



Outstanding Collections
(Aust) Pty Ltd.

NSW, s.713 Sale of Land Service Overview

Background

Background

Under Section 713 of the Local Government Act, Council may sell land for unpaid Rates and Charges.

In accordance with s.713 (1), the properties listed below are eligible to be sold for unpaid Rates and Charges as they all have Rates and Charges that have been outstanding for more than five (5) years.

Some City Councils tend not to perform s.713 sales due to the possibility of bad publicity, but Regional Councils all over NSW use s.713 Sales to recover large old debts that have been accumulating over long periods of time and minimise their Outstanding Rates percentage.

s.713 sales are complex projects with a heavy workload, requiring compliance with various Acts and regulations, the preparation of certificates and many searches, and the mitigation of various risks. They take approximately 6 months from preparation of the report to Council to settlement.

Due to the complexity and workload burden, Councils tend to only sell land every 3-5 years.

Outstanding Collections has developed an outsourcing service which specialises in delivering and managing Section 713 sales for NSW councils, relieving councils of the workload burden.

Now councils can perform a Sales of Land every year and keep their Outstanding Rates percentage consistently lower.

Outstanding Collections are the NSW experts at Sales of Land and have 2 or 3 sales in progress most of the time. We have current projects, or recently completed sales, for Goulburn Mulwaree Council, Forbes Shire Council, Carrathool Shire Council, Narromine Shire Council, Cabonne Shire Council, Glen Innes Severn Council, Shellharbour Council, Central Darling Shire Council, Bellingen Shire Council, Junee Shire Council and Tenterfield Shire Council. More Council resolutions are in the pipeline for this year.

Requirements

Understanding of requirements

Outstanding Collections understands that the following objectives are Council's main requirements.

1. Sell all properties - none are left unsold

Selling all the properties listed is in the main requirement of the project. Selling all the properties allows Council to recover and/or write off all Rates outstanding owing on the properties.

There is likely to be little or no demand for some properties. Some of those properties will receive no bids at auction or only bids below the auction reserve price.

To avoid those properties remaining unsold, Outstanding Collections recommends that it is in Council's best interest to buy any land that is unsold at auction and sell those properties later. The key points to consider are:

- Council can only buy properties at auction, not afterwards by Private Treaty.
- Any properties which fail to attract bids exceeding the reserve price should be bought at auction by Council and sold over time.
- Properties which attract multiple bids but fail to meet the reserve price can be passed in and sold by private treaty.
- We welcome a discussion on strategies used in this approach.

This approach will ensure that 100% of properties will sell, either to private bidders or Council, and all Rates debts are cleared.

2. Deliver the result at the lowest practical cost

Outstanding Collections is constantly performing Sales of Land, so we have developed expertise and software tools to semi-automate some of the most time-consuming tasks.

The time savings are passed on to Council as cost savings, and the work is completed much more quickly. For example:

- Producing General Manager's Certificates normally requires hours of analysis and transaction data transformation and quality assurance validation for each property.
- Outstanding Collections has a software tool which performs most of the transaction data transformation, validates the analysis, and summarises the key data for the newspaper advertisements. Manual quality assurance is then performed by Outstanding Collections and final copies sent to Council for checking.

To keep Council fully informed and minimise Council's workload, Outstanding Collection's **secure online portal** gives Council immediate access to the latest status, information, documents and communication on every property, at Council's convenience 24/7. Documents can be viewed, printed, downloaded.

3. Mitigate risks

Outstanding Collections is NSW's top expert in the management of the Sale of Land process.

It has completed s.713 sales, or has work in progress, for Goulburn Mulwaree Council, Forbes Shire Council, Carrathool Shire Council, Narromine Shire Council, Cabonne Shire Council, Glen Innes Severn Council, Shellharbour Council, Central Darling Shire Council, Bellingen Shire Council, Junee Shire Council and Tenterfield Shire Council. More Council resolutions are in the pipeline for this year.

