

ITEM 5. SALE OF LAND FOR UNPAID RATES AND CHARGES**FILE NO: S045208****SUMMARY**

This report seeks Council's authorisation for the sale of a number of land parcels to recover unpaid rates and charges and to facilitate transfer of the properties to interested parties.

The inherent nature of subdivisions within the Sydney LGA, particularly prior to the introduction of the Local Government Act 1919, has resulted in instances where residual parcels of land have been isolated from the main property. There are also a number of land parcels that were previously utilised as laneways and passageways to facilitate night soil collections, which are no longer required.

The owners of these properties cannot be located which prevents Council from recovering the overdue amounts. This situation continues to deteriorate as the Local Government Act 1993 requires Council to continue to levy annual rates and charges against these properties, effectively reducing the annual rates revenue and increasing the financial liability on the properties in question.

To ensure that the rightful owners are not disadvantaged, Council has undertaken a number of searches to try and identify the registered owners, or their descendants, without success. A broad process of public notification, as recommended by the Department of Local Government, will also be undertaken prior to proceeding to sale by public auction. In the event that these endeavours still fail to identify the rightful owners, all surrounding residents and businesses will be informed of Council's intention to sell the properties to provide them with the opportunity to participate in the auction.

RECOMMENDATION

It is resolved that Council authorise the sale of land listed in Attachment A to the subject report, and detailed individually in Attachments B through to N in the subject report, for unpaid rates and charges in accordance with sections 713-716 of the Local Government Act 1993.

ATTACHMENTS

- Attachment A:** Summary schedule of land to be sold for unpaid rates and charges
- Attachment B:** Rates and property details for 69A York Street Sydney
- Attachment C:** Rates and property details for 27 Central Street Sydney
- Attachment D:** Rates and property details for 372B Pitt Street Sydney
- Attachment E:** Rates and property details for 27 Cook Street Glebe
- Attachment F:** Rates and property details for 741A George Street Haymarket
- Attachment G:** Rates and property details for 29A Oxford Street Surry Hills
- Attachment H:** Rates and property details for 1045 Cooper Street Surry Hills
- Attachment I:** Rates and property details for 5010 unnamed lane adj 79 John Street Pymont
- Attachment J:** Rates and property details for 30 Holt Street Surry Hills
- Attachment K:** Rates and property details for 81A Union Street Newtown
- Attachment L:** Rates and property details for 19A Church Street Camperdown
- Attachment M:** Rates and property details for 7A Sherbrooke Street Darlinghurst
- Attachment N:** Rates and property details for 31a and 33a Oxford Street Surry Hills

BACKGROUND

1. The Local Government Act 1993 requires Council to levy annual rates on all rateable parcels of land within the LGA unless the land is specifically exempt from rating on the basis of its ownership and/or use. Exemptions are limited, but include land owned by the Crown and land owned and used for benevolent purposes.
2. Given the inherent nature of subdivisions within the Sydney LGA, particularly prior to the introduction of the Local Government Act 1919, there are instances where residual parcels of land have been isolated from the main property. There are also a number of land parcels that were previously utilised as laneways and passageways to facilitate night soil collections, which are no longer required.
3. Many of these land parcels remain in private ownership, registered in the names of the original subdivider, however, these owners are often defunct companies or deceased persons whose descendants cannot be located.
4. The Local Government Act requires Council to rate these properties each year and does not allow the allocation of nominal rate values to recognise the restricted use of the land parcels in question. As a result, significant values of outstanding rates and charges have accrued to these accounts over the passage of time, a situation which continues to grow with every annual rate levy.
5. It is proposed that Council remedy this situation by selling the properties to recover the outstanding amounts due and facilitate the transfer of the lands to interested parties. Sections 713-716 of the Act provides the authority for sale by public auction, as the rates and charges have been outstanding for more than 5 years, and all reasonable steps (including title searches) have failed to locate the current legal owners or their descendants.
6. The properties are identified in Attachment A, with full details of the outstanding rates and charges, property maps and photos for each property provided in Attachments B through to N.
7. The Local Government Act, section 715, requires Council to undertake reasonable steps before moving to sell the land. While there are no specific guidelines in relation to what steps should be undertaken, in the first instance Council staff have researched:
 - (a) old system and Torrens Title searches to identify the last registered owners of the land;
 - (b) probate searches through the Supreme Court registry to trace identifiable descendents of the registered owners; and
 - (c) death and obituary notices through the Ryerson indexwithout success in locating the current legal owners, or their descendents.
8. The Department of Local Government's advice has also been sought on this matter and they have recommended that the "Guidelines for the Compulsory Acquisition of Land by Councils", under the heading "What if council cannot locate the land/interest owner?" be adopted.
9. As a result, should authority be granted to proceed, Council staff will also:

