



Government of **Western Australia**
Department of **Local Government and Communities**

Local Government Operational Guidelines

Number 22 – May 2012

Possession of Land for Recovery of Rates and Service Charges

1. Introduction

Local governments will from time to time face the situation where a person or company does not pay their rates or service charges for a number of years.

The intent of this Guideline is to explain the process required to comply with the legislation governing the taking possession of land in order to recover rates and service charges that are unpaid after three years.

Throughout the guideline there are also references made to Landgate's "Land Titles Registration Practice Manual" as many of the actions detailed have associated "Landgate" requirements.

Local governments may take action to lease or sell the land to recover rates and or service charges outstanding or they may cause the land to be transferred to the Crown or to itself.

Such action should only be considered when all other avenues of inquiry and action (such as the following examples) and where possible, consultation and negotiation for the debt recovery with the person or company, have been exhausted.

- Are the property owner's whereabouts known? Has a Claim (General Procedure) been issued and served? If so, has a Property (Seizure and Sale) Order (PSSO) on Land (Minor Case) been issued through the Magistrates Court 14 days or more after the General Procedure was served?
- If the property owner's whereabouts are not currently known, take steps to locate the owner. Does the owner own any other land anywhere else in Western Australia? Have water rates or land tax been paid by the owner?

What address for the owner does the Water Corporation and/or the Office of State Revenue have?

- Is the property vacant or improved? Is it a rental property? If so, has an order been given to the tenant, under the provisions of section 6.60 of the *Local Government Act 1995* (the Act), to pay rent?
- If it is an improved property, and the owner does not occupy it, check to see where the power supply provider for the property sends its accounts?
- Has the facility of a direct debit or Centrepay payment service (weekly, fortnightly or monthly) been offered?
- Has a title search been done recently to ascertain if there is any current mortgage or caveat over the property?

This guideline sets out the process, step-by-step, so that if followed correctly the legal requirements should be met.

If the before mentioned and any other steps have not produced any result, a report should be prepared for Council. The report should outline the overdue rates or service charge position, and the attempts at debt recovery and owner location.

The report (refer Attachment 1.) may recommend that Council resolves by simple majority to lease or sell the land to recover rates and or service charges outstanding or may recommend that the local government apply to the Minister for Local Government to have the land re-vested in the Crown in right of the State under section 6.74 of the Act or make an application for the land to be transferred to itself, under section 6.75 of the Act.

Note: Section 6.68 of the Act states that a local government is not required to attempt to recover money due to it where;

- (a) it has a reasonable belief that the cost of proceedings will equal or exceed the value of the land; or
- (b) having made reasonable efforts to locate the property owner is unable to do so. Any such decision and the reasons for the decision are to be recorded in the minutes of the meeting at which the decision was made.

There is a legislative process that must be followed to comply with the lease, sell or transfer requirements of the legislation so that any of these actions are legally enforceable.

The Landgate procedures outlined in these Guidelines (highlighted text) are intended as a general guide only and are not a substitute for legal advice. Local governments and other parties should seek their own legal advice in respect of individual transactions.

For further information, the most recent version of Landgate's Land Titles Registration Practice Manual ("Landgate Practice Manual") is available online at www.landgate.wa.gov.au

Please note that references to particular paragraphs of the Landgate Practice Manual in these Guidelines may be subject to change.

2. Legislation

The legislative requirements to take action against land where rates or service charges are unpaid are contained in Part 6, Division 6, sections 6.63 to 6.75 and Schedules 6.2 and 6.3 of the *Local Government Act 1995* (the Act) and Part 5 of the *Local Government (Financial Management) Regulations 1996* (FMR) regulations 72 to 78 and Forms 2 to 7. (Copies of these forms are available as [Attachments 3 to 8](#)).

The legislation relevant to each step of the process is identified in the checklist at [Attachment 2](#).

A question of interpretation has been raised in relation to the meaning of section 6.64(1) of the Act which gives the power to a local government to take possession of land where **any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years**.

Advice received by the Department indicates that irrespective of any payment made towards the unpaid rates which have been outstanding for at least three years the process for taking possession of the land remains valid. It is considered that section 6.64(1) of the Act applies where **any** part of a sum (for rates and/or service charges) is still unpaid three years after it first became due.

3. Matters to Check

3.1 Preliminary

In determining whether the local government can take possession of the land, it must ensure that;

- the land is rateable. Except as provided for in s.6.26 of the Act, all land within a district is rateable.
- any unpaid service charge is not one that is imposed on the occupier of land who is not the owner of that land (s.6.63).
- the total amount of rates or service charges raised and due on the land by the issue of rate notices remain unpaid for at least the last three years. The three years is calculated from the date they became due (s.6.64).

For example, rates are outstanding for 2008/09, 2009/10 and 2010/11. The 2008/09 rates were levied on 10/08/2008; the rate notice was issued on 24/08/2008 and the nominated due date was 30/09/2011, which is the date to be used.

- the rates or service charges outstanding on the land are not deferred under s.33 of the *Rates and Charges (Rebates and Deferrals) Act 1992*.
- the local government has the relevant certificate of title details.
- the person listed on the local government's rate record is the same as the owner on the certificate of title for the land, or the person listed on the rate record meets the definition of 'owner' (s.1.4).
- flag the property to prevent payments being received electronically from someone who doesn't have an estate or interest in the land.

3.2 Other matters to check

- Whether the owner's goods and chattels remain on the property. Where the owner has long since vacated the property and their whereabouts are unknown, but they have left their goods and chattels behind, it is suggested that local governments have the ability to proceed with action to dispose of the goods and chattels under the *Disposal of Uncollected Goods Act 1970*.
- Whether there is an inhabitant on the property (other than the owner) that has no legal right of occupation (i.e. a squatter). In this case, this will mean that a person is trespassing on land which the local government has the right to possession. It is understood that the local government would be entitled to take steps to have the person removed (and the premises secured). It is suggested that in the context of a particular case, a local government seek its own legal advice.

3.3 Taking possession of the land

- Prior to taking action to lease, sell or transfer land, a local government must "take possession" of the land.
- A notice, in the form of Form 2, advising that the local government has taken possession of the land, has to be given to the owner of the land (s.6.64(2); FMR r.72 and Form 2) Refer Attachment 3.
- A notice, in the form of Form 3, advising that the local government has taken possession of the land, has to be affixed to a conspicuous part of the land (s.6.64(2); FMR r.73 and Form 3) Refer Attachment 4.

