

1. References

Local Government Act 1989 – Section 181

http://classic.austlii.edu.au/au/legis/vic/consol_act/lga1989182/s181.html

Glenelg Shire Council, Records Management Policy OPO-CORPS-RECM-001
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2. Purpose

Pursuant to Section 181 of the *Local Government Act 1989* ('the Act'), Council has the power to sell land or cause land to be transferred to itself to recover unpaid rates and charges, if the rates and charges have not been paid for more than 3 years.

3. Scope

This policy applies to all property owners/ratepayers who have overdue rates and charges outstanding for more than 3 years (where there is no payment arrangement in place).

4. Principles

- a) The sale of land to recover rates and charges that have been outstanding for more than three years is the last resort after all other Council Rate Recovery Debt Collection processes have failed and/or been exhausted.
- b) Sale of land to recover rates and charges must be undertaken pursuant to the provisions of section 181 'the Act'.
- c) A decision to proceed with the sale of land to recover rates and charges must be by formal resolution of the Council.
- d) Prior to formal resolution (per (c) above), Council must consider the commercial viability of the transaction, to ensure such a decision does not impact unduly on its operating budget and its ability to continue to provide services at the '*level of service*', at the time the transaction is being considered.
- e) In addition to (d) above, Council must consider whether properties that are being considered for sale or being considered for transfer to itself are of a nature that have the potential to be sold and/or utilised (consideration may include land-locked land, land subject to inundation etc.)
- f) Further, Council may consider whether properties that are being considered for sale or being considered for transfer to itself are of a nature that has development potential.

5. Objectives

The objectives of this Policy are to:

- Sell the land for an amount equal to or more than the estimated value of the land as set out in a written valuation by a qualified valuer under section 13DA (1A) of the *Valuation of Land Act 1960*.
- From the proceeds of the sale of land recover all expenses incurred from the sale process, rates and charges (garbage), interest, legal costs (including enforcement costs), Council administration costs and any other amounts due to Council in respect of the land.

6. Council Policy

Pursuant to section 181 of 'the Act' Council has the power to sell land or cause land to be transferred to itself to recover unpaid rates and charges, if the rates and charges have not been paid for more than 3 years.

Council may take action under Section 181 of 'the Act' if:

- Amount owing to Council in respect of rates and charges (including enforcement costs) is more than three years overdue.
- There is no current payment arrangement in place;
- Council has a court order requiring the payment of the amount.

Sale of land to recover rates and charges that have been outstanding for more than three years is regarded as a last resort to be undertaken after Council have exhausted the relevant requirements under the Rate Recovery Debt Collection policy and there has been no application made and granted under the Council's Financial Hardship – rates and charges policy.

The sale of land should be restricted (but is not limited) to vacant land or property that is not inhabited by the owner or a tenant.

Council should not be seen to be evicting or denying an owner the right to their principal place of residence by reason only for non-payment of rates and charges.

Before any land is sold a confidential Council Report with recommendations is to be presented to Council.

The report should detail the circumstances of the debt including the status of the owner and details, property description, amount of debt outstanding, Valuers comments for saleability and the steps/actions required under section 181 of 'the Act'.

7. Records Management

All Council records created and managed as a result of implementing this policy will be managed in accordance with the Council's Records Management Policy.

The Records Management Policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of the Act(s) that govern the functions relevant to this policy. Prior to destruction, advice must be sought from the Records Management Unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).

8. Victorian State Legislation Copyright Acknowledgement

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