

NOTICE OF INTENTION TO SELL LAND
Local Government Act 2009 (section 96)
Local Government Regulation 2012 (section 140)

To: THOMAS MAHONEY
C/- Banana Shire Council
PO Box 412
BILOELA QLD 4715

Date: 4 December 2020

This notice is given to you by Banana Shire Council ('The Council'), and relates to property described as Lot 14/B498, situated at Herbert Street, Banana.

Background

This notice is given because rates or charges levied by Council on the above property are at least 3 years overdue. Where rates or charges on a property are more than 3 years overdue, the Council may sell the property at public auction and use the proceeds to discharge the overdue rates or charges.

The Council is required to give the final notice to the property owner giving details of its decision and giving the owner a final opportunity to pay the overdue rates or charges. If the overdue rates or charges are not paid within 3 months of the notice, the Council will commence proceedings to sell the property without further reference to the property owner. The sale proceedings will be discontinued if the amount of all overdue rates or charges levied on the land, and all expenses incurred by the Council for the intended sale, are paid to it.

The Council has decided to apply this procedure to your property described above. The document gives you notice of the matters which Council has required to notify under the *Local Government Regulation 2012* to give you a final opportunity to pay the overdue rates or charges and prevent sale of the land by Council.

Formal Notice

You are hereby notified as follows:

- (a) The Council has decided, by resolution, to sell the land described above because an overdue rate or charge has remained unpaid.
- (b) This document is a notice of intention to sell land under section 140 of the *Local Government Regulation 2012*.
- (c) The date of the Council meeting at which the resolution to sell the land was made was 25 November 2020, and the resolution in so far as it applies to the land was in the following terms:-
 - a. Pursuant to section 140(2) of the *Local Government Regulation 2012* Council sell the land described in the schedule for overdue rates and charges attached
 - b. That Council delegate to the Chief Executive Officer its power to take all further steps under Chapter 4, Part 12, Division 3 of the Local

Government Regulation 2012 to effect sale of the land (including, for avoidance of doubt, the power to end sale procedures (section 140(3) of the *Local Government Regulation 2012*).

The land is described in the Council's land record as being located at Herbert Street, Banana and is described as lot 14/B498. It has an area of 2023Ha.

(d) Details of all overdue rates or charges for the land, as at the date of the council's resolution referred to paragraph (c) above, are detailed in Attachment 1

(e) Interest accrued on the overdue rates or charges to 4 December 2020 is \$1,180.41. Particulars of this interest are detailed in Attachment 1.

Interest continues to accrue at the rate of 8.53% per annum. The interest accrued on the overdue rates is compound interest and is calculated on daily rests.

(f) The amount of all overdue rates or charges at the date of this notice is:-

Overdue rates or charges (paragraph (e))	\$5,603.22
Interest (paragraph (f))	\$1,180.41
Total:	\$6,783.63

(g) A copy of sections 141 to 144 of the *Local Government Regulation 2012* is attached.

Your Rights

If you pay the amount of all overdue rates or charges referred in this notice, including interest as mentioned in paragraphs 2 (f),(g) and (h) calculated up to the date of payment, and all expenses incurred by the Council for the intended sale, the Council must not sell the land. You will remain the owner of the land.

Consequences of Non-payment

If you do not pay the amount of all overdue rates or charges referred to in this notice, together with interest as mentioned in paragraphs 2 (f),(g) and (h) calculated up to the date of payment, and all expenses incurred by the Council for the intended sale, the Council will sell the land under section 142 of the *Local Government Regulation 2012* without further notice to you. The sale proceeds will be applied to discharge the overdue rates or charges.