- A local government is to surrender possession of the land if all rates and service charges due on the land are paid within 12 years of the taking of possession (s.6.67(1)).
- A local government does not have to give up possession of the land if it receives a portion only of the rates and service charges due on the land or if it has exercised a power under s.6.64(1)(b) (c) or (d) of the Act and is in the process of selling or transferring the land to the Crown or to itself (s.6.67(1)).
- If all outstanding rates and service charges on the land are paid within 12 years of the taking of possession, and the local government has leased the land under s.6.64(1)(a), possession of the land is to be given up on the expiration of the lease (s.6.67(2)).

Note: In this Guideline, a reference to a Notice being 'served' or 'given', may be served or given in any of the ways provided for by sections 75 and 76 of the *Interpretations Act 1984*. Refer also to the *Local Government Act 1995*, Part 9 Division 3 - Documents.

3.4 Selling the Land

- The local government must have taken possession of the land (See 3.3).
- The power of sale of the land is not to be exercised unless the local government has made at least one attempt in the last three years under s.6.56 of the Act to recover the outstanding rates or service charges (s.6.68(1)).

Note: Court action must have been initiated.

The local government does not have to initiate recovery for money due on the land if it holds the reasonable belief that the cost of the proceedings under s.6.56 will equal or exceed the value of the land. (s.6.68(2)), or having made reasonable efforts to locate the owner of the property, is unable to do so. The local government is to ensure that such decisions are recorded in the relevant Council minutes.

- Before the power of sale is exercised, a notice in the form of Form 4 has to be served on the owner of the land personally or served by certified mail to the address appearing in the rate record or a register kept under the *Transfer of Land Act 1893* or in a memorial or record kept by the Registrar of Deeds (s.6.68(3); Sch. 6.3 cl.1.(1)(a); FMR r.74, Form 4) [Refer Attachment 5](#).

- The register kept under the *Transfer of Land Act 1893* can be searched at Landgate.
- A search of certificate(s) of title can be conducted to obtain the address details of the registered proprietor of land under the *Transfer of Land Act 1893*.
- It should be noted that if the search of the certificate of title for the relevant land shows that the land is "subject to dealing" there may be unregistered documents which have been lodged but are yet to be processed. Such unregistered documents may affect the information shown on the title search. A facsimile request is required to obtain a copy of any unregistered document. Please note that because unregistered documents are searched manually, copies of the unregistered documents may take up to 48 hours.

Searches can be ordered through the Landgate website and paid for by credit card or through a Landgate account.

Searches can also be obtained in person or ordered by facsimile on 9250 3187.

For old system land, searches of the Register containing memorials under the *Registration of Deeds Act 1856* to obtain the address and details of the registered proprietor can be conducted at Landgate, Midland upon payment of the prescribed fee:

Landgate
1 Midland Square
Morrison Road (cnr Gt Northern Hwy)
Midland, Western Australia, 6056

Office opening hours:
8.00am - 5.00pm Monday to Friday
Document lodgement:
8.00am - 4.30pm Monday to Friday

For further information on searching the Register under the *Registration of Deeds Act 1856* see Paragraph 10.1.7 of the Landgate Practice Manual, including a schedule of the fees charged for each document searched.

A notice in the form of Form 4 has to be served, on other persons whom records indicate have an estate or interest in the land, personally or served by certified mail to the address appearing in the rate record or a register kept under the *Transfer of Land Act 1893* or in a memorial or record kept by the Registrar of Deeds.
(Sch. 6.3 cl.1.(1)(b); FMR r.74, Form 4)

- In relation to land under the *Transfer of Land Act 1893*, a full title search may be conducted to obtain the details of estates or interests in the land which are registered on or noted against the certificate of title for the land (see above). A list of estates, interests, encumbrances and notifications appears in the second schedule of the certificate of title. Individual documents can be searched by document number.
- In relation to old system land, searches of memorials under the *Registration of Deeds Act 1856* can be conducted at Landgate, Midland (see previous column).
- It should be noted that if the search of the certificate of title for the relevant land shows that the land is "subject to dealing" there may be unregistered documents which have been lodged but are yet to be processed. Such unregistered documents may affect the information shown on the title search. A facsimile request is required to obtain a copy of any unregistered document. Please note that because unregistered

documents are searched manually, copies of the unregistered documents may take up to 48 hours.

A notice in the form of Form 4 has to be posted on the official notice board of the local government for not less than 35 days. (Sch. 6.3 cl.1.(1)(c); FMR r.74, Form 4)

The local government notice requiring payment is to:

- be in writing and dated and signed by the CEO;
- specify the land in respect of which the rates or services charges are owed;
- specify the total amount owing;
- include a statement that in default of payment the land will be offered for sale by public auction upon the expiration of 3 months from the date of the notice, at a time appointed by the local government; and
- be in or substantially in the form of Form 4. (Sch. 6.3 cl.1.(2)(a) to (e)) If no sufficient address can be found appearing in the rate record or a register kept under the *Transfer of Land Act 1893* or in a memorial or record kept by
 - the Registrar of Deeds for a person required to be served, the notice, in the form of Form 4, is to be served by the local government giving local public notice, as under s.1.7 of the Act. The notice may include land belonging to more than one person. (Sch. 6.3; FMR r.74 and Form 4).
 - The local government must appoint a time, between 3 and 12 months from the service of the notice(s), at which time the land may be offered for sale by public auction. (Sch. 6.3 cl.1.(4)).
- The local government must advertise the sale by giving Statewide public notice, as required by s.1.7 and 1.8 of the Act, in, or substantially in, the form of Form 5 (Refer Attachment 6). In addition, the notice may be given in other means the local government considers is necessary or desirable, for example on its website. (Sch. 6.3 cl.2.(1)(a)(b); FMR r.75 and Form 5) The notice may include land owned by more than one owner, a description of the land and any improvements on it to convey to persons likely to be interested in the sale, the condition of the land and improvements.
- The local government is to provide to the Registrar of Titles or the Registrar of Deeds (as the case requires) a memorial (a copy of the Statewide public notice) and this is to be registered for each piece of land referred to in the memorial. (Sch. 6.3 cl.2.(3))

See Paragraph 11.4.18.2 of the Landgate Practice Manual.

- A Memorial of the advertisement of the proposed sale by the local government for non-payment of rates must be lodged with the Registrar of Titles in an approved form.

