



City of
Mount Gambier

Civic Centre, 10 Watson Terrace
Mount Gambier SA 5290

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I hereby give notice that a Council Meeting will be held on:

Date: Tuesday, 21 November 2023

Time: 6.00 p.m.

**Location: Council Chamber
Civic Centre
10 Watson Terrace
Mount Gambier**

CONFIDENTIAL AGENDA

**Council Meeting
21 November 2023**

**Sarah Philpott
Chief Executive Officer
17 November 2023**

23.2 SALE OF LAND FOR NON-PAYMENT OF RATES – REPORT NO. AR23/74289

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except the Mayor, Councillors and (Council Officers) be excluded from attendance at the meeting for the receipt and consideration in confidence of Agenda Item 23.2 AR23/74289 Sale of Land for Non-Payment of Rates.

The Council is satisfied that, pursuant to section 90(3) (a) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

CONFIDENTIAL

23.2 SALE OF LAND FOR NON-PAYMENT OF RATES – REPORT NO. AR23/74289

Committee:	Council
Meeting Date:	21 November 2023
Report No.:	AR23/74289
CM9 Reference:	AF13/64
Author:	Jo Scheidl, Senior Revenue Officer
Authoriser:	Jane Fetherstonhaugh, General Manager Corporate and Regulatory Services
Summary:	Sale of Land for non-payment of rates - notice of intention to sell land for non-payment of rates.
Strategic Plan Reference:	Goal 1: Our People Goal 3: Our Diverse Economy Goal 5: Our Commitment

The Council is satisfied that, pursuant to Section 90(2) & (3) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this agenda item is:

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

REPORT RECOMMENDATION

1. That Council Report No. AR23/74289 titled 'Sale of Land for Non-Payment of Rates' as presented on 21 November 2023 be noted.
2. That the Chief Executive Officer be empowered to take whatever action is necessary to dispose of the property situated at 13 Powell Street, Mount Gambier described as Lot 177 FP194789 CT5506/450 for non-payment of rates and other charges due to Council, in accordance with the provision of Chapter 10, Part 1, Division 9 of the Local Government Act, 1999.
3. Mayor and Chief Executive Officer be authorised to sign and affix the common seal to any contract and transfer affecting the sale of the allotment being disposed of by Council, as vendor, for non-payment of rates should such a sale be finally necessary.
4. The Chief Executive Officer be empowered to engage legal counsel or agent to act on Council's behalf in this matter.
5. Pursuant to the powers contained in Section 44 of the Local Government Act 1999, Council hereby delegates to the Chief Executive Officer the power to determine the date, time and place for the conduct of the public auction subject to compliance with Section 184 of the Act.



TYPE OF REPORT

Legislative

BACKGROUND

Section 184 (1) of the Local Government Act, 1999 provides a power for Council to sell land if an amount payable by way of rates in respect of land has been arrears for three years or more.

Every effort is made to ensure a ratepayer enters and adheres to an acceptable payment arrangement. Phone contact, reminder letters, payment options/arrangements, legal action, letters sent to all registered owners and interested parties are explored prior to the enactment of Councils' rights are sanctioned under Section 184. The Sale of Land for non-payment of Rates is the 'last resort' when rates have been outstanding for a period exceeding three years, all other means of recovering the outstanding rates have been exhausted and no other effective means of collection of rates from rate payers exists.

PROPOSAL

A property situated at 13 Powell Street Mount Gambier described as Lot 177 FP194789 CT5506/450 has an outstanding balances (rates, fines and interest and legal fees) of \$5,709.16 as at 25th October, 2023.

The rates have now become outstanding for a period exceeding three years and Council should exercise its right pursuant to Chapter 10, part 1, Division 9 of the Local Government Act, 1999 to seek to sell the land for non-payment of Council rates, fines, etc.

In terms of the disbursement of any funds as a result of the sale of the property, Section 184 (11) of the Local Government Act 1999 provides:

"(11) Any money received by the council in respect of the sale of land under this section will be applied as follows:

- (a) Firstly - in paying the costs of the sale and any other costs incurred in proceeding under this section;*
- (b) Secondly - in discharging any liabilities to the council in respect of the land;*
- (c) Thirdly - in discharging any liability to the Crown for rates, charges or taxes, or any prescribed liability to the Crown in respect of the land;*
- (d) Fourthly - in discharging any liabilities secured by registered mortgages, encumbrances or charges;*
- (e) Fifthly - in discharging any other mortgages, encumbrances and charges of which the council has notice;*
- (f) Sixthly - in payment to the owner of the land."*

LEGAL IMPLICATIONS

Section 184 (1) of the Local Government Act.

