

**TERMS AND CONDITIONS OF
SALE BY AUCTION OF
PROPERTIES FOR OVERDUE RATES**



**TERMS AND CONDITIONS OF SALE FOR OVERDUE RATES OF FREEHOLD
PROPERTY TO BE OFFERED FOR SALE BY PUBLIC AUCTION**

Under instructions from Western Downs Regional Council

BY: To Be Advised

AT: Dalby Events Centre, 54 Nicholson Street, Dalby QLD,
4405

AT: 10.00 AM on Friday, 3 November 2023

PARTICULARS			
County	Parish	Description	Area
As per Council's Website			

Including all fixed improvements on the said land.

TERMS AND CONDITIONS OF SALE

1. The land is being offered for sale by Western Downs Regional Council ("Council") pursuant to its statutory power of sale under the provisions of Chapter 4, Part 12, Division 3 of the *Local Government Regulation 2012* ("LGR").
2. All Bidders must be registered. The Auctioneer may register a person as a Bidder only if that person has provided his/her name and address and satisfactory evidence of his/her identity. If the Bidder is successful, the name listed on the registration form will be the name of the Buyer in the Contract of Sale, unless the Bidder is registered to be bidding on behalf of another person.
3. Any person bidding on behalf of another person must provide the Auctioneer with a copy of their written authority before the auction; otherwise, the Bidder will be taken to be acting on their own behalf. The Auctioneer may register a person as a Bidder only if the person gives the Auctioneer the name and address of the other person for whom bids are intended to be made on instructions given by the other person by telephone. If a person intends to bid through a representative on the day, this arrangement must be lodged with the auctioneer by 4pm the day prior to the auction.
4. Persons who wish to bid via telephone must register before 4pm on the day prior to the auction.
5. Any person, bidding through a registered representative or registered as a telephone bidder must pay an amount equal to 10% of the total price the buyer is prepared to bid on the property with such funds to be deposited into the Auctioneers Trust Account by 4pm on the day prior to the auction.
6. Bids will only be accepted from registered Bidders.
7. Bidders must use the numbered identifier provided by the Auctioneer to make a bid during the auction.
8. The bidding shall be at a lump sum. The Auctioneer has the discretion to refuse to accept a bid from any Bidder. The highest approved bidder shall, subject to a reserve price, be the Purchaser. If any dispute shall arise, then at the sole discretion of the Auctioneer, the property may be re-offered for sale at any former bid and resold, but not for any price below the reserve price for the land.
9. No person shall at any bidding advance less than a sum to be named by the auctioneer at the time of the sale nor shall any person retract a bid after the same shall have been accepted by the auctioneer. A bid will be taken to be accepted and is irrevocable unless the Auctioneer refuses it. If the Auctioneer refuses a bid, the Auctioneer must announce to all other Bidders that the bid has been refused. Council shall be at liberty to bid once for the property and has the right to refuse any bid or withdraw the property from sale at any time before it is knocked down.
10. The decision of the Auctioneer is final in all matters relating to the Auction.
11. If there is any dispute over a bid or result, the Auctioneer may:
 - a. Reopen the bidding; and/ or
 - b. Determine the dispute in any other way the Auctioneer considers appropriate in his/her absolute discretion.
12. The Purchaser must upon the property being knocked down to them immediately sign the Contract of Sale and pay to Council a 10% deposit by cash, credit card, EFT, or bank cheque with settlement of the outstanding balance to be paid in full on or before the Settlement Date of 4 December 2023. If for any reason the whole of the deposit money shall not be paid by the Purchaser to Council and the contract not signed on the day of the auction, then Council may immediately cancel this sale and re-offer the property for sale. Nothing in this clause shall prejudice or affect any power or remedy conferred on Council by reason of such default by any other clause.
13. In the event of the property being sold upon the fall of my hammer, the successful purchasers will be required to execute a contract of sale.