The Memorial of Advertisement must comprise:

- a true copy of the original advertisement certified as such by the Chief Executive Officer of the relevant Local Government. The advertisement must be substantially in the form of the Notice of Sale Form 5 as set out in Regulation 75 of the *Local Government (Finance Management) Regulations 1996*;

- (b) a copy of the full page of the state-wide newspaper containing the Notice of Sale Form 5; and
- a Landgate B2 or B4 form (available from Landgate's website and via the Landgate Practice Manual) as the back page of the Memorial of Advertisement with all preparation and lodgement details completed on the form.
- No registration fees are payable for lodgement of the Memorial of Advertisement.
- A letter is sent by the Registrar of Titles to the relevant Local Government advising that the Memorial of Advertisement has been registered.
- Please note: if the advertisement is not substantially in the form of Form 5, contains errors or does not comply with Landgate's requirements, the Memorial of Advertisement may not be accepted for registration by the Registrar of Titles or the Registrar of Deeds. For example, the Registrar of Titles may request re-advertising if the information contained in the Form 5 is incorrect.

Note: There is also provision for the Governor to rectify omissions and irregularities under section 9.64 of the *Local Government Act 1995*. After the memorial is registered, the Registrar of Tiles or the Register of Deeds is prohibited from registering or accepting an instrument affecting the land without the consent of the local government (Sch. 6.3 cl.2.(4)).

- A Memorial of Advertisement remains in force for twelve months from the date of registration and acts as an absolute caveat until it is withdrawn or expires.
- Documents that are not "instruments" for the purposes of the *Transfer of Land Act 1893* may continue to be endorsed on the title to the land by the Registrar of Titles without the consent of the Local Government during the period that the Memorial of Advertisement is in force on the title. This includes such documents as: caveats, applications to amend the name of registered proprietors, surrenders of lease, discharges of mortgage, withdrawals of caveat and notifications.
- Documents lodged in registrable form together with the relevant local government's consent will be processed in accordance with Landgate's usual registration procedures.
- This prohibition covering the registration of the memorial does not extend beyond 12 months from the day on which the memorial is delivered to the Registrar of Titles or Deeds. This prohibition does not apply if a person having an estate or interest in the land, within seven days prior to the notified time of actual sale of the land, pays the local government the outstanding rates and or service charges and the costs incurred to that time in proceedings relating to the proposed sale of the land. (Sch. 6.3 cl.2.(4) and cl.7; s.6.69)
- Acceptance of payment of the outstanding rates and or service charges by the local government, within the seven days prior to the notified sale, or after the seven days has elapsed on such terms and conditions as agreed

between the parties, puts a stay on the proposed sale proceedings. (Sch. 6.3 cl.2.(4); s.6.69)

As soon as practicable after the acceptance of such a payment, the local government is to deliver to the Registrar of Titles or Deeds, a certificate, signed and dated by the Chief Executive Officer, certifying that all outstanding rates and service charges, costs and expenses have been paid and upon receipt of this certificate, the Registrar of Titles or Deeds will then endorse a memorandum that the land has ceased to be bound by the memorial. (s.6.69; FMR r.76)

A Certificate stating that all outstanding rates and service charges, costs and expenses have been paid is required to be lodged at Landgate and should comprise:

- (a) an original letter from the Chief Executive Officer of the relevant Local Government stating that the rates, costs and expenses have been satisfied; and
- (b) a Landgate B2 or B4 form (available from Landgate's website) as the back page of the certificate with all preparation and lodgment details completed on the form.

Following lodgement of a Certificate in the appropriate form signed by the Chief Executive Officer of the Local Government, the Registrar of Titles causes to be entered on the relevant title a memorandum that the land has ceased to be bound by the Memorial of Advertisement.

No fees are payable for withdrawal of the Memorial of Advertisement. If after the expiry of twelve months the Memorial of Advertisement has not been removed, it is ignored as an encumbrance.

If a contract for sale has not been entered into within 12 months from the date that the land is offered for sale by public auction notice, in the form of Form 5, the proceedings for the power to sell the land cease to have effect.

Proceedings can however be recommenced after this 12 months period, and the same power of sale of land proceeding requirements apply again for any proposed future sale. (Sch. 6.3 cl.7.)

If a contract of sale is entered into within the twelve month period after the date the land is offered for sale pursuant to the power of sale, a Transfer (Landgate Form T5) giving effect to this sale may be accepted for registration by the Registrar of Titles during or after this period unless a dealing has been lodged which prevents registration of the Transfer.

The local government's power of sale includes:

- the power to sell the land (in whole or in part, together or in lots) by public auction, or by private treaty if the land has been offered, though not sold, by public auction;
 - the power to impose terms and conditions the local government thinks fit, for instance payment arrangements, and the fixing of a reserve price;
 - the power to vary a contract of sale by agreement and to buy in at the auction;
 - the power to rescind a contract for sale on default of the other party, without being answerable for loss occasioned by the rescission and resale; and
 - the power to make thoroughfares, grant easements of right-of-way or drainage over the land as the circumstances require, and as the local government thinks fit.
- (Sch. 6.3 cl.3.(a) to (d)).

Note: An option open to local governments is to obtain an 'occasional licence' under the provisions of the *Auction Sales Act 1973* and the *Auction Sales Regulations 1974*. An 'occasional licence' authorises the holder to act as and carry out the business of, an auctioneer in relation to the occasion and circumstances specified in the licence.

The application process for an Occasional Licence is summarised as follows:

1. Complete two (2) copies of the Occasional Auctioneers Licence Application Form (Form 3).
2. Obtain three (3) character references in duplicate.
3. Prepare a cheque or money order (payable to the Department of the Attorney General for the amount as specified in the *Auction Sales Regulations 1974*).
4. Lodge the applications, references and payment at the court nearest the applicant's place of business.
5. If granted the licence will be valid for seven (7) days.

After Sales Matters

- Where a transfer or conveyance of an estate in fee simple is made under s.6.64(1)(a) to (d) of the Act, this matter is not able to be brought to court for prosecution on the grounds;
 - that no case has arisen, or
 - that the proper procedures were not followed, or
 - that the power was otherwise improperly or irregularly exercised (s.6.72).

- Should a person claim that there has been an unauthorised, or improper, or irregular use of the power, there is a remedy open to them in damages against the local government but not against the Crown (s.6.72).
- A sale of land by a local government discharges the land and the owners, present and past, from any liability for rates, service charges or other money due to the local government at the time of sale and secured by a charge over the land, or otherwise recoverable under the Act or another written law (s.6.73(a) to (d)).
- The Local Government is required to apply the proceeds from the sale of the land in the manner set out in Sch. 6.3 cl.5. This lists the priority of payment allocation from the sale proceeds, summarised as follows;

Priority	Payment Allocation
1st	The costs and charges and expenses incurred by the local government in the land sale process.
2nd	(i) Unpaid rates and service charges for the land (ii) Costs and other money due or imposed by the Crown or an instrumentality of the Crown (e.g. State agency or department) (iii) Other amounts due to the local government under the Act or other written law. Where insufficient funds remain after the first step has taken place, Sch. 6.3 cl.5.(b)(iii) provides the detail on how any remaining sale proceeds are to be distributed.
3rd	Vendor's costs and expenses relating to the conferring of title upon the purchaser of the land.
4th	The discharge of a charge on the land relating to drainage and sewerage connection and fittings.