STRATEGIC PLAN

Financial sustainability in local government, ensuring consideration is given to the financial effects on future generations

COUNCIL POLICY

[R105 Rating Policy](#)

ECONOMIC IMPLICATIONS

Should outstanding debts not be collected in a timely manner economic pressures will have an impact on Council's budget and as a result will place pressure on all ratepayers.

ENVIRONMENTAL IMPLICATIONS

N/A



SOCIAL IMPLICATIONS

Council's major source of revenue is Rates, derived as a tax on land within the Council area. All ratepayers receive benefits from paying rates, but those benefits are consumed in different quantities and types over the life of the ratepayer

CULTURAL IMPLICATIONS

N/A

RESOURCE IMPLICATIONS

N/A

VALUE FOR MONEY

Rates constitutes a system of taxation for Local Government purposes

RISK IMPLICATIONS

Should debts not be collected in a timely manner economic pressures will have an impact on Council's budget and as a result will place pressure on all ratepayers.

EQUALITIES AND DIVERSITY IMPLICATIONS

N/A

ENGAGEMENT AND COMMUNICATION STRATEGY

N/A

IMPLEMENTATION STRATEGY

N/A

CONCLUSION AND RECOMMENDATION

Noting the outstanding rates and charges owed to Council in relation to the property situated at 13 Powell Street, Mount Gambier now exceed the three years or more provided for under Section 184 (1) of the Local Government Act, it is recommended that Council approve proceeding to sale of the property.

ATTACHMENTS

Nil



CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 23.2 AR23/74289 Sale of Land for Non-Payment of Rates and its attachments, resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (a) be kept confidential and not available for public inspection until the latter of:- 12 months, or the matter being settled.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

CONFIDENTIAL

**MINUTES OF CITY OF MOUNT GAMBIER COUNCIL MEETING
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT
GAMBIER
ON TUESDAY, 21 NOVEMBER 2023 AT 6.00 P.M.**

PRESENT: Mayor Lynette Martin (OAM), Cr Frank Morello, Cr Max Bruins, Cr Paul Jenner,
Cr Sonya Mezinec, Cr Jason Virgo

OFFICERS IN	Chief Executive Officer	- Mrs S Philpott
ATTENDANCE:	General Manager City Infrastructure	- Ms B Cernovskis
	General Manager Corporate and Regulatory Services	- Mrs J Fetherstonhaugh
	Manager Governance and Property	- Mr M McCarthy
	Manager Financial Services	- Mrs J Scoggins
	Manager Economy, Strategy and Engagement	- Mrs B Shearing
	Executive Administrator	- Ms S Wilson

23.2 SALE OF LAND FOR NON-PAYMENT OF RATES – REPORT NO. AR23/74289

RESOLUTION 2023/228

Moved: Cr Max Bruins
Seconded: Cr Frank Morello

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except the Mayor, Councillors and Council Officers S Philpott, B Cernovskis, J Fetherstonhaugh, M McCarthy, J Scoggins, B Shearing and S Wilson be excluded from attendance at the meeting for the receipt and consideration in confidence of Agenda Item 23.2 AR23/74289 Sale of Land for Non-Payment of Rates.

The Council is satisfied that, pursuant to section 90(3) (a) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

CARRIED

RESOLUTION 2023/229

Moved: Cr Jason Virgo
Seconded: Cr Sonya Mezinac

1. That Council Report No. AR23/74289 titled 'Sale of Land for Non-Payment of Rates' as presented on 21 November 2023 be noted.
2. That the Chief Executive Officer be empowered to take whatever action is necessary to dispose of the property situated at 13 Powell Street, Mount Gambier described as Lot 177 FP194789 CT5506/450 for non-payment of rates and other charges due to Council, in accordance with the provision of Chapter 10, Part 1, Division 9 of the Local Government Act, 1999.
3. Mayor and Chief Executive Officer be authorised to sign and affix the common seal to any contract and transfer affecting the sale of the allotment being disposed of by Council, as vendor, for non-payment of rates should such a sale be finally necessary.
4. The Chief Executive Officer be empowered to engage legal counsel or agent to act on Council's behalf in this matter.
5. Pursuant to the powers contained in Section 44 of the Local Government Act 1999, Council hereby delegates to the Chief Executive Officer the power to determine the date, time and place for the conduct of the public auction subject to compliance with Section 184 of the Act.

CARRIED



RESOLUTION 2023/230

Moved: Cr Max Bruins
Seconded: Cr Frank Morello

CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 23.2 AR23/74289 Sale of Land for Non-Payment of Rates and its attachments, resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (a) be kept confidential and not available for public inspection until the latter of:- 12 months, or the matter being settled.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

CARRIED