Tom Upton
CHIEF EXECUTIVE OFFICER

Attachment 1
Outstanding rates or charges for Herbert Street, Banana Queensland 4702
Assessment no.10120-00000-000

Transaction History					Breakdown of charges applied				
Type	Reference	Issue Date	Due Date	Total Amount	General	State Emerg. Mgmt	Enviro.	Rural Fire Banana	Debt Recovery Costs
Levy	LEV082016	15/08/2016	15/09/2016	589.5	527	12.5	50		
Interest	20170003	27/09/2016		2.14	1.91	0.05	0.18		
Interest	20170004	1/11/2016		6.1	5.45	0.13	0.52		
Interest	20170005	1/12/2016		5.43	4.85	0.12	0.46		
Interest	20170006	3/01/2017		5.66	5.06	0.12	0.48		
Interest	20170007	3/02/2017		8.12	7.26	0.17	0.69		
Levy	LEV022017	13/02/2017	16/03/2017	589.5	527	12.5	50		
Interest	20170008	3/04/2017		12.38	11.07	0.26	1.05		
Interest	20170009	2/05/2017		9.95	8.9	0.21	0.84		
Interest	20170038	2/06/2017		11.53	10.31	0.24	0.98		
Interest	20170039	15/06/2017		5.62	5.02	0.12	0.48		
Interest	20180001	3/07/2017		5.65	5.05	0.12	0.48		
Interest	20180002	13/07/2017		4.91	4.39	0.4	0.42		
Supplementary Levy	20180004	19/07/2017		495.97					495.97
Interest	20180004	1/08/2017		6.83	6.11	0.14	0.58		
Interest	20180005	1/08/2017		2.67	2.38	0.06	0.23		
Levy	LEV082017	7/08/2017	7/09/2017	567.44	503.64	12.9	51		
Credit Levy	20180046	13/09/2017		-495.97					-495.97
Interest	20180006	20/09/2017		18.95	16.93	0.4	1.62		
Interest	20180007	4/10/2017		7.83	6.98	0.17	0.68		
Interest	20180008	2/11/2017		15.19	13.55	0.33	1.31		
Interest	20180014	4/12/2017		19.32	17.23	0.42	1.67		
Interest	20180015	2/01/2018		15.49	13.81	0.34	1.34		
Interest	20180016	1/02/2018		17.93	15.99	0.39	1.55		
Interest	20180017	6/02/2018		6.98	6.23	0.15	0.6		
Levy	LEV022018	12/02/2018	15/03/2018	567.44	503.54	12.9	51		

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Type	Reference	Issue Date	Due Date	Total Amount	General	State Emerg. Mgmt	Enviro.	Rural Fire Banana	Debt Recovery Costs
Interest	20180019	28/03/2018		31.7	28.26	0.69	2.75		
Interest	20180026	1/05/2018		21.47	19.13	0.47	1.87		
Interest	20180067	1/06/2018		23.99	21.37	0.53	2.09		
Interest	20180069	29/06/2018		23.42	20.87	0.51	2.04		
Interest	20190001	1/08/2018		24.44	21.77	0.54	2.13		
Interest	20190002	8/08/2018		11.11	9.9	0.24	0.97		
Levy	LEVY082018	14/08/2018	13/09/2018	634.19	553.89	13.3	52	15	
Interest	20190006	26/09/2018		36.91	32.83	0.81	3.21	0.06	
Interest	20190007	1/11/2018		35.08	31.14	0.76	3.02	0.16	
Interest	20190010	3/12/2018		30.38	26.96	0.66	2.62	0.14	
Interest	20190020	1/02/2019		63.64	56.49	1.38	5.48	0.29	
Interest	20190021	4/02/2019		12.46	11.06	0.27	1.07	0.06	
Levy	LEVY022019	12/02/2019	14/03/2019	634.19	553.89	13.3	52	15	
Interest	20190022	18/03/2019		36.31	32.22	0.79	3.12	0.18	
Interest	20190023	19/03/2019		1.25	1.1	0.03	0.11	0.01	
Interest	20190024	28/03/2019		11.19	9.91	0.24	0.96	0.08	
Interest	20190026	12/04/2019		18.72	16.58	0.4	1.6	0.14	
Interest	20190027	1/05/2019		22.59	20	0.49	1.93	0.17	
Interest	20190046	4/06/2019		39.19	34.7	0.85	3.35	0.29	
Interest	20190049	28/06/2019		38.28	33.89	0.83	3.27	0.29	
Interest	20200003	2/08/2019		50.7	44.88	1.1	4.34	0.38	
Levy	LEVY082019	13/08/2019	16/10/2019	671.57	605.07	13.5	53		
Interest	20200004	23/10/2019		86.88	76.95	1.87	7.42	0.64	
Interest	20200005	12/11/2019		24.6	21.83	0.53	2.08	0.16	
Interest	20200009	2/01/2020		67.57	59.96	1.45	5.72	0.44	
Interest	20200012	16/01/2020		22.25	19.75	0.48	1.88	0.14	