Priority	Payment Allocation
5th	The discharge of other mortgages and encumbrances on the land both registered and unregistered.
6th	Within 12 months, payment of any sale proceeds that remain to the person or persons with an entitlement to the land but for the sale (Sch. 6.3 cl.5.).

Where the local government exercises its power of sale under sections 6.64(1)(b) and 6.68 and Schedule 6.3 of the *Local Government Act 1995*, a Transfer (Landgate Form T5) executed by the local government using its common seal is used for transfers of land under the *Transfer of Land Act 1893*.

If the land is old system land which has not been brought under the *Transfer of Land Act 1893* the procedure for a conveyance of land under the *Registration of Deeds Act 1856* will apply. See paragraph 10.1.3 of the Landgate Practice Manual.

The Transfer (Landgate Form T5) must be supported by a statutory declaration made on the back page of the Form T5 by the Chief Executive Officer, attesting to compliance with the provisions of Part 6 Division 6, Subdivision 6 of the *Local Government Act 1995*.

In circumstances where there is a duplicate certificate of title, it is not required to be produced but the Registrar may with the consent of the Commissioner of Titles dispense with the production of the duplicate certificate of title (if any). The Registrar has the power to make orders or require advertisement as if the duplicate title was lost or not produced under the *Transfer of Land Act 1893*.

Where a paper title is in existence, a new title is created and registered in the name of the transferee. In the case of a digital title, a new edition of the duplicate digital title is issued.

Please refer to 3.6, on removal of encumbrances.

The issue of a receipt by the local government for money paid on the sale of the land is sufficient discharge. (Sch. 6.3 cl.6.)

Refer to Sale of Land Checklist [Attachment 2](#).

3.5 Leasing the Land

- When rates or service charges are due on rateable land and have not been paid for at least three years, a local government may take possession of the land and from time to time lease the land for a term, not exceeding seven years at one time, with such reservations, exceptions, covenants and conditions as the local government thinks fit. (s.6.65 and Sch. 6.2 cl.1.(1))
- The local government must have taken possession of the land, (See 3.3)
- Where the proposed lease of the land is to exceed 3 years, the local government is to produce the lease to the Registrar of Titles for registration purposes. (Sch. 6.2 cl.1.(2) and s.91 *Transfer of Land Act 1893*)

The following are some of Landgate's requirements for registration of leases which may apply.

- The consent of any mortgagee or annuitant registered in priority to the lease is required.
- A lease must be prepared on a Landgate L1 Form for a lease of freehold land.
- If the duplicate title is not produced for registration of the lease, the Registrar of Titles may with the consent of the Commissioner of Titles dispense with the duplicate title, but may cause orders and advertisements to be made as are provided for by the *Transfer of Land Act 1893* in the case of a duplicate certificate of title which is lost or not produced (Schedule 6.2 cl.1.(2) (b) of the *Local Government Act 1995*).
- Where the lease relates to a portion of a Lot or Location, it must have a Land Description that is defined by a sketch or an "Interest Only" Deposited Plan. A lease of part of a building may have a narrative land description (see paragraph 2.8.4 of the Landgate Practice Manual).
- The term of the lease must be clearly defined, i.e. must have a commencement date (which may be a past date or up to 21 years in the future) and either a finish date or a finite term.

Please note that this is not an exhaustive list of Landgate's requirements.

See paragraph 2.8 of the Landgate Practice Manual for further information on registration of leases.

- Land leased by the local government, exercising its power to do so under s.6.64(1)(a) of the Act, does not cease to be rateable land for the local government or prejudice or effect the recovery of rates or taxes due to the State or Commonwealth and their associated departments, instrumentalities and agencies. (s.6.66(1))(2))
- A lessee is entitled to possession as against persons with an estate or interest in the land, but this does not affect the rights of a local government under the lease, public easements that affect the land, or the rights of the State or Commonwealth and their associated departments, and agencies. (s.6.66(3))
- The local government is required to apply the rent or other money from the lease of the land in the manner set out in Sch. 6.2 cl.2. This lists the priority of allocation from the lease proceeds, summarised as follows;

Priority	Payment Allocation
1st	The costs and charges and expenses incurred by the local government in the land lease process.
2nd	Unpaid rates and service charges for the land.
3rd	Costs and other money due or imposed by the Crown or an instrumentality of the Crown (State, agency, department).
4th	Payment of any lease proceeds that remain to the person or persons with an entitlement to the land but for the lease. (Sch. 6.2 cl.2.)

3.6 Transfer of the Land to the Crown or to the Local Government

Where the land has been offered for sale for non payment of rates or service charges and a contract of sale has not been entered into at the expiration of 12 months from the date that the land is offered for sale by public auction notice (Form 5), the land may be transferred in fee simple, to the Crown in right of the State or to the local government. The transfer is subject to the *Transfer of Land Act 1893*, or by deed when it is not covered by the *Transfer of Land Act 1893*. (s.6.71(1); Sch. 6.3)

The local government must have taken possession of the land. (See 3.3)

Upon transfer to the Crown or to the local government, all encumbrances affecting the land are of no further force or effect against the land and the Registrar of Titles or Registrar of Deeds is to remove all encumbrances from the title to the land. (s.6.71(2))

Note: State Land Services (SLS) does assist local governments by accepting transfer of land under s.6.71 of the Act and re-releasing it under the *Land Administration Act 1997 (LAA)*, often with covenants or conditions requiring development within specified timeframes. SLS also actively identifies parcels of Crown land in town sites that may be released for development. However, there are no provisions in the LAA for enforcing development on freehold lots.