Outstanding Collections has identified many risks inherent in s.713 sales and for each has developed risk mitigation tactics.

We have encountered every known risk and determined best mitigation practices - From the initial report and resolution we write for Council (May not be required by Council), to strategies for setting auction reserve prices, to preventing rogue buyers from acquiring properties - almost every activity in the s.713 sale process now has risk mitigation tactics built-in.

Protection against Rogue Buyers is a good example of risk mitigation. Rogue buyers actively target Council sales of land.

Recently one western NSW Council was carrying over \$400,000 of debt on properties sold by s.713 sale to a rogue buyer many years ago. In our last 8 auctions, no Rogue Buyer has acquired a property. This is due to a combination of tactics including:

- Contractual special conditions which disadvantage the business models of Rogue Buyers but are neutral to genuine buyers.
- Declining to accept bids from known Rogue Buyers, such bids not being in the best interests of the vendor.
- Preventing Rogue Buyers from holding properties but not settling and transferring title, if a Rogue Buyer buys a property through a previously unknown nominee bidder.

We are confident that Outstanding Collections represents the lowest risk option for Council.

4. Local content

Outstanding Collections wishes to keep maximum economic value within Councils Shire or City and prefers all possible services in a s.713 sale to be provided by business based within the Shire or City.

Process overview

Following is a high-level overview of the process. Very much more detailed information is available on request. The process begins with Outstanding Collections writing a draft report and resolution for Council, for management review and edit.

We then produce a General Manager's certificate for each property, for Council's General Manager or Public Officer to certify, including:

- What Rates and charges (including overdue Rates and charges) are payable on the land;
- When each of those Rates and charges was made and how it was levied;
- When each of those Rates and charges became payable;
- What amounts are payable by way of overdue Rates and charges on the land;
- What amounts are payable by way of Rates and charges (other than overdue Rates and charges) on the land.

In consultation with Council, Outstanding Collections then:

- Fixes a convenient time and place for the sale. The dates of the sale must be between three and six months of the initial newspaper advertising date.
- Advertises notice of the proposed sale, by means of an advertisement published in the NSW Gazette and in at least one newspaper. A time and place for the sale has not yet been determined but will be reported to the Council with a further business paper report to be presented to Council in the coming months.
- Appoint a sales agent (real estate agent/auctioneer) for the auction, from responses to an EOI process.
- Take all reasonable steps to ascertain the identity of any person with an interest in the land and take reasonable steps to notify each such person and to notify owners of adjacent properties.
- Prepare the Sale and Purchase agreements, with special conditions required to deter rogue buyers from purchasing the properties.

Prior to the auction date, the Council may be approached by landowners to make an arrangement to pay the rates and charges on the property, as per Section 715 (2) of the Local Government Act, 1993. We recommend that Council relies on the Act and that only payment in full will withdraw the property from sale.

We attend the auction to ensure it runs smoothly and answer questions regarding the Sale of Land. Once the auction is complete our inhouse solicitors engage with all 3rd-party solicitors for contract completion.

Contracts and conveyancing

Contracts and conveyancing comprise a major cost in sales of land provided by Outstanding Collections, using our legal team. There are a number of special conditions required in contracts and abnormalities in conveyancing for s.713 sales. We are experienced at managing those issues.

Outstanding Collections produce the Sale and Purchase Contracts and perform the conveyancing to avoid 3rd-party handoffs and to give us control of the whole process.

Outstanding Collections' fees for these services are typically markedly lower than the fees of firms of solicitors.

Draft High-Level Timeline

S.713 Sale Timeline

Resolution

Report and resolution put to Council, GM certificates prepared and parties notified.

Advertisement

Advertisements run in NSW Gazette and another paper.

Earliest settlement

Earliest settlement is 42 days from the earliest date of auction.

Latest settlement

Latest settlement is 84 days from latest date of auction.