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Assessment no.10120-00000-000

Transaction History				Breakdown of charges applied					
Type	Reference	Issue Date	Due Date	Total Amount	General	State Emerg. Mgmt	Enviro.	Rural Fire Banana	Debt Recovery Costs
Interest	20200013	3/02/2020		36.38	32.28	0.78	30.08	0.24	
Lewy	LEVY022020	11/02/2020	16/04/2020	671.57	605.07	13.5	53		
Interest	20200014	22/06/2020		213.97	190.08	4.56	18.03	1.3	
Write-Off	COVID19	22/06/2020		213.97					
Interest	20210001	3/08/2020		42.78	38.03	0.91	3.59	0.25	
Interest	20210002	4/08/2020		18.02	16.03	0.38	1.51	0.1	
Lewy	LEVY082020	13/08/2020	17/09/2020	677.82	611.12	13.7	53		
Interest	20210004	25/09/2020		70.67	62.86	1.5	5.92	0.39	
Interest	20210008	15/10/2020		21.93	19.53	0.46	1.83	0.11	
Interest	20210011	2/11/2020		28.31	25.2	0.6	2.36	0.15	
Interest	20210012	5/11/2020		4.72	4.21	0.1	0.39	0.02	
Interest	20210024	4/12/2020		34.79	30.97	0.74	2.9	0.18	
Interest outstanding @ 4/12/2020				1180.41					
Rates or Charges outstanding @ 4/12/2020				5603.22					
Total amount outstanding @ 4/12/2020				6783.63					

239 Substituted service

- (1) If an owner of rateable land is known to be absent from the State, a local government may serve a document on the owner by serving the document on the owner's agent in the State.
- (2) If—
 - (a) a local government must serve a document on a person who owns or occupies a property; but
 - (b) the local government does not know, or is uncertain about, the person's current address;the local government may serve the document by publishing a notice that contains a copy of the document in a newspaper that is circulating generally throughout the State, in the gazette and on the local government's website.
- (3) The notice must be addressed to—
 - (a) if the local government knows the person's name—the person by name; or
 - (b) if the local government does not know the person's name—the 'owner' or 'occupier' at the property's address.
- (4) A provision of a Local Government Act, that requires a document to contain a statement of a relevant provision of law, is taken to be complied with if the document states that particulars of the relevant provision may be obtained, free of charge, on application to the local government.

Local Government Regulation 2012

Reprint current from 12 October 2020 to date (accessed 29 November 2020 at 9:33)

[Chapter 4](#) > [Part 12](#) > [Division 3](#) > [Subdivision 2](#) > Section 141

141 When procedures for selling land must start and end

- (1) This section applies if—
 - (a) a local government decides to sell land under this subdivision for overdue rates and charges and gives the registered owner of the land a notice of intention to sell the land; and
 - (b) the overdue rates or charges are not paid in full within—
 - (i) generally—3 months after the local government gives the notice of intention to sell the land; or
 - (ii) if the rates or charges were levied on a mining claim—1 month after the local government gives the notice of intention to sell the land.
- (2) The local government must start the procedures mentioned in [section 142\(4\)](#) for selling the land within 6 months after the local government gives the notice of intention to sell the land to the registered owner of the land.
- (3) The local government must end the procedures at the earliest of the following—
 - (a) the local government is paid—
 - (i) the amount of the overdue rates or charges; and
 - (ii) all expenses that the local government incurs in attempting to sell the land;
 - (b) the land is sold;
 - (c) 1 year after the notice of intention to sell is given to the registered owner.
- (4) If the local government ends the procedures under subsection (3)(c), nothing in this section prevents the local government from deciding to sell the land again under [section 140\(2\)](#).

s 141 amd 2020 SL No. 244 s 33

142 Procedures for selling land

- (1) This section sets out the procedures that a local government must follow when selling land for overdue rates or charges.
- (2) The local government must first offer the land for sale by auction.