- A Transfer (Landgate Form T5) executed by the local government using its common seal is used for transfers of land that is under the *Transfer of Land Act 1893* (to either the Crown under section 6.71(1)(a) or to the local government under section 6.71(1)(b)).
- If the land is old system land which has not been brought under the *Transfer of Land Act 1893* the procedure for a conveyance of land under the *Registration of Deeds Act 1856* will apply. See paragraph 10.1.3 of Landgate Practice Manual.
- The Transfer (Landgate Form T5) must be supported by a statutory declaration made on the back page of the Form T5 by the Shire or Town clerk, attesting to compliance with the provisions of Part 6 Division 6, Subdivision 6 of the *Local Government Act 1995*.
- In circumstances where there is a duplicate certificate of title, it is not required to be produced but the Registrar may with the consent of the Commissioner of Titles dispense with the production of the duplicate certificate of title (if any). The Registrar has the power to make orders or require advertisement as if the duplicate title was lost or not produced under the *Transfer of Land Act 1893*.
- Where a paper title is in existence, a new title is created and registered in the name of the transferee. In the case of a digital title, a new edition of the duplicate digital title is issued.
- No stamp duty or registration fees are payable in respect of the Transfer.
- Please see below guidelines on removal of encumbrances.

Where a transfer or conveyance of an estate in fee simple is made under s.6.41(1)(b) to (d), this is not able to be brought to court for prosecution on the grounds that no case has arisen or the proper procedures were not followed or the power was otherwise improperly or irregularly exercised. (s.6.72)

Should a person claim that there has been an unauthorised or improper or irregular use of the power there is a remedy open to them in damages against the local government but not against the Crown. (s.6.72)

- When transferring the land to the Crown it is queried whether there is a requirement (referred to in the dot point below) to pay out Crown encumbrances as is stated below?

When transferring the land to the Crown or the local government, the local government is required to pay the sum secured by or payable under a mortgage, lease, tenancy, encumbrance or charge in favour of the Crown in right of the State or a department, agency, or instrumentality of the Crown in right of the State. (s.6.71(3))

See Landgate's procedures outlined above.

A transfer or conveyance of land to the Crown or a local government discharges the land and the owners, present and past, from any liability for rates, service charges or other money due to the local government that were at the time of transfer and secured by a charge over the land, or otherwise recoverable under the Act or another written law. (s.6.73(a) to (d))

3.7 Revestment of Land in the Crown

- Where rates and service charges are due and payable on vacant rateable land and have not been paid for at least the last three years, the local government may revest the land in the Crown in right of the State. (s.6.74(1))
- The local government must have taken possession of the land. (See 3.3)
- The local government is to give notice to the land owners at their last known address and to all interest holders shown on the Certificate of Title, of its intention to revest the land if rates, service charges, costs and expenses are unpaid by the date specified in the notice, (at least 30 days from the service date); and cause a copy of the notice of intent to be published in the Government Gazette. The notice of intent is to contain a statement that the person to whom the notice is issued may lodge an objection to the revestment within 30 days of the date of the notice. (s.6.74; FMR r.77(1)(a) (b) and (2))
- The local government is required to consider all objections received to the intention to revest notice. (s.6.74; FMR r.77(3))
- The next step is for the local government to make an application to the Minister, in the form of Form 6 (refer Attachment 7), to have the land revested in the Crown. Form 6 requires the Chief Executive Officer to confirm by completing, signing and dating the form certifying that the land meets the criteria for revestment and that the legislative process requirements to allow for the land to be considered by the Minister for revestment have been complied with. (s.6.75; FMR r.78(1))

- The Minister may grant the application and authorise the revestment to the Crown by completing a Form 7 (refer Attachment 8) and submitting it, together with a transfer or conveyance of the land, to the Registrar of Titles or the Registrar of Deeds for registration. (s.6.74; FMR r.78)

- Where rates and taxes have been outstanding for a period of three years, section 6.74 of the *Local Government Act 1995* allows the local government to have the land re-vested in the State of Western Australia. There is no requirement under this section for a local government to have attempted to sell the land.
- If the land is old system land which has not been brought under the *Transfer of Land Act 1893* the procedure for a conveyance of land under the *Registration of Deeds Act 1856* will apply. See paragraph 10.1.3 of the Landgate Practice Manual.
- Revestment is achieved by the lodgement of a Transfer (Landgate Form T9) if the land is under the *Transfer of Land Act 1893* executed by the Minister for Local Government and the Minister for Lands by appropriate delegation.
- The Transfer attracts no registration fees and no stamp duty.
- In circumstances where there is a duplicate certificate of title, it is not required to be produced but the Registrar may with the consent of the Commissioner of Titles dispense with the production of the duplicate certificate of title (if any).

The Registrar has the power to make orders or require advertisement as if the duplicate title was lost or not produced under the *Transfer of Land Act 1893*.

- If the land is under the *Transfer of Land Act 1893* the Registrar of Titles will cancel the certificate of title to the land and remove it from operation of the Transfer of Land
- Please see below guidelines (see 3.9) on removal of encumbrances.
- All rights benefiting the land being re-vested continue and are automatically brought forward onto the new Crown title.

3.8 Vestment of Land in the Local Government

- The local government must have taken possession of the land (See 3.3)
- Where 12 years have expired from the date of taking possession of the land under s.6.64 of the Act, and all outstanding rates and service charges have not been paid, the land has not been sold, or transferred to the Crown or to the local government, the fee simple in the land is to be transferred to the local government. (s.6.75(1)(a)(b))
- If the land is old system land which has not been brought under the *Transfer of Land Act 1893* the procedure for a conveyance of land under the *Registration of Deeds Act 1856* will apply. See paragraph 10.1.3 of the Landgate Practice Manual.
- A Transfer (Landgate Form T5) executed by the Local Government using its common seal is used for a transfer of land that is under the *Transfer of Land Act 1893*.

- The Transfer (Landgate Form T5) must be supported by a statutory declaration made on the back page of the Form T5 by the Local Government's Chief Executive Officer, attesting to compliance with the provisions of Part 6 Division 6, Subdivision 6 of the *Local Government Act 1995*.
- In circumstances where there is a duplicate certificate of title, it is not required to be produced but the Registrar may with the consent of the Commissioner of Titles dispense with the production of the duplicate certificate of title (if any). The Registrar has the power to make orders or require advertisement as if the duplicate title was lost or not produced under the *Transfer of Land Act 1893*.
- Where a paper title is in existence, a new title is created and registered in the name of the transferee. In the case of a digital title, a new edition of the duplicate digital title is issued.
- No stamp duty or registration fees are payable in respect of the Transfer.
- Please see below guidelines on removal of encumbrances.

