

19.1 SALE OF LAND FOR OVERDUE RATE AND CHARGES

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: 1. SO15 Schedule - Confidential

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:

- (h) *other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.*

PURPOSE

To request Council resolves to sell the properties identified in the attachment for overdue rates and charges.

BACKGROUND

Section 140(1)(c) of the *Local Government Regulation 2012* (Regulation) provides that land may be sold for unpaid rates and charges if some of the rates or charges have been overdue for at least 3 years, or 1 year if the land is vacant or used only for commercial purposes and judgment has been obtained.

The 56 properties listed in the attached schedule meet the requirements of section 140(1)(c). They are put forward to Council to resolve to sell, as collection and recovery action has failed to bring the accounts into order.

ISSUES

All properties presented in the attached schedule are considered non-recoverable by any other means. In each case:

- All cost effective avenues have been explored to recover the overdue rates and charges.
- Where communication is established with the property owner it has resulted in no payments, or of no consequential value to reduce the arrears and the arrears position continues to worsen.
- Some of the rates and charges have been overdue for at least 3 years, or 1 year for vacant land and judgment has been obtained.

The following tables provide Council with an overview of the properties that are listed in the schedule.

Table 1 categorises the properties by use and identifies the number of properties where a mortgagee is listed on the Certificate of Title (Title).

Table 1

Property Use	No of Properties	No of Properties with a Mortgage Listed
Commercial	2	2
Residential – owner occupied	11	11
Residential – non owner occupied	6	5
Vacant land	37	21
Total	56	39

Under the Regulation, properties sold at auction are clear of any encumbrance. Collection and recovery activity has shown that a mortgagee will not pay the outstanding rates and charges until they receive a Notice of Intention to Sell (NIS). Once they have the NIS it is in their interests to assist the customer to clear the rate arrears in order to protect their security (the property) for the loan, otherwise they are left with an unsecured debt when Council sells the property. Of the 17 residential properties, 16 have a mortgagee noted on the Title. Twenty one of the vacant land properties have a mortgagee noted on the Title.

Table 2 identifies the known factors in attempting to recover the outstanding rates and charges from the properties listed in the schedule.

Table 2

	Commercial	Residential Owner Occupied	Residential Non Owner Occupied	Vacant Land
Unable to make contact/locate owner				10
Owner will not pay	2	9	5	27
Deregistered Company			1	
Owner accessing superannuation		2		

Ratepayers faced with significant rate arrears will sometimes seek to pay the overdue rates and charges by accessing money tied up in superannuation funds. However, superannuation funds have tightened their practices and will only release funds in payment of rate arrears when the customer is able to provide as evidence a NIS.

Table 3 identifies the default service address by property use of the registered owner/s.

Table 3

Service Address	Commercial	Residential Owner Occupied	Residential Non Owner Occupied	Vacant Land
Interstate				9
Queensland			4	26
Redland City	2	11	2	2

There is limited recovery action that can be taken against a ratepayer who resides interstate or overseas. In the majority of instances, it is a waste of public funds to take legal action against a ratepayer who resides outside of Queensland, because the cost and effectiveness of the legal action generally outweighs the benefit. Of the 56 properties, 9 properties have a default service address outside of Queensland.

STRATEGIC IMPLICATIONS

Legislative Requirements

Chapter 4, Part 12, Division 3, Subdivision 2, sections 140 to 146 of the *Local Government Regulation 2012* detail the legislative requirements of selling land for overdue rates or charges.

- Section 140 of the Regulation sets out the criteria for consideration to sell land for overdue rates and charges, and the process for doing so, namely:
 - There are overdue rates or charges on the land where some or all of the rates or charges are at least 3 years overdue, or if the land is not the subject of current court proceedings and is vacant or used only for commercial purposes and judgment has been obtained, at least 1 year overdue.
 - The decision to sell land for overdue rates or charges must be resolved and as soon as practical all interested parties to the land must be given a notice of intention to sell the land.
 - Section 140(4) lists the information that must be contained in the notice.
- Section 141 of the Regulation specifies that interested parties, which have been given a notice of intention to sell, have (generally) 3 months to pay in full the overdue rates or charges. If the overdue rates or charges are not paid within this period, sale procedures under section 142 must commence within 6 months of giving the Notice of Intention to Sell. However, procedures to sell must end if the overdue rates and charges plus all expenses incurred in attempting to sell the land are paid.
- Section 142 sets out the procedures for selling land.
 - The local government must first offer the land for sale by auction.
 - The local government must prepare an auction notice stating the time and place of the auction and a full description of the land.
 - At least 14 days, but not more than 35 days, before the day of the auction, the local government must—
 - a) give a copy of the auction notice to everyone who was given a notice of intention to sell the land; and
 - b) advertise the auction notice in a newspaper that is circulating generally in the local government area; and
 - c) display the auction notice in a conspicuous place in the local government's public office, until the day of the auction; and
 - d) display the auction notice in a conspicuous place on the land unless it is not reasonably practicable to do so because the land is in a remote location or difficult to access.
- Section 143 sets out how the auction is to be conducted:
 - 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.

