

**ADELAIDE HILLS COUNCIL  
AUDIT COMMITTEE MEETING  
Tuesday 23 February 2016  
CONFIDENTIAL AGENDA BUSINESS ITEM**

**Item:** 19.1

**Originating Officer:** Paul Francis, Manager Finance

**Responsible Director:** Terry Crackett, Director Corporate Services

**Subject:** Sale of Land for Non-Payment of Rates

**For:** Decision

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**1. Sale of Land for Non-Payment of Rates – Exclusion of the Public**

a) That under the provisions of section 90(2) of the *Local Government Act 1999* an order is made that the public be excluded from the meeting, with the exception of:

- CEO, Andrew Aitken
- Director Corporate Services, Terry Crackett
- A/Director Engineering & Assets, Mark Buckerfield
- Director Community & Customer Service, David Waters
- Director Strategy & Development, Lachlan Miller
- Manager Governance & Risk, Andrea Sargent
- Minute Secretary, Pam Williams

in order to consider Agenda Item 17.1: Sale of Land for Non-Payment of Rates in confidence.

- b) The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified in (a) above, be excluded to enable Council to consider the report at the meeting on the following grounds:
- c) Section 90(3) (i) of the Local Government Act, the information to be received, discussed or considered in relation to this Agenda Item is information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council, the disclosure of which could reasonably be expected to legal processes required to progress the sale of land.
- d) Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

## 2. Sale of Land for Non-Payment of Rates – Confidential Item

### SUMMARY

At the meeting of Council held on 15 December 2015 a Debt Recovery Policy was adopted that supports the sale of land for unpaid rates where arrears are in excess of the 3 year requirement outlined within S.184 of the *Local Government Act 1999*.

This report discloses a group of eleven ratepayers who are more than three years in arrears, and therefore this report seeks authorisation to sell their properties to discharge their rate obligations.

### RECOMMENDATION

Council resolves:

1. That the report be received and noted
2. Initiates proceedings to sell the following properties in accordance with S.184 of the *Local Government Act 1999*:

A9302 – VG 0330568200*	Neil David HUNTER	\$8,775.36
A350 – VG 0309322008	Kristine Ivy GENTLE	\$9,342.86
A1557 – VG 0312509009	Neil David HUNTER	\$5,703.69
A2815 – VG 0313042009	ESTATE OF Zdzislaw Felix GAJDZINSKI	\$32,019.70
A13036 – VG 3300252000	Estate OF Elizabeth Anne FRANCIS	\$11,246.38
A12356 – VG 3300974003	Philip Gerard Vincent VAN DYCK	\$16,419.88
A15540 – VG 4710342003	Wayne Joseph MAIOLO	\$6,739.42
A15940 – VG4713454000	Alexander FORREST	\$2,404.62
A4493 – VG 5670004409	Timothy John BOWEN	\$10,580.84
A17914 – VG 5670839203	Christopher Leslie KLAER	\$6,863.32
A4405 – VG 5670840001	Christopher Leslie and Karen KLAER	\$11,430.40

3. Sale of Land for Non-Payment of Rates – Period of Confidentiality  
That having considered at Agenda Item 17.1 in confidence under sections 90(2) and 90(3) (i) of the *Local Government Act 1999*, that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until either the negotiations for sale are completed and a settlement reached or until legal proceedings have concluded, but no longer than 12 months.
  4. Pursuant to section 91(9) (a) of the *Local Government Act 1999*, that Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or his sub-delegate.
  5. Pursuant to section 91(9)(c) of the *Local Government Act 1999*, that Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or his sub-delegate.
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## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal 4	A Recognised Leading Performer
Key Issue 4.2	Management and Risk Responsibility
Key Action 4.2.6	Manage and maintain the sustainable financial position of Council

### ➤ Legal Implications

The sale of land for non-payment of rates is supported by S.184 *Local Government Act 1999* and the Local Government (Financial Management) Regulations 2011.

### ➤ Risk Management Implications

Conducting the rates recovery process set it will assist in mitigating the risk of:

*Ensuring finances and assets are managed to support changing community needs in a sustainable cost effective way.*

Inherent Risk	Residual Risk	Target Risk
Medium (4D)	Low (2E)	Low (2E)

A reduction in the level of debt held by Council as a result of outstanding rates will ensure that financial resources can be deployed in areas that align with Council's Strategic Management Plans.

### ➤ Financial and Resource Implications

All costs associated with undertaking the sale of land process are recoverable from the proceeds of sale. Costs are estimated at \$3,000 per property and will include advertising, legal fees, search fees and conveyancing, and a further 2% of sale value in auctioneer's fees.

At the time of writing this report the value of outstanding rates on the properties totalled \$121,526.47. Payment of these rate arrears will reduce the level of outstanding loans and positively impact on the Net Liabilities Ratio included in the Long Term Financial Plan.

### ➤ Customer Service and Community/Cultural Implications

Not applicable.

### ➤ Environmental Implications

Not applicable.

### ➤ Engagement/Consultation with Committee, Regional Subsidiary, Advisory Group and Community

Not applicable.

## **2. BACKGROUND**

### **Local Government Act**

As detailed in Section 184 of the Act (**Appendix 1**), if an amount by way of rates in respect of land has been in arrears for more three years or more, Council may sell the land.

The process that is required to be undertaken before sale states that Council must send a notice to the principal ratepayer at the address appearing in the assessment record:

1. stating the period for which the rates have been in arrears;
2. stating the amount of the total liability for rates presently outstanding in relation to the land; and
3. stating that if the amount is not paid in full within one month of service of the notice (or such longer time as the council may allow), Council intends to sell the land for non-payment of rates.