- The transfer of the land to the local government is free from encumbrances other than being subject to;
 - easements in favour of the public that affect the land,
 - the rights of the Crown in right of the State, or a department, agency, or instrumentality of the Crown in right of the State or Commonwealth, and
 - rates and taxes (other than local government rates and taxes) due on the land. ((s.6.75(1)(c)(d)(e) (2); and Sch. 6.3)

3.9 Removal of Encumbrances under the *Local Government Act 1995*

3.9.1 Transfers to a Local Government or third parties (other than the Crown)

Upon registration of the Transfer (T5) by the Registrar of Titles, encumbrances other than encumbrances which fall into the statutory exceptions set out in sections 6.75(1)(c), (d) or (e) of the *Local Government Act 1995* are automatically removed from the title to the land.

The statutory exceptions are:

1. easements in favour of the public which affect the land;
2. the rights of the Crown in right of the State or Commonwealth or a department or agency or instrumentality in right of the State or Commonwealth; and
3. rates and taxes (other than local government rates and service charges) due on the land.

Depending on their nature, these encumbrances may be shown as encumbrances on page 2 of the Transfer or withdrawn by the relevant department or agency to permit registration of the Transfer and then (if necessary) re-lodged.

With the exception of caveats which fall into the statutory exceptions in section 6.75(1) (c)-(e) of the *Local Government Act 1995*, caveats (including "absolute caveats") are automatically removed upon registration of a Transfer (Landgate Form T5) by a local government exercising its power to sell or transfer the land to a third party or itself for non-payment of rates under the Act.

As a general rule Registrar's Caveats (lodged by the Registrar of Titles at the direction of the Commissioner of Titles under section 188(iii) of the *Transfer of Land Act 1893*) are removed by the act of registration of a transfer by a local government to a third party or itself under the Act (as indicated above). However, where the purpose of a Registrar's Caveat is to protect a right of the State or its agency, department or instrumentality, for example, in the case of an error or wrong description in the land or fraud the Registrar's Caveat is required to be removed by the Registrar of Titles at the direction of the Commissioner of Titles. **Please note:** there may be other exceptions to this rule.

Where a paper title is in existence, a new title is created and registered in the name of the transferee free from encumbrances except those referred to in section 6.75(1),(c), (d) or (e). In the case of a digital title, a new edition of the duplicate digital title is issued.

Note: If the land is (or is designated to become) part of the Dampier to Bunbury Natural Gas Pipeline (DBNGP) corridor under the Dampier to *Bunbury Natural Gas Pipeline Act 1992*, other statutory provisions do not apply without approval of the DBNGP Land Access Minister.

3.9.2 Transfers to the Crown

Where land is transferred to or transferred and revested in the State of Western Australia by a local government under sections 6.71(1)(a) or 6.74 of the Act respectively, encumbrances of every kind including all caveats (and Registrar's Caveats) are automatically removed from the title to the land.

Attachment 1

Rates – Sale of Land

Ward	All
File Ref:	RV/DR/2
Date	3 March 2011
Ref	JEAH
Responsible Manager	Manager Financial Services

In Brief:

- Sale of Land – recovery of rates in arrears for a period of three (3) or more years.
- Recommendation is that Council proceeds to sell (4) arrears of 3 or more years, and recover from the proceeds of sale the outstanding balances which total \$26,095.87.

Tabled Items

Nil

Officer Interest Declaration

Nil

Strategic Implications

Corporate Services: – to achieve maximum community benefit from effective use of resources (staff, finances and information technology).

Legislation Implications – S6.64 of the *Local Government Act 1995* states:

(1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and –

- from time to time lease the land;
- sell the land;
- cause the land to be transferred to the Crown; or
- cause the land to be transferred to itself.

(2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.

(3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

Council Policy/Local Law Implications

With reference to F43/92 dated 4 March 1992, Council resolved as part of the procedures to be employed for the collection of outstanding rates to review on an annual basis those properties where despite all efforts made to obtain payment on the overdue charges, rates arrears that had accrued and become in arrears by three or more years.

Those properties would then become the subject of recovery procedures, which with the approval of Council, would involve the implementation of action under the relevant sections of the *Local Government Act*, to sell the properties in order to recover the overdue rates.

Budget/Financial Implications

The sale of this land will equate to a decrease in the level of outstanding rates of \$26,095.87.

Consultation

Nil

Background

Analysis

There are currently 4 properties that have rates outstanding by three or more years for which it has not been possible to enter into acceptable and successful arrangements for the payment of the balance owing. In each instance, a written notification has been directed to the last known postal address of the ratepayers and the property advising that it will be our intention to refer the matter to Council with a recommendation to sell the property in order to recover the outstanding balance.

The following is a list of those properties that have rates currently in arrears by three or more years, together with a brief history of the action taken to date.

Minor Case Claim* MCC (ne General Procedure)

Property Sale & Seizer Order* PSSO (ne Warrant of Execution)

Direct Debit Request Form DDR/CPR

Centrepay*

(*refer last page of this attachment for explanation of terms)

1.			2.		
Ward	North		Ward	South	
Assessment	22391		Assessment	92449	
Type / Zoning	Residential R12.5/R25		Type / Zoning	Residential R15/R25	
Period Outstanding	2007/08 – 2010/11		Period Outstanding	2007/08 – 2010/11	
Amount Outstanding	\$5,871.47		Amount Outstanding	\$5,623.15	
Payment	10 July 2007 \$1,350.43		Payment	6 March 2007 \$936.75	
Recovery Action	Jan 08 Intention to MCC letter Feb 08 MCC 232/08 Sept 08 Intention to PSSO Nov 09 Intention to MCC letter Jan10 MCC 90/2010 Feb 10 MCC Served Aug 10 Intention Proceed with PSSO Dec 10 Notice of Intention to sell \$6.64 included DDR Mar 11 Letter Advising Ratepayers about report to Council to sell property at next Council Meeting 28 March 2011		Recovery Action	Jan 08 Intention to MCC letter Feb 08 MCC 373/08 Sept 08 Intention to PSSO Nov 09 Intention to MCC letter Jan10 MCC 90/2010 Feb 10 MCC Served Aug 10 Intention Proceed with PSSO Dec 10 Notice of Intention to sell \$6.64 included DDR Mar 11 Letter Advising Ratepayers about report to Council to sell property at next Council Meeting 28 March 2011	
Response	The owner has not responded to recent notices or correspondence.		Response	The owners have not responded to recent notices or correspondence.	