- 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.
- However, the price for the land under the agreement must be more than the highest bid for the land at the auction.
- 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.
- However, this part of the Regulation does not apply if the land is held on a tenure the local government is not competent to hold.
- Section 144 sets out the procedures after sale of land if land is taken to have been sold at auction to the local government.
- Section 145 sets out the procedures after the sale of land where the land has been sold to other than the local government.
- Section 146 sets out the application of the proceeds from the sale.
 - The proceeds of the sale must be disbursed in the following order—
 - a) to pay any amount agreed for the release of a State encumbrance under section 138(4)(b) or (5);
 - b) to pay the expenses of the sale;
 - c) to pay land tax owing on the day of sale;
 - d) to pay the overdue rates or charges for the land;
 - e) to pay any other amounts relating to the land that the owner of the land owed the local government immediately before the sale;
 - f) to pay any rates or charges, other than overdue rates or charges, for the land;
 - g) to pay any registered encumbrances, other than State encumbrances, in order of their priority under the *Land Title Act 1994*;
 - h) to pay any body corporate fees that the owner of the land owed immediately before the sale;
 - i) to pay the person who owned the land immediately before the sale.

If any of the proceeds of sale remain unclaimed after 2 years, the local government must pay the proceeds to the public trustee as unclaimed money.

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 Leader Accounts Receivable and Payments with overview from the Service Manager – Financial Operations 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 25 October 2019, the total balance of rates and charges outstanding for the properties identified in the attached schedule is \$510,427 with a further \$38,622 falling due on 8 November 2019.

Costs associated with the sale of land for overdue rates and charges have been budgeted for in the 2019-2020 financial year. Some costs are recoverable from properties that are sold at auction, such as advertising, auction expenses and title searches.

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

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
Chief Financial Officer	16 Oct 2019	Email advising properties listed for consideration for Sale of Land and to contact Accounts Receivable with any concerns.
General Counsel	16 Oct 2019	Email advising properties listed for consideration for Sale of Land and to contact Accounts Receivable with any concerns.
Service Manager Financial Operations	16 Oct 2019	Email advising properties listed for consideration for Sale of Land and to contact Accounts Receivable with any concerns.
Group Manager Environment & Regulatory, Community and Customer Services	16 Oct 2019	Email advising properties listed for consideration for Sale of Land and to contact Accounts Receivable with any concerns.
Service Manager Compliance, Community and Customer Services	16 Oct 2019	Email advising properties listed for consideration for Sale of Land and to contact Accounts Receivable with any concerns.
Senior Property Officer, Community and Customer Services	16 Oct 2019	Email advising properties listed for consideration for Sale of Land and to contact Accounts Receivable with any concerns.
Service Manager Development Control, Community and Customer Services	16 Oct 2019	Email advising properties listed for consideration for Sale of Land and to contact Accounts Receivable with any concerns.

Consulted	Consultation Date	Comments/Actions
Principal Strategic Planner, Community and Customer Services	16 Oct 2019	Email advising properties listed for consideration for Sale of Land and to contact Accounts Receivable with any concerns.
Team Leader Local Laws, Community and Customer Services	16 Oct 2019	Email advising properties listed for consideration for Sale of Land and to contact Accounts Receivable with any concerns.
Senior Conservation Officer, Infrastructure and Operations	16 Oct 2019	Email advising properties listed for consideration for Sale of Land and to contact Accounts Receivable with any concerns.
Environmental Health Officer, Community and Customer Services	16 Oct 2019	Confirmation that properties do not appear on the contaminated land register.

OPTIONS

Option One

That, pursuant to Section 140(2) of the *Local Government Regulation 2012*, Council resolves as follows:

1. To sell the lands described in the attachment for overdue rates and charges.
2. To treat confidential the report and attached documents in accordance with sections 171(3) and 200(5) of the *Local Government Act 2009* and that the documents remain confidential unless Council decides otherwise by resolution.

Option Two

That Council resolves as follows:

1. Council resolves to note the content of the report and officers continue to attempt recovery of the outstanding rates and charges through collection activity such as telephone, letter and legal action.
2. To treat confidential the report and attached documents in accordance with sections 171(3) and 200(5) of the *Local Government Act 2009* and that the documents remain confidential unless Council decides otherwise by resolution.

