

ITEM 15 WRITE OFF COUNCIL RATES - LOT 1 DARCY ROAD, PORT KEMBLA NSW 2505

This report provides background on a proposed write off of rates on Assessment N° 76083.0 located at Lot 1 Darcy Road, Port Kembla NSW 2505, comprising Lot 1 DP 706046, Lot 2 DP 706046. The land was subject to a lease on Crown Land.

RECOMMENDATION

Council write off rates of \$105,282.36 on Assessment N° 76083.0 that was subject to a lease over Crown land as the lessee has been deregistered with Australian Security & Investments Commission (ASIC) and Council is unable to recover the rates arrears.

REPORT AUTHORISATIONS

Report of: Brian Jenkins, Chief Financial Officer

Authorised by: Renee Campbell, Director Corporate Services - Connected + Engaged City

ATTACHMENTS

There are no attachments for this report.

BACKGROUND

This rate account issue involves a previous use of part of a parcel of land, Assessment N° 76083.0, identified within the red boundary on the below map. The entity that was subject to the lease and liable for payment of rates was deregistered by ASIC in August 2018. As the Corporation is deregistered, Council has been unable to recover the rate arrears.

The parcel of land is owned by NSW State Government and would normally be exempt from rates. As the parcel was under a lease, the property became rateable with the Corporation being responsible to pay the rates. The lease has been cancelled, the Corporation is now deregistered and the debt does not transfer back to the State as owner (a charge on the land) as it would with privately owned land. The lease commenced in 1996 with Council issuing rate notices, instalment notices and reminders.

Council commenced verbal communication with the tenant on 23 June 2015 for unpaid rates and, at the time, was advised that the NSW State Government was commencing to take back the site. On 19 October 2015, Council received a letter from CCS Legal stating the Corporation was considering a joint venture and this would require a sub-lease of the property and requested a stay of legal proceedings until December 2015 whilst the sub-lease was being finalised.

In January 2016, a review of the account showed payment had not been made so it was included in the next round of recovery action. Council's Debt Recovery and Hardship Assistance Policy indicates that when a debt is owed and is over the legal action threshold, a final notice will be issued and if payment is not forthcoming, a Statement of Claim will be lodged through the courts and served on the Corporation.

As per the Policy, Council issued a final notice in March 2016 however the notice was returned. A Statement of Claim could not be served until the address was confirmed by Council staff. On 30 September 2016, Council issued an amended final notice and a Statement of Claim was issued and served by Kells the Lawyers on behalf of Council on 7 December 2016. As a result of the Statement of Claim being served, we were subsequently contacted by Nichols and Brien in March 2017 to advise the Corporation was in Liquidation. A proof of debt form was submitted to attempt to retrieve some monies towards outstanding rates but as no dividend was declared to creditors this was not successful.

In January 2017, the lease agreement was surrendered by the Corporation but as the lease was not removed from the title the valuation was not cancelled by the Valuer General.

On 1 June 2018, Council received notification from ASIC with intent to deregister the Corporation involved, resulting in the Corporation being officially deregistered in August 2018.

It is recommended that Council resolves to write off the rates arrears on Assessment N° 76083.0 totalling \$105,282.36 due to the Corporation being formally deregistered with ASIC and Council being unable to recover the rates arrears.