3.		4.	
Ward	East	Ward	West
Assessment	92980	Assessment	94885
Type / Zoning	Residential R15/R25	Type / Zoning	Residential R15/R25
Period Outstanding	2007/08 – 2010/11	Period Outstanding	2007/08 – 2010/11
Amount Outstanding	\$5,596.63	Amount Outstanding	\$9,004.62
Payment	27 December 2006 \$655.98	Payment	2 October 2008 \$2,000.00
Recovery Action	Jan 08 Intention to MCC letter Feb 08 MCC 374/08 Aug 08 Accepted DDR all payments dishonoured Sept 08 Intention to PSSO Nov 09 Intention to MCC letter Jan 10 MCC 90/2010 Feb 10 MCC Served Aug 10 Intention Proceed with PSSO Dec 10 Notice of Intention to sell S6.64 included DDR Mar 11 Letter Advising Ratepayers about report to Council to sell property at next Council Meeting 28 March 2011	Recovery Action	Nov 05 Intention to MCC letter May 06 MCC 649/06 Oct 06 Intention to PSSO Jan 10 Intention to MCC letter May 10 MCC 1012/2010 Aug 10 Intention Proceed with PSSO Dec 10 Notice of Intention to sell S6.64 included DDR Mar 11 Letter Advising Ratepayers about report to Council to sell property at next Council Meeting 28 March 2011
Response	The owner has not responded to recent notices or correspondence.	Response	The owners have not responded to recent notices or correspondence.

A summary of the owners of the properties referred to above is contained in a confidential attachment to this Agenda.

(Refer to Attachment "B-2" – Summary of Attachments as circulated with the Agenda.)

Details Of Proposal

It is proposed to sell the land to recover outstanding rates and charges in excess of 3 years, in accordance with

Section 6.64(1)(b) of the *Local Government Act 1995*.

Comment

Options

Option 1 – Exercise the provisions of Section 6.64 of the *Local Government Act 1995*

- given the high level of the debt, and the amount of time that has been afforded to enable the ratepayers to either clear or reduce the debt, it is appropriate to apply the relevant section of the *Local Government Act 1995* empowering the sale of land provisions in relation to unpaid rates and charges.

Option 2 – Exercise the provisions of Section 6.74 of the *Local Government Act 1995*

- apply to the Minister to have the land re-vested in the Crown in the right of the State.

Option 3 – Exercise the provisions of Section 6.75 of the *Local Government Act 1995*

- make application for the land to be vested in the local government.

Conclusion

It is suggested that Council apply the provisions of Section 6.64 of the *Local Government Act 1995* and sell the land in respect of the unpaid rates and charges, which are in arrears for a period of excess of 3 years.

CS24/3/11 Recommendation

That Council pursuant to Section 6.64(1) (b) of the *Local Government Act 1995*, proceed to sell the properties listed hereunder which have rates in arrears for 3 or more years, and recover from the proceeds of sale the outstanding balances which total \$26,095.87.

List of Properties by Assessment Number

Assessment 22391

Assessment 92449

Assessment 92980

Assessment 94885

Moved Cr Buck

Motion Carried (7-0)

* Explanation of Terms

Minor Case Claim (MCC) –

This is a process for recovering minor debts in the local Magistrate's Court. It is for the recovery of amounts of \$10,000 or less and is aimed at parties to generally come to an agreement without lawyers.

Property Sale and Seizure Order (PSSO) –

A Property (Sale and Seizure) Order authorises a Bailiff to seize and sell as much of your real or personal property as necessary to pay the judgement debt.

Direct Debit Request Form

Centrepay (DDR/CPR) –

Centrepay is a free bill-paying service offered to customers receiving payments from Centrelink. It can be used to pay bills (such as rent, gas, water and electricity) through a series of regular deductions from a recipient's Centrelink payments.

Attachment 2

Sale of Land Checklist

Once council has resolved to sell land:-

<input type="checkbox"/>	Check the overdue rates (and charges) and “age” of the debt – ensure that there is an amount of rates which has been outstanding for a period in excess of at least 3 years.	Section 6.64(1)
<input type="checkbox"/>	Check that legal action has been attempted at least once in the last 3 years to recover the outstanding rates.	Section 6.68(1)
<input type="checkbox"/>	Order an updated title search.	
<input type="checkbox"/>	Issue a Notice Requiring Payment (Form 4) to be served on the owner as per the owner’s address shown on the Certificate of Title. Owner is given 3 months in which to pay and avoid his land being sold.	Section 6.68(3) Schedule 6.3 1.(1)(a); FMR r. 74 Form 4
<input type="checkbox"/>	Serve a copy of the Notice Requiring Payment (Form 4) on anyone with an estate or interest in the property (to the address shown on the title).	Schedule 6.3.1(1)(b)
<input type="checkbox"/>	A copy of the Notice Requiring Payment (Form 4) to be displayed on Council’s official noticeboard for a minimum of 35 days. Ensure that the Form 4 is duly stamped with the date first displayed and the date removed – show signature of authorised person plus witness.	Schedule 6.3.1(1)(c)
<input type="checkbox"/>	Serve a copy of Form 2 on the owner.	Section 6.64(2); FMR r.72
<input type="checkbox"/>	And also attach a copy of Form 3 to a conspicuous part of the land in order to take possession of the land. Obtain an affidavit of service regarding Form 3.	Section 6.64(2); FMR r.73
<input type="checkbox"/>	Council is to appoint a time no less than 3 months and no more than 12 months after service of the Notice of payment (Form 4) for the public auction. A sale has to happen within 12 months of the date the land is offered for sale or proceedings lapse.	Schedule 6.3 cl.7
<input type="checkbox"/>	Issue a Statewide public notice.	Schedule 6.3 cl.2; FMR r.75; Form 5
<input type="checkbox"/>	Register at Landgate, a Memorial of the Statewide public notice.	Schedule 6.3 cl.2 (3)
<input type="checkbox"/>	Organise the auction.	Schedule 6.3 cl.3
<input type="checkbox"/>	Attend the auction.	Schedule 6.3 cl.3
<input type="checkbox"/>	If sold at auction, arrange settlement.	Schedule 6.3 cl.4 & 6.3 cl.5

NB: All legislative references are the *Local Government Act 1995* and associated regulations.

Attachment 3

Form 2

[reg. 72]

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Notification of taking possession of land under section 6.64 of the *Local Government Act 1995*

TO: ⁽¹⁾

Notice is hereby given that the sum of \$ ⁽²⁾ having been unpaid to the ⁽³⁾
Shire/Town/City of ⁽⁴⁾ for a period of 3 years for ⁽³⁾ rates/
service charges in respect of the land situated at ⁽⁵⁾

.....
and being ⁽⁶⁾

the local government has taken possession of the land pursuant to section 6.64 of the
Local Government Act 1995, and in accordance with that section intends to

⁽³⁾ (a) lease the land;

⁽³⁾ (b) sell the land;

⁽³⁾ (c) cause the land to be transferred to the Crown;

⁽³⁾ (d) cause the land to be transferred to the local government.