- (3) The local government must prepare an auction notice.
- (4) At least 14 days, but not more than 35 days, before the day of the auction, the local government must—
 - (a) give a copy of the auction notice to everyone who was given a notice of intention to sell the land; and
 - (b) publish the auction notice on the local government's website; and
 - (c) display the auction notice in a conspicuous place in the local government's public office, until the day of the auction; and
 - (d) display the auction notice in a conspicuous place on the land unless it is not reasonably practicable to do so because the land is in a remote location or difficult to access; and
 - (e) take all reasonable steps to publish the auction notice in another way to notify the public about the sale of the land.

Examples of other ways to publish the auction notice—

publish the auction notice in a newspaper that is circulating generally in the local government area or on a real estate trading website

- (5) However, if—
 - (a) the land is a building unit; and
 - (b) it is not practicable to display the auction notice in a conspicuous place on the land;

the notice may be displayed in a conspicuous part of the common property for the building units.

- (6) In this section—

auction notice, for a sale of land by auction, means a written notice stating—

 - (a) the day, time and place of the auction; and
 - (b) a full description of the land.

s 142 amd 2020 SL No. 244 s 34

143 Conduct of auction

- (1) The local government must set a reserve price for the land at the auction that is at least—
 - (a) the market value of the land; or
 - (b) the higher of the following—
 - (i) the amount of overdue rates or charges on the land;
 - (ii) the value of the land.
- (2) If the reserve price for the land is not reached at the auction, the local government may enter into negotiations with any bidder who attended the auction to sell the land by agreement.
- (3) However, the price for the land under the agreement must not be less than the reserve price for the land.

s 143 amd 2020 SL No. 244 s 35

144 Procedures for selling land by another auction or negotiation

- (1) The local government may, after the day of the auction, decide to continue to offer the land for sale by another auction, or sale by negotiation, under this section.
- (2) The local government must end any negotiations entered into under section 143(2) when it makes a decision under subsection (1).
- (3) Sections 142(3) to (5) and 143 apply to the preparation and conduct of any subsequent sale by auction under this section.
- (4) The local government must prepare a sales notice if it decides to offer the land for sale by negotiation under this section.
- (5) The local government must—
 - (a) give a copy of the sales notice to each interested party who was given a notice of intention to sell the land; and
 - (b) publish the sales notice on the local government's website; and
 - (c) display the sales notice in a conspicuous place in the local government's public office; and
 - (d) display the sales notice in a conspicuous place on the land unless it is not reasonably practicable to do so because the land is in a remote location or difficult to access; and
 - (e) take all reasonable steps to publish the sales notice in another way to notify the public about the sale of the land.

Examples of other ways to publish the sales notice—

publish the sales notice in a newspaper that is circulating generally in the local government area or on a real estate trading website

- (6) However, if—
 - (a) the land is a building unit; and
 - (b) it is not practicable to display the sales notice in a conspicuous place on the land;

the notice may be displayed in a conspicuous part of the common property for the building units.
- (7) The local government must ensure that the price for land offered for sale by negotiation under this section is at least—
 - (a) the market value of the land; or
 - (b) the higher of the following—
 - (i) the amount of overdue rates or charges on the land;
 - (ii) the value of the land.
- (8) In this section—

sales notice, for a sale of land by negotiation, means a written notice stating—

- (a) the land is for sale by negotiation; and
- (b) a full description of the land.

s 144 sub 2020 SL No. 244 s 36