OFFICER'S RECOMMENDATION

That, pursuant to Section 140(2) of the *Local Government Regulation 2012*, Council resolves as follows:

- 1. To sell the lands described in the attachment for overdue rates and charges.**
- 2. To treat confidential the report and attached documents in accordance with sections 171(3) and 200(5) of the *Local Government Act 2009* and that the documents remain confidential unless Council decides otherwise by resolution.**

SO15 Schedule

Property No	Suburb	Street Address	Legal Description	Date Property Purchased	Mortgage	Zoning	Rates Balance as at 25/10/2019
	Coochiemudlo Island				YES	LDR - Low Density Residential	12,049.71
	Coochiemudlo Island				YES	LDR - Low Density Residential	8,101.00
	Birkdale				YES	LDR - Low Density Residential	16,085.15
	Lamb Island				YES	CR - Character Residential	6,075.58
	Lamb Island				YES	CR - Character Residential	5,576.23
	Macleay Island				YES	CR - Character Residential	8,918.81
	Macleay Island				YES	CR - Character Residential	8,114.36
	Macleay Island				NO	CR - Character Residential	6,169.75
	Macleay Island				NO	CR - Character Residential	9,875.32
	Russell Island				NO	CR - Character Residential	6,784.76
	Russell Island				NO	CR - Character Residential	11,570.48
	Russell Island				NO	CR - Character Residential	5,921.81
	Russell Island				YES	CR - Character Residential	7,345.86
	Russell Island				NO	CR - Character Residential	6,546.16
	Russell Island				YES	CR - Character Residential	6,793.27
	Russell Island				YES	CR - Character Residential	5,674.79
	Russell Island				YES	CR - Character Residential	6,740.72
	Russell Island				NO	CR - Character Residential	6,818.48
	Russell Island				YES	CR - Character Residential	7,339.91
	Russell Island				YES	CR - Character Residential	5,727.61
	Russell Island				NO	CR - Character Residential	7,339.91
	Russell Island				NO	CR - Character Residential	7,866.35
	Russell Island				YES	CR - Character Residential	6,161.17
	Russell Island				NO	CR - Character Residential	5,751.38
	Russell Island				YES	CR - Character Residential	12,154.36
	Russell Island				YES	CR - Character Residential	7,110.98
	Russell Island				YES	CR - Character Residential	7,339.91
	Russell Island				YES	CR - Character Residential	7,392.10
	Russell Island				YES	CR - Character Residential	6,656.34
	Russell Island				NO	CR - Character Residential	6,191.37
	Russell Island				YES	CR - Character Residential	5,630.72
	Russell Island				NO	CR - Character Residential	5,916.43
	Russell Island				YES	CR - Character Residential	5,740.87
	Russell Island				NO	CR - Character Residential	6,846.72
	Russell Island				YES	CR - Character Residential	6,804.34
	Victoria Point				YES	LDR - Low Density Residential	10,988.14
	Russell Island				YES	CR - Character Residential	6,659.30

Property No	Suburb	Street Address	Legal Description	Date Property Purchased	Mortgage	Zoning	Rates Balance as at 25/10/2019
	Alexandra Hills				YES	LDR - Low Density Residential	12,475.07
	Macleay Island				NO	CR - Character Residential	6,715.52
	Russell Island				NO	CR - Character Residential	6,735.00
	Russell Island				YES	CR - Character Residential	8,264.60
	Russell Island				NO	CR - Character Residential	6,260.56
	Russell Island				YES	CR - Character Residential	7,206.46
	Capalaba				YES	LDR - Low Density Residential	18,764.02
	Mount Cotton				YES	LDR - Low Density Residential	14,505.94
	Lamb Island				YES	CR - Character Residential	5,504.90
	Ormiston				YES	LDR - Low Density Residential	16,440.43
	Wellington Point				YES	LDR - Low Density Residential	11,814.61
	Point Lookout				YES	LC - Local Centre	13,876.01
	Point Lookout				YES	LC - Local Centre	12,442.59
	Point Lookout				YES	LC - Local Centre	14,970.34
	Cleveland				YES	LDR - Low Density Residential	20,540.56
	Karragarra Island				YES	CR - Character Residential	14,151.97
	Lamb Island				NO	CR - Character Residential	7,398.72
	Birkdale				YES	LDR - Low Density Residential	18,574.40
	Mount Cotton				YES	LDR - Low Density Residential	13,004.74
Total Rates Balance as at 25 October 2019							\$ 510,427