It also considered prudent to attach a copy of the notice in a conspicuous place on the land and to advertise the proposed sale in a newspaper circulating within the state.

The land is sold at auction after advertising the sale twice in a newspaper circulating throughout the state. If an inadequate price is offered at auction, then the land may be sold by private contract for the best price that Council can reasonably obtain.

If the owner cannot be located, then surplus funds are treated as unclaimed monies under the Unclaimed Monies Act once all other creditors have been satisfied.

## **3. ANALYSIS**

At a briefing of Council held on 3 December 2015 it was identified that there were currently 60 properties with arrears in excess of the 3 year period that would enable a progression to sale in accordance with the Act. These properties had a total level of rate arrears approximating \$905k.

A subsequent Debt Recovery Policy was subsequently endorsed by Council on 15 December 2015 in which support for proceeding with the sale of land process was provided.

Given the substantial amount of work required to progress the sale process a limited number of properties have been selected for initial progression based on the value of rate arrears, the likely level of a successful sale and where interest has previously been expressed.

The following table contains the ratepayer details held within the rating system for the proposed eleven properties and a brief update of the current circumstances applicable:

<b>A9302 – VG 0330568200* - Neil David HUNTER</b>	
<b>Lot 81 Sec: P350 FP:129535 CT:5271/788 – 190 Range View Road CAREY GULLY</b>	
This property has been the subject of previous S.184 action. The rates were paid after the sign of intent to sell was placed on the property. Rates have been in arrears since July 2011.	<b>\$8,775.36</b>
<b>A350 – VG 0309322008 – Kristine Ivy GENTLE</b>	
<b>Lot 6 Sec: P848 SP:4518 CT:5023/38 – 6/25 Norton Summit Road WOODFORDE</b>	
Mail is not sent direct to this property. Rates have been in arrears since May 2010.	<b>\$9,342.86</b>
<b>A1557 – VG 0312509009 – Neil David HUNTER</b>	
<b>Lot 702 Sec: P123 DP:89516 CT:6098/454 – 62 Basket Range Road URAIDLA</b>	
This property is believed to be occupied by the owner. Rates have been in arrears since Sept 2011.	<b>\$5,703.69</b>
<b>A2815 – VG 0313042009 – ESTATE OF Zdzislaw Felix GAJDZINSKI</b>	
<b>L 2 Sec: P359 FP:1295556 CT:5780/565 – 126 Range View Drive CAREY GULLY</b>	
The property is held in the Estate of Zdzislaw Felix GAJDZINSKI who died on 18/12/2009.	<b>\$32,019.70</b>
<b>A13036 – VG 3300252000 – Estate OF Elizabeth Anne FRANCIS</b>	
<b>Lot 232 Sec: P85 DP:1949 CT:5481/489 – 23 Osterley Avenue BRIDGEWATER</b>	
The ratepayer is listed as deceased in 2008. Rates have been in arrears since December 2008.	<b>\$11,246.38</b>
<b>A12356 – VG 3300974003 – Philip Gerard Vincent VAN DYCK</b>	
<b>Lot 253 Sec: P92 FP:101641 CT:5113/496 – 37 Wycombe Road ALDGATE</b>	
This property is believed to be occupied by the owner. Rates have been in arrears since 2009. It is believed that the property has been sold and settlement should take place in March. If settlement occurs and the Council Rates debt is paid, the sale of land process can be stopped.	<b>\$16,419.88</b>
<b>A15540 – VG 4710342003 – Wayne Joseph MAIOLO</b>	
<b>Lot 14 Sec: P6048 FP:155529 CT:6122/140 – 46 Victoria Street GUMERACHA</b>	
This property has been the subject of previous S.184 action. Rates have been in arrears since December 2010.	<b>\$6,739.42</b>
<b>A15940 – VG4713454000 – Alexander FORREST</b>	
<b>Lot N RDP:2573 CT:5793/328 – Off Forreston Road FORRESTON</b>	
This is an unmade road that was first rated by the Valuer General in July 2011. It appears by aerial mapping to be used by 2 ratepayers as access to their properties.	<b>\$2,404.62</b>
<b>A4493 – VG 5670004409 – Timothy John BOWEN</b>	
<b>Lot 1 Sec: P5069 FP:155816 CT:5720/453 – 64 Onkaparinga Valley Road CHARLESTON</b>	
This property has been the subject of previous S.184 action. Rates have been in arrears since March 2012.	<b>\$10,580.84</b>
<b>A17914 – VG 5670839203 – Christopher Leslie KLAER</b>	
<b>Lot 2 Sec: P5140 DP:12219 CT:5474/956 – 14 Kenton Valley Road LOBETHAL</b>	
Rates have been in arrears since July 2011. It is believed that the property has been sold and settlement is due 16 March 2016. If settlement occurs and the Council Rates debt is paid, the sale of land process can be stopped.	<b>\$6,863.32</b>

<b>A4405 – VG 5670840001 – Christopher Leslie and Karen Elizabeth KLAER Lot 92 Sec: P5140 FP:155907 CT:5347/207 – 12 Kenton Valley Road LOBETHAL</b>	
Rates have been in arrears since May 2010. It is believed that the property has been sold and settlement is due 16 March 2016. If settlement occurs and the Council Rates debt is paid, the sale of land process can be stopped.	<b>\$11,430.40</b>

**4. OPTIONS**

Council has the following options in relation to this report:

- To endorse the sale of land for unpaid rates as identified.
- Not to endorse the sale of land for unpaid rates.

**5. APPENDICES**

1. Extract of Section 184 of the *Local Government Act 1999* – Sale of Land for Overdue Rates

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# **Appendix 1**

*Extract of Section 184 of the Local Government Act  
1999 – Sale of Land for Overdue Rates*

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