Signed for and on behalf of the ⁽³⁾ Shire/Town/City of ⁽⁴⁾

this ⁽⁷⁾ day of, 20.....

.....
CEO

(1) insert name of owner of land or }owner of (5)~

(2) insert amount

(3) delete the one that does not apply

(4) insert name of local government

(5) insert address or other details sufficient to identify land

(6) insert title particulars of land

(7) insert date

Attachment 4

Form 3

[reg. 73]

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Notice to be affixed on land on taking possession under
section 6.64 of the *Local Government Act 1995*

TO: ⁽¹⁾

The ⁽²⁾ Shire/Town/City of ⁽³⁾ has taken possession of this
land situated at ⁽⁴⁾

.....

and being ⁽⁵⁾

in accordance with section 6.64 of the *Local Government Act 1995*,
and will in accordance with that section

⁽²⁾ (a) lease the land;

⁽²⁾ (b) sell the land;

⁽²⁾ (c) cause the land to be transferred to the Crown;

⁽²⁾ (d) cause the land to be transferred to the local government.

Signed for and on behalf of the ⁽²⁾ Shire/Town/City of ⁽³⁾

this ⁽⁶⁾ day of, 20.....

.....

CEO

(1) insert name of owner of land or owner of (4)~

(2) delete the one that does not apply

(3) insert name of local government

(4) insert address or other details sufficient to identify land

(5) insert title particulars of land

(6) insert date

Attachment 5

Form 4

[reg. 74]

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Notice pursuant to Schedule 6.3 of the *Local Government Act 1995* requiring payment of outstanding rates or service charges

TO: ⁽¹⁾

Notice is hereby given that the sum of \$ ⁽²⁾ has been owing to the ⁽³⁾

Shire/Town/City of ⁽⁴⁾ for a period of 3 years for ⁽³⁾
rates/service charges in respect of the land described below

and unless payment is made of the sum of \$ ⁽²⁾ within 3 months
from the date of this notice the local government will, pursuant to section 6.64 of the
Local Government Act 1995, offer the land for sale by public auction at a time and place
appointed by the local government.

Signed for and on behalf of the ⁽³⁾ Shire/Town/City of ⁽⁴⁾

this ⁽⁵⁾ day of, 20.....

.....
CEO

Description of Land etc.

Names of owners and all other persons appearing to have an estate or interest in the land	Description of land referred to, including title references
⁽⁶⁾	⁽⁶⁾

(1) insert identity or description of person to whom notice is being served

(2) insert amount

(3) delete the one that does not apply

(4) insert name of local government

(5) insert date

(6) insert details

Attachment 6

Form 5

[reg. 75]

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Notice pursuant to Schedule 6.3 of the *Local Government Act 1995* of sale of land for non-payment of outstanding rates or service charges

Notice is hereby given that, under section 6.64 of the *Local Government Act 1995*, as ⁽¹⁾
rates/service charges have been owing for a period of at least 3 years the ⁽¹⁾ Shire/Town/City
of ⁽²⁾ is to offer for sale by
public auction at ⁽³⁾
on the ⁽⁴⁾ day of, 20..... the land described below.

Signed for and on behalf of the ⁽¹⁾ Shire/Town/City of ⁽²⁾
this ⁽⁴⁾ day of, 20.....

.....
CEO

Description of Land etc.

Description of land and lot or location number	
Plan or Diagram Number	
Title reference	
Area	
Street	
Description of improvements, if any	
Name of Owner	
Name of other persons appearing to have an estate or interest	
Rates/service charges outstanding	
Other charges due on the land	

(1) delete the one that does not apply

(2) insert name of local government

(3) insert details

(4) insert date

Attachment 7

Form 6

[reg. 78(1)]

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Application to the Minister for land to be revested in the Crown

Local Government Act 1995 Application under s.6.74

TO: The Hon. Minister

The ⁽¹⁾ Shire/Town/City of ⁽²⁾ requests that the Minister approve the revestment in the Crown of the land described below pursuant to section 6.74 of the *Local Government Act 1995*, by the reason that the land is;

- (a) rateable land;
- (b) vacant; and
- (c) land in respect of which ⁽¹⁾ rates/service charges have been unpaid for a period of at least 3 years.

I the undersigned certify that, in respect of the stated land;

- (d) 30 days' notice of intent was delivered to the last known address of the owner(s) of the land;
- (e) 30 days' notice of intent was issued to the last known address of all persons who are noted on the certificate of title to the land as having an interest in the land (by way of encumbrance or otherwise);
- (f) a copy of that notice was published on page of the Government Gazette of ⁽³⁾; and
- (g) after 30 days

⁽¹⁾ no objections were received

⁽¹⁾ objections were received from ⁽⁴⁾ people and duly considered by the local government.

(Copies of the objections and associated council resolutions are attached).

Signed for and on behalf of the ⁽¹⁾ Shire/Town/City of ⁽²⁾
this ⁽³⁾ day of, 20.....

.....
CEO

- (1) delete the one that does not apply
- (2) insert name of local government
- (3) insert date
- (4) insert number of persons

Names of owners and all other persons appearing to have an estate or interest in the land	Description of land referred to, including title references
(1)	(1)

(1) insert details

Attachment 8

Form 7

reg. 78(2)]

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Notification by Minister of grant of application for revestment of land in the Crown
Local Government Act 1995 – Ministerial approval under s.6.74

I, being the Minister charged for the time being with the
administration of the *Local Government Act 1995*, grant the application submitted by the ⁽¹⁾
Shire/Town/City of (2)
on the ⁽³⁾ day of 20....., and authorise the land described
below to be revested in the Crown.

.....
Minister

Date ⁽³⁾

Description of Land etc.

Names of owners and all other persons appearing to have an estate or interest in the land	Description of land referred to, including title references
(4)	(4)

(1) delete the one that does not apply
(2) insert name of local government
(3) insert date
(4) insert details

These guidelines are also available on the Department's website at www.dlgc.wa.gov.au



About the Guideline series

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Department officer knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

For more information about this and other guidelines, contact the Local Government Regulation and Support Branch at:

Department of Local Government and Communities

Gordon Stephenson House, 140 William Street, Perth WA 6000

GPO Box R1250, Perth WA 6844

Telephone: (08) 6551 8700 Fax: (08) 6552 1555

Freecall (Country only): 1800 620 511

Email: info@dlgc.wa.gov.au Website: www.dlgc.wa.gov.au

Translating and Interpreting Service (TIS) – Tel: 13 14 50