

CONFIDENTIAL ITEMS 2003 – AUGUST 2017

#	Date	Item Title	Confidential Order Details	Item being kept confidential - Agenda/ Attachment/ Minutes	Reason regarding retention or recommend-action to release	Resolution Regarding Action	Last Review Date	Next Review Date	Date Released
108	15 August 2016	Rate Relief / Remission – Long Term Debt Echunga	<p>Section 90 (3) (a) Order</p> <p>1. <u>Pursuant to Section 90(3)(a)</u></p> <p>Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, General Manager Corporate Services, General Manager Council Services, General Manager Infrastructure and Projects, Acting Manager Planning Policy & Strategy, Senior Rates and Property Officer, Rate and Property Officers, Minute Secretary be excluded from attendance at the meeting for Agenda Item 17.1 Rate Relief / Remission – Long Term Debt - Echunga.</p> <p>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 this Agenda item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of ratepayers, in that details of rates owing on properties will be discussed.</p> <p>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 the disclosure of details of rates owing on properties is not public information.</p> <p>Section 91(7) Order</p> <p>3. <u>Pursuant to Section 91(7)</u></p> <p>That having considered Agenda Item 17.1 Rate Relief / Remission – Long Term Debt - Echunga in confidence under 90(2) and</p>	Agenda, attachments and minutes	<p>Information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of ratepayers, in that details of rates owing on properties will be discussed.</p> <p>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 the disclosure of details of rates owing on properties is not public information.</p>	Until all the rates debt has been paid or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.	5 Sep 16	4 Sep 17	<i>Report, attachments and minutes on website 22 August 2017</i>

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			3(a) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the agenda, attachments and minutes be retained in confidence until all the rates debt has been paid or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.						
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RELEASED

17. CONFIDENTIAL REPORTS

17.1	REPORT TITLE:	RATE RELIEF / REMISSION - LONG TERM DEBT ECHUNGA
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DATE OF MEETING: 15 AUGUST 2016

FILE NUMBER: FOL/16/1934

Mount Barker 2035 District Strategic Plan Ref:

Governance and Leadership.

GL:4 – Effective management and financial sustainability.

Purpose:

To consider the provision of rate relief, fines and interest remission for Lot 167 Bailey Road Echunga SA 5153.

Summary- Key Issues:

- Council has a limited title debt matter requiring Council consideration. The details provided below will assist in making a determination to resolve the matter.
- This decision will assist Council in reducing its current rate debt and provide possible rate relief to adjoining land owners of these limited title properties that are directly impacted by these rate debts.

RECOMMENDATION

Section 90 (3) (a) Order

1. Pursuant to Section 90(3)(a)
Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, General Manager Corporate Services, General Manager Council Services, General Manager Infrastructure and Projects, General Manager Planning and Development, Senior Rates and Property Officer, Rate and Property Officers, Minute Secretary be excluded from attendance at the meeting for Agenda Item 17.1 Rate Relief / Remission – Long Term Debt - Echunga.

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 this Agenda item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of ratepayers, in that details of rates owing on properties will be discussed.

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 the disclosure of details of rates owing on properties is not public information.

2. That Council remit 100% of all fines and interest levied on the property located at Lot 167 Bailey Road ECHUNGA SA 5153, legal description: Lot 167 FP 5413 CT 6152/178, Assessment #: 90449 totalling \$59,951.12.

Section 91(7) Order

3. Pursuant to Section 91(7)

That having considered Agenda Item 17.1 Rate Relief / Remission – Long Term Debt - Echunga in confidence under 90(2) and 3(a) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the agenda, attachments and minutes be retained in confidence until all the rates debt has been paid or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.

Background:

1. At the workshop held 1 August 2016, Council was presented with a discussion regarding specific properties that had rate debt matters requiring consideration by Council as the level of potential rate relief or remission exceeds the delegation of Council officers.

Discussion:

2. **PROPERTY LOCATED AT LOT 167 BAILEY ROAD ECHUNGA SA 5153**
(Please refer to map - Attachment 1A)

Legal description: Lot 167 FP 5413 CT 6152/178

Assessment #: 90449

Valuation #: 5831311056

Capital Value: \$113,000

Land Size: 3,710 sqm

3. As at 1 August 2016, \$86,544 in rates, arrears and interest is owed to Council (including what has been levied for 2016/17)
4. The land is comprised within an ordinary title.
5. The land has a street frontage to Bailey Rd.
6. The current land owner recorded has been deceased since 1938 and the land had been used as farming land by the owner of the adjoining parcel of land.

7. Based on legal advice from Wallmans Lawyers Council wrote to the adjoining land owner in January 2012 informing them of the boundaries, enquiring as to whether they will be making an adverse possession claim over the adjoining land and if not, Council would proceed to sell the land pursuant to section 184 of the *Local Government Act 1999*.
8. Advice was received from the adjoining land owners Solicitors that they had commenced a process to claim adverse possession of the land. As part of this process the Solicitor's located a descendant and beneficiary of the estate of the deceased. As such the adverse possession claim was put on hold and Council has not had any further feedback from the adjoining land owner regarding the possible adverse possession claim.
9. The descendant engaged the Public Trustees Office and his own Solicitors to assist him in winding up the final details of the deceased estate.
10. The Public Trustee contacted Council in March 2016 advising they had obtained a special grant *de bonis non* in the estate of the deceased to finalise the administration of the estate, which resulted in the land being transferred into the name of the Public Trustee. The Public Trustee also advised that it is the descendant's intention to take transfer of this property and build a home on it.
11. The Public Trustee, on behalf of the descendant has requested that Council consider a remission of some or all of the outstanding rates and penalties owing over the land.
12. Council could consider undertaking a sale process via public auction for non-payment of rates pursuant to Section 184 of the *Local Government Act 1999*. This sale would likely achieve a value to clear the current debt outstanding, however, this would be considered unfair given the descendant has only just become aware of this land and this matter has been unresolved for many years.
13. Remittance of all fines and interest levied on this property totalling \$59,951.12, bringing the debt outstanding to \$26,592.88.

Community Engagement:

Not required

Policy:

Nil

Budget:

Council has made provision for doubtful debts for rates, fines and interest within the 2016/17 Financial Budget. The property discussed in this report has been included in that provision.

Statutory/Legal:

Local Government Act 1999.

Staff Resource Requirements:

Minimal impact

Environmental:

N/A

Social:

N/A

Risk Assessment:

There is a risk that a debt will remain outstanding and Council may never receive this revenue.

Asset Management:

N/A.

Conclusion:

In order to resolve this long standing rate debt matter and provide some rate relief, it is recommended that Council endorse the recommendation above.

Key Contact

Neville Gay, Senior Rates & Property Officer

Manager or Sponsor of Project

David Peters, General Manager, Corporate Services

Attachments

1A – Bailey Road Property Map

Mount Barker District Council

Attachment to Item 17.1



**MOUNT BARKER
DISTRICT COUNCIL**

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Map Zoom: 0.4686 km

Map Scale: 1:2,373

Created on: Thursday, 4 August 2016 By: rates

NIL

CARRIED
OM20160815.07

Section 91(7) Order

Moved Councillor Seager

3. Pursuant to Section 91(7)

That having considered Agenda Item 17.1 Rate Relief / Remission – Long Term Debt - Echunga in confidence under 90(2) and 3(a) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the agenda, attachments and minutes be retained in confidence until all the rates debt has been paid or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.

Seconded Councillor Campbell

CARRIED
OM20160815.08

RELEASED