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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**

A handwritten signature in black ink, appearing to read "Sarah Philpott", is positioned above the printed name and title.

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

**23.3 SALE OF LAND FOR NON-PAYMENT OF RATES – REPORT NO. AR23/74290**

**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 23.3 AR23/74290 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

**23.3 SALE OF LAND FOR NON-PAYMENT OF RATES – REPORT NO. AR23/74290**

<b>Committee:</b>	<b>Council</b>
<b>Meeting Date:</b>	<b>21 November 2023</b>
<b>Report No.:</b>	<b>AR23/74290</b>
<b>CM9 Reference:</b>	<b>AF13/64</b>
<b>Author:</b>	<b>Jo Scheidl, Senior Revenue Officer</b>
<b>Authoriser:</b>	<b>Jane Fetherstonhaugh, General Manager Corporate and Regulatory Services</b>
<b>Summary:</b>	<b>Sale of Land for non-payment of rates - notice of intention to sell land for non-payment of rates.</b>
<b>Strategic Plan Reference:</b>	<b>Goal 1: Our People Goal 3: Our Diverse Economy Goal 5: Our Commitment</b>

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. AR23/74290 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 39 John Powell Drive, Mount Gambier described as Lot 23 DP116284 CT6195/68 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 in 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 39 John Powell Drive, Mount Gambier described as Lot 23 DP116284 CT6195/68 has an outstanding balances (rates, fines and interest and legal fees) of \$6,482.14 as at 25<sup>th</sup> 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 39 John Powell Drive, 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 23.3 AR23/74290 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 Meziniec, Cr Jason Virgo

**OFFICERS IN ATTENDANCE:** Chief Executive Officer - Mrs S Philpott  
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

**RESOLUTION 2023/231**

Moved: Cr Sonya Mezinec

Seconded: Cr Jason Virgo

**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 23.3 AR23/74290 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 2023/232**

Moved: Cr Max Bruins  
Seconded: Cr Frank Morello

1. That Council Report No. AR23/74290 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 39 John Powell Drive, Mount Gambier described as Lot 23 DP116284 CT6195/68 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 2023/233**

Moved: Cr Max Bruins  
Seconded: Cr Jason Virgo

**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 23.3 AR23/74290 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**

