

## Sale of Land to Recover Unpaid Rates and Charges

**Policy Number:** POL18/76 • **Adopted:** 24/09/2013 • **Amended:** 15/08/2017 • **Minute Number:** MIN13.961, MIN17.701 • **File:** 16401E • **Produced By:** Finance Corporate & Community Services Group • **Review Date:** 1/12/2020

### 1. PURPOSE

Under Section 713 of the Local Government Act 1993, Council has the power to sell land to recover unpaid rates and charges. Council must strictly comply with the legislative requirements and the purpose of this Policy is to provide the clear objective to be achieved from the sale of land in that regard.

### 2. STATEMENT

#### 2.1. Background

This Policy consolidates a number of relevant matters into a single and accessible document for use by Council and the public. The Policy includes the conditions to be met before this policy is enacted and the procedure that shall be applied to the sale of land to recover unpaid rates and charges.

Related Policies include:

Small Lot Rural Subdivisions - Dealing with Unpaid Rates and Charges

Development and/or Disposal of Council Lands.

#### 2.2. Introduction

The sale of any land to recover unpaid rates and charges that have been outstanding for the legislated periods of time is regarded as a last resort enforcement measure to be undertaken only after other Council debt management processes have failed.

The benefit of selling land for unpaid rates and charges is that Council shall, in most instances, be able to recover all monies owed. Furthermore, the land becomes a revenue producing property again. That is, the new owner is a new ratepayer. The objectives of actions to sell land for unpaid rates and charges are:

- To sell the land for an amount equal to, or more, than the estimated value of the land, and
- To recover the following amounts from the proceeds of the sale;
  - All expenses incurred with the sale,

- The amount due to Council including rates, charges, interest and collection costs,
- Any enforcement expenses, and
- Any other amount due to Council in respect of the land.

For the purpose of the sale of land for unpaid rates and charges, in accordance with Section 713 of the Local Government Act 1993, a Council may sell:

- Any land (including vacant land) on which any rate or charge has remained unpaid for more than five (5) years from the date on which it became payable,
- Any vacant land on which any rate or charge has remained unpaid for more than one (1) year from the date on which it became payable if:
  - Council obtains a valuation of the land from the Valuer-General; and
  - The total amount of unpaid rates or charges on the land exceeds the valuation, and
  - The land is sold within six (6) months of the date of the valuation.

The above are the minimum requirements for sale of land for unpaid rates and charges.

### **3. PROVISIONS**

To provide greater transparency and public scrutiny of Council's decisions to sell land for unpaid rates and charges a checklist (Appendix A) and detailed procedure is to be followed. The checklist will accompany any report to Council recommending the sale of land under the terms of this Policy.

### **4. IMPLEMENTATION**

This Policy will be implemented by the Finance Corporate & Community Services Group. Inputs into the procedures and reporting will be required by the Planning & Development Services and Assets and Works Groups.

### **5. REVIEW**

This Policy will be reviewed within one year of the election of every new Council, or earlier if required.

### **6. APPLICATION OF ESD PRINCIPLES**

None applicable.

**Appendix A – Checklist**

**CHECKLIST - SALE OF LAND FOR UNPAID RATES & CHARGES**

**\* Required under Section 713 LGA**

*Property address (include Lot & DP & area):	Trim File No.:
*Owner Details:	Property ID:
*Date last payment received:	Period of ownership:
*Date rates/charges where last up to date:	Current postal address or last known address for service of notices:
*Current amount outstanding: Dated to:	Current Property Valuation & Base Date:
Property description (ie vacant / dwelling):	

**Approval Process**

<b>Item</b>	<b>Action</b>	<b>Responsibility</b>	<b>Signed Completed</b>	<b>Trim Reference</b>
*1	Outstanding debt identified and evidence summarised and approval given for initial actions to proceed with recovery of unpaid rates & charges through sale of land for Unpaid Rates. (sec 713 (1) & (2) of the LG Act)	Director Finance Corporate & Community		
2	Summarise notices of sale/transfers and ownership details. (LPI)	Chief Financial Officer		
3	Summarise Geographic Information System including: mapping, zones, development and certificates. (GIS)	Chief Financial Officer		
4	Notify applicable CCBs of identified land for instigation of sale procedure and seek comments. Provide details to CCB of information at item 3. (no personal information to be provided)	Chief Financial Officer		
5	Conduct searches including: - Title Search (caveats, mortgage & covenants) - Zoning & DA Entitlements - Community or Operational classification - Summarise other planning instruments eg SEPP's, DCP, policy, contamination, easements, other restrictions, and tenancy issues. - Outstanding orders - Probate Search - Current market valuation assessment (if necessary)	Chief Financial Officer		
6	Confirmat property information assessed and comments tendered regarding intention to proceed to sale.	Director Planning Environment & Development		
7	Confirm property information assessed and comments tendered regarding intention to proceed to sale.	Director Assets & Works		
8	Assess all details & comments tendered and Approve/Reject further actions to proceed with sale.	Director Finance Corporate & Community		
9	Notify applicable CCBs of intention/rejection to proceed with sale. (no personal information to be provided)	Chief Financial Officer		
10	Report to Property Review Committee. Receipt of minutes to proceed.	Chief Financial Officer		
11	Report to Property Steering Committee. Report to General Council Meeting.	Chief Financial Officer		
*12	Clerks Certificate signed off by the General Manager or Public Officer in accordance with Sec. 713 (3) of the LG Act.	General Manager		

*Shoalhaven City Council – Sale of Land to Recover Unpaid Rates and Charges*

<b>Item</b>	<b>Action</b>	<b>Responsibility</b>	<b>Signed Completed</b>	<b>Trim Reference</b>
13	Inform all owners, CCB and interested parties advising of proposed sale, including estimate of timeframe.	Chief Financial Officer		
*14	Advertisements in local media, websites, Government Gazette (not less than 3 months prior to the auction date & auction must not take place more than 6 months after the set date). In accordance with Gen. Reg. – 133 & Sec 715 (1) of LG Act.	Chief Financial Officer		
15	Obtain 149 Certificate and Planning Instruments / Sewer Diagrams as noted at item 5.	Chief Financial Officer		
16	Sale to Proceed / Sale to be Withdrawn If withdrawn please state reason:	Chief Financial Officer		

*All proceedings to halt if, at any time, an objection or investigation warrants further discussion or signature of the Responsible Officer is not obtained.*