14. The Council undertakes to sell the land to the purchaser, and the purchaser agrees to buy the land from Council, pursuant to Chapter 4, Part 12, Division 3 of the LGR.
15. Pursuant to section 145(4) of the LGR, a transfer of the interest of the registered owner, to the purchaser will be free of all encumbrances, other than an encumbrance that confers rights on a State or government entity. It is the responsibility of potential purchasers to satisfy themselves that there are no encumbrances in favour of the State or other government entity over the subject land.
16. The intending purchasers should satisfy themselves by their inspection, searches, inquiries, advices or as is otherwise necessary in relation to this property.
17. The land is sold free of all local government rates and charges accrued prior to the Settlement date (being on or before 4 December 2023).
18. Any chattels located on the land are not included in the sale.
19. The purchaser acknowledges that, in entering this agreement, it has not been guaranteed, warranted or otherwise assured by or on behalf of the Council:
 - a. that vacant possession of the land will be provided at settlement;
 - b. as to the condition, state of repair or suitability for any use of the land;
 - c. that the land presently is being used in accordance with approvals (if any) granted by the Commonwealth, State or local governments, or by any semi-government authority; and
 - d. that the improvements (if any) on land have been constructed in accordance with all applicable legislative requirements of the State or local governments.
20. If, at any time between the auction date and the settlement date the Council becomes aware that payment of the overdue rates burdening the land was tendered prior to this auction, then the Council may terminate this agreement by written notice to the Purchaser in which event all monies paid by way of deposit will be refunded to the Purchaser without deduction. The Purchaser will have no right of recourse for damages or any other claim as a consequence of Council terminating the contract.
21. The Purchaser must pay to the Council, by cash or bank cheque, on the settlement date on or before 4 December 2023 the balance purchase price.
22. Settlement is to be affected on or before 4 December 2023 at the offices of Council at 30 Marble Street Dalby Queensland, or as agreed.
23. If the deposit or any other money payable under this agreement is not paid when due, the purchaser must pay interest on the overdue money from the due date for payment to the date of payment (both inclusive).
24. If the purchaser defaults under the agreement, in addition to any other entitlement it may possess at law or in equity with respect to the default the Council may affirm or terminate the agreement.
25. If it affirms the agreement, the Council may: -
 - a. sue the Purchaser for specific performance;
 - b. sue the Purchaser for damages for breach; or
 - c. sue the Purchaser for specific performance and damages for breach and may recover from the Purchaser as a liquidated debt so much of the deposit as the Purchaser has failed to pay.
26. If it terminates the agreement under this part, the Council may: -
 - a. declare forfeited any deposit paid;
 - b. sue the Purchaser for damages for breach; and
 - c. declare forfeited any deposit paid and sue the Purchaser for damages for breach.

27. Unless expressly provided otherwise in this agreement, time shall in all respects, and in every case, be of the essence of the agreement.
28. On the date of Settlement, being on or before 4 December 2023, in exchange for the purchase moneys and the other moneys payable by the Purchaser hereunder, Council shall deliver to the Purchaser a duly executed appropriate form in accordance with and given under section 145(2) of the LGR which shall be prepared by and at the cost of Council. All other documents necessary to give effect to this sale shall be prepared by and at the cost of the Purchaser and delivered to Council's Legal Services and within a reasonable period, shall execute and redeliver such documents to the Purchaser.
29. The purchaser, or their legal representative, shall act as Council's unpaid agent and be solely responsible for holding any documents until settlement, before lodging any duly executed transfer form/s with the Registrar of Titles.
30. The Purchaser shall not be entitled to make any requisition or objection on or to the right of Council to affect this sale on or to any other matter or thing whatsoever.
31. Any mistake or error in the description or particulars of the property hereby sold shall not annul this sale and no compensation or equivalent shall be given or taken by Council or Purchaser as the case may require. Nor shall any claim for compensation be made or allowed for any matter or thing whatsoever if the existing boundary fences of the said property do not agree with the boundary lines given in the current Instrument of Title.
32. If the property is not sold and knocked down at this auction by reason of the reserve price not being reached, the Council at its discretion may enter into negotiations with any bidder to sell the land by agreement.
33. The Council and the Purchaser shall each pay their own costs of and incidental to the sale and purchase.
34. Words and phrases defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (the GST Act) have the same meaning in this Contract unless the context indicates otherwise. This clause applies where the transaction is a Taxable Supply. If this clause applies, the Purchase Price includes the Council's liability for GST on the Supply of the Property. The Purchaser is not obliged to pay any additional amount to the Council on account of GST on the Supply of the Property. Where GST is payable on the Supply of the Property, the Council must give to the Purchaser a Tax Invoice. To avoid doubt, this clause does not merge on completion.

MEMORANDUM OF CONTRACT

Dated: 3 November 2023

(Real Estate) ABN (Number), acting as agent for the Council does hereby acknowledge that it has this day sold to _____ the property described and referred to in the foregoing particulars and conditions of sale for the sum of \$_____ and for and on behalf of the Council accept and agree to be bound by the terms and conditions of sale.

.....
COUNCIL'S AGENT

.....
WITNESS

Council's Solicitors: Self Acting

Purchasers name/s _____

Do hereby acknowledge that I/we have this day purchased from Council through its agent **(Real Estate)** ABN (Number) the abovementioned property for the sum of \$_____ and accept and agree to be bound by the terms and conditions of sale.

.....
PURCHASER

.....
WITNESS