

Policy

Sale of Land to Recover Unpaid Rates and Charges 2022



INFORMATION ABOUT THIS DOCUMENT

Document Record Number	D22/1522
Document Owner	Chief Financial Officer
Document Development Officer	Management Accountant
Review Timeframe	Within 12 months of election of new Council
Last Review Date	23 February 2022
Next Review Date	1 March 2025

Document History		
Doc No.	Date Amended	Details/Comments
D22/1522	23 February 2022	Resolution New Policy Adopted by Council [2022/23]

Further Document Information and Relationships	
Related Legislation*	<i>Local Government Act 1993</i> <i>Local Government (General) Regulations 2021</i>
Related Policies	Debt Recovery Policy Hardship Policy Complaint Handling Policy
Related Documents	Debt Management and Hardship Guidelines – November 2018 from Office of Local Government

**Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.*

Contents

1. Purpose	4
2. Commencement.....	4
3. Scope and Application	4
4. Policy Statement.....	4
5. Reporting	5

1. Purpose

In accordance with 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. Commencement

This Policy is effective from the date of resolution by Council and shall remain in force until repealed by resolution of Council.

3. Scope and Application

This Policy applies to all owners of occupied and unoccupied properties within Liverpool Plains Shire Council.

4. Policy Statement

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 recovery processes has been exhausted. 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:

- a) To sell the land for an amount equal to, or more, than the estimated sales value of the land, and
- b) To cover the following amounts from the proceeds of the sale:
 - i. All expenses incurred with the sale,
 - ii. The amount due to Council including rates, charges, interest and collection costs,
 - iii. Any enforcement expenses, and
 - iv. 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:

- a) 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,
- b) 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:
 - i. Council obtains a valuation of the land from the Valuer-General; and
 - ii. The total amount of the unpaid rates or charges on the land exceeds the valuation; and
 - iii. The land is sold within six (6) months of the date of the valuation.

Prior to the sale of land the General Manager or the Public Officer must certify in writing:

- a) What rates and charges (including overdue rates and charges) are payable on the land; and
- b) When each of those rates and charges was made and how it was levied; and
- c) When each of those rates and charges became payable; and
- d) What amounts are payable by way of overdue rates and charges on the land; and
- e) What amounts are payable by way of rates and charges (other than overdue rates and charges) on the land.

In the case of adjoining parcels of land (whether in the same or different ownerships), the Council may elect for the properties to be sold:

- a) separately or as a single parcel and under whatever conditions; and
- b) do such things as it considers appropriate for the purpose of selling the land at its fair value.

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

A report to Council will be presented with a recommendation to commence the sale of land to recover unpaid rates and charges detailing each property prior to public notification being given.

If the sale amount is less than the outstanding rates and charges, Council will consider the debt to be paid in full in accordance with Section 719 of the Act, and write-off the remaining outstanding balance.

In accordance with Section 720 of the Act, purchase money more than the amounts owing must be paid into the Council's trust fund and held by the Council in trust for the person having estates or interests in the land immediately before the sale according to their respective estates and interests. Council may pay the balance of the purchase money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it, and the receipt of the person to whom any payment is so made is an effectual discharge to the Council for it.

5. Reporting

Annually report to Council on the status of properties eligible to be sold due to unpaid rates and charges.