outstanding Rates & charges	Price Sold at Auction	Shortfall
		\$9,487.24	\$2,100.00	\$7,387.24
		\$10,602.06	\$9,000.00	\$1,602.06
	Total Shortfall			\$8,989.30

Section 3.3 of Council's contract of sale stated that, "*the land is sold free of all local government rates and charges accrued prior to the completion date*". This means that Council has in effect

agreed to waive any outstanding rates and charges that remain above the purchase price of the property. Under section 143 (4) of the *Local Government Regulation 2012* Council would have been obligated to purchase these properties for a combined reserve price of \$24,000 if the land had not been sold to the highest bidder.

STRATEGIC IMPLICATIONS

Legislative Requirements

Chapter 4, Part 12, section 143 of the *Local Government Regulation 2012* (Regulation) provides direction as to the conduct of the auction.

- Section 143 of the Regulation states that,
 - (1) *“The local government must set a reserve price for the auction that is at least—*
 - a) *the market value of the land; or*
 - b) *the higher of the following—*
 - i. *the amount of overdue rates or charges on the land;*
 - ii. *the value of the land.*
 - (2) *If the reserve price is not reached at the auction, the local government may enter into negotiations with the highest bidder at the auction to sell the land by agreement.*
 - (3) *However, the price for the land under the agreement must be more than the highest bid for the land at the auction.*
 - (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.*
 - (5) *However, subsection (4) does not apply if the land is held on a tenure the local government is not competent to hold.”*

Chapter 4, Part 10, sections 119 to 126 of the Regulation details the legislative requirements of granting a concession by a rebate of all or part of the rates or charges.

- Section 119 of the Regulation states that, *“A local government may grant a ratepayer a concession for rates or charges for land only under this part.”*
- Section 120(c) of the Regulation sets out the criteria for granting a concession, *“The local government may grant the concession only if it is satisfied the payment of the rates or charges will cause hardship to the land owner.”*
- Section 121(a) sets out the types of concession being, *“a rebate of all or part of the rates or charges.”*
- Section 122 sets out the required content of the resolution for granting a concession.
 - (1) *“The local government may grant the concession only by—*
 - a) *a resolution granting the concession to a stated ratepayer; or*
 - b) *if the concession is of a type mentioned in section 121(a) or (b)—a resolution granting the concession to a ratepayer who is a member of a stated class of ratepayers.*
 - (2) *The local government may make the resolution before the local government levies the rates or charges.*

- (3) *The local government may make a resolution under subsection (1)(a) only if the ratepayer has applied for the concession in a way accepted by the local government.*
- (4) *If the local government grants a concession by making a resolution under (1)(b), the concession may be granted only to the ratepayers whom the local government is satisfied are eligible for the concession.*
- (5) *The resolution may include conditions for granting the concession to the ratepayer.*
- (6) *Without limiting subsection (5), the conditions may include the following—*
- a) a condition requiring the ratepayer to show the local government particular information or documents or follow a procedure to be eligible for the concession.*
- b) a condition limiting the period for which the ratepayer is granted the concession.”*

Risk Management

Council may grant a rebate to the stated rate payer or class of rate payers via Council resolution as described in section 122 of the Regulation.

Financial

The total concession on rates and charges for the properties identified in Table 1 is \$8,989.30.

People

No impact expected as the purpose of the report is to submit to Council a list of properties for resolution to provide a concession through a rebate to a stated rate payer.

Environmental

No impact expected as the purpose of the report is to submit to Council a list of properties for resolution to provide a concession through a rebate to a stated rate payer.

Social

No impact expected as the purpose of the report is to submit to Council a list of properties for resolution to provide a concession through a rebate to a stated rate payer.

Alignment with Council's Policy and Plans

This report has a relationship with the following items of Council's 2018-2023 Corporate Plan:

8. Inclusive and ethical governance

- 8.2 Council produces and delivers against sustainable financial forecasts as a result of best practice Capital and Asset Management Plans that guide project planning and service delivery across the city.
- 8.3 Implementation of the Corporate Plan is well coordinated across Council and through a delivery mechanism that provides clear line of sight, accountability and performance measurement for all employees.

Consultation

Consulted	Consultation Date	Comments/Actions
Service Manager – Financial Operations	25 June 2019	Review of report

OPTIONS

Option One

That Council resolves as follows:

1. To grant a rebate to the stated ratepayers detailed in Table 1 of this report pursuant to Section 121(a) of the *Local Government Regulation 2012*.
2. That this report remains confidential in accordance with sections 171(3) and 200(5) of the *Local Government Act 2009* and remains confidential unless Council decides otherwise by resolution, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

Option Two

That Council resolves as follows:

1. To not to grant a rebate to the stated ratepayers detailed in Table 1, continue recovery action and defend any legal challenge from the new property owner.
2. That this report remains confidential in accordance with sections 171(3) and 200(5) of the *Local Government Act 2009* and remains confidential unless Council decides otherwise by resolution, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. **To grant a rebate to the stated ratepayers detailed in Table 1 of this report pursuant to Section 121(a) of the *Local Government Regulation 2012*.**
2. **That this report remains confidential in accordance with sections 171(3) and 200(5) of the *Local Government Act 2009* and remains confidential unless Council decides otherwise by resolution, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.**