- (a) publish notices in a local and nationally circulated newspaper stating Council's intention to sell the land for unpaid rates and charges;
- (b) erect a notice on a board or other structure in a conspicuous place on the land stating Council's intention to sell the land for unpaid rates and charges; and
- (c) conduct a white pages search for surname of the last registered owner/s across Australia

prior to proceeding to sale by public auction.

10. In accordance with section 715 (2), if before fixing the time and place for the sale:

- (a) all outstanding rates and charges are paid to Council, or
- (b) an arrangement satisfactory to Council for payment of all outstanding rates and charges is entered by the rightful owners or their descendants,

Council must not proceed with the sale of the land.

11. On sale of the land, the proceeds will be used to recover the amounts overdue on the accounts, with any residual funds to be held in trust for the current registered owner. Where these amounts remain unclaimed for a period of 6 years, the funds will be transferred to the Office of State Revenue as required by the Unclaimed Moneys Act 1995.

KEY IMPLICATIONS

- 12. Unless sold, these parcels of land will continue to accrue new rates and charges that will never be recovered. This effectively reduces the annual rates revenue received by Council and increases the financial liability upon each property.
- 13. Sale of the land also serves a social purpose as these land parcels often collect rubbish and can be used for illegal or antisocial purposes.
- 14. It is worthwhile to note that sale of the properties by Council preserves any legally created rights of way as the purchaser buys subject to the existence of these rights.

FINANCIAL IMPLICATIONS

- 15. The properties listed in Attachment A have a current total of \$583,303.84 outstanding for rates and charges.
- 16. Additional debts incurred in connection with the sale of these properties, including valuation fees, conveyancing costs and agent's commission will also be recovered by the proceeds of sale. Any residual proceeds resulting from the sale will be set aside in a trust account in accordance with the LGA 1993.
- 17. Section 719 of the Local Government Act provides that should the proceeds of sale be insufficient to recover all rates, charges and debts, then:
 - (a) the amount available is to be divided between the rates, charges and debts in proportion to the amounts owing; and

- (b) the rates, charges and debts will be taken to have been fully satisfied.

RELEVANT LEGISLATION

18. The Local Government Act 1993.
19. Unclaimed Money Act 1995.

CRITICAL DATES / TIME FRAMES

20. Public notice of Council's intention to sell the land for unpaid rates and charges is to provide 30 days for any person(s) making a claim as the rightful owner (or descendent of the registered owner of the land) to notify Council in writing.
21. The auction date for the sale of land for unpaid rates must be within 6 months, and not less than 3 months, from the date of notice of Council's intention to sell for unpaid rates and charges.

OPTIONS

22. Council has the option to not proceed with the sale of any or all of these parcels of land, however, this option is not recommended as rates and charges will continue to accrue to the current balance of the outstanding accounts and remain unsatisfied.
23. Council could elect to bid for the parcels of land at auction itself, however, this option is also not recommended as consultation with the City's Property and Planning Units confirm that Council has no interest in these parcels of land.

PUBLIC CONSULTATION

24. In accordance with Section 715 of the Act, Council is required to:
 - (a) *give notice of the proposed sale by means of an advertisement published in the Gazette and in at least one newspaper, and*
 - (b) *take reasonable steps to ascertain the identity of any person who has an interest in the land, and*
 - (c) *take reasonable steps to notify each such person.*
25. In addition, Council will take on board the Department of Local Government's recommendations, as pointed out in paragraph 8, to ensure that rightful owners have every perceivable opportunity to contact Council prior to sale.
26. All adjoining owners, and any other parties known to be interested in the proposed sale, will be notified directly.

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