In the Planning and Environment Court No D129/25

Held at: **MAROOCHYDORE**

Between: **Mark and Julianne Grunske** Appellant

And: **Fraser Coast Regional Council** Respondent

AFFIDAVIT

I Warren Bolton of 558 Mooloo Road Mooloo Queensland 4570, under affirmation say:

1. My involvement in local government commenced in 1966 with employment with the Pioneer Shire Council.

2. During the period 1986 to 2006 I was the sole proprietary of a company, Warren Bolton Consulting PL who delivered specialist services to clients including managing development applications to local governments and representing clients in the planning environment court.

3. In 2007 while an employee of the Department of local government I acted as a referee in the then Building Tribunal, managed by the Department and then overseed infrastructure works projects, partially funding under the auspices of the Majors Grants Program, administered by the Department of Sport, for sporting clubs, Local Governments and community organizations, throughout Queensland. I retired in 2009.

4. In February 2024 Mark and Julianne Grunske sought my assistance by managing their development application, RAL21/0138, lodged with the Fraser Coast Regional Council (Council) on 6 December 2021.

   The development application was for a parcel of land in Tuan.

   The land had many constraints, 5 planning scheme Overlays and 2 State government codes.

5. On 21 February 2025 Council issued:

   - Development permit RAL21/0138; and

- Infrastructure Charge Notice No.5138178 (Notice)

6. On 9 April 2025 I made Representation to Council in relation to the Notice and seeking an opportunity to discuss the matter.

7. On 11 June 2025 at SPECIAL MEETING NO. 2/25 Council adopted a new *Charge Resolution* effective from 1 September 2025. The new resolution significantly restructures Table A and B of Schedule 1 of the then existing *Charge Resolution.*

8. On 17 June 2025 Council responded, declining my request for a meeting and issued a decision notice supporting the initial Notice.

9. On 12 July 2025 I completed a designated website to contain all the materials relevant to supporting an Appeal to the Development Tribunal. (Tribunal). The website https://tuanqld.site/dt/dt.html contains my original electronic documents and electronic copy of other relevant documents.

10. On 14 July 2025 I lodged the Appeal with the Tribunal.

    I supported the Appeal with three submissions

    1. 12 July 2025 Submission – **Appendix A**
    2. 17 August 2025 Supplementary - **Appendix B**
    3. 25 August 2025 Final - **Appendix C**

    And

    A copy of the current *Charge Resolution* passed in November 2024 - effective from 1 January to 31 August 2025 - **Appendix D**

11. On 19 August 2025 I participated in an online hearing of the Tribunal. Just prior to that hearing I was provided with a copy of the Respondent submission. - **Appendix E**

12. On 25 August 2025 I responded (Final). to the Tribunal regarding the Respondent submission. (Appendix C)

13. On 6 November 2025 I received by email, the Tribunal's decision - **Appendix F**

Signed: ..... Taken by: .....

Deponent
Warren Bolton

Justice of the Peace
Timothy Frodsham

JUSTICE OF THE PEACE (QUALIFIED) Reg.No.: 84701 DEPT. OF JUSTICE & ATTORNEY-GENERAL

Attachment A

Submission

Background

On 21 February 2025 Fraser Coast Regional Council (Council) issued a Decision Notice in relation to development application RAL21 – 0138. Concurrent with that date, Council issued Infrastructure Charge Notices 5138178 (ICN).

On 9 April 2025 the Appellant made Representation to the Council regarding the ICN.

On 11 June 2025 Council drafted a response to the Appellant's Representation rejecting all the issues raised in the Representation.

In rejecting the issues raised, Council confirmed that it '*is committed to maintaining a framework to ensure ongoing provisioning and upgrading of infrastructure for the benefit of those new developments and* ***existing residents in the region***'.- The bases for which local governments are empowered under a LGIP to raise infrastructure charges is NOT to benefit existing residents.

On 17 June 2025 Council emailed their response to the Appellants.

Legislation

Chapter 4 of the Planning Act 2016 (PA16) deals with **Infrastructure.**

Section 110 of Chapter 4 advises that Part 2 authorises local governments to do, amongst other things, two things in relation to development approvals affecting trunk infrastructure

Those two things are"

(a) adoption by **resolution**, charges for those development approvals; and
(b) The
    (i.) **process** and
    (ii.) **requirement**

    for levying those charges

Part 2

Section 111 of Part 2 provides that Part 2 is only applicable if the local government's planning scheme includes an LGIP (Local Government Infrastructure Plan).

> Fraser Coast Regional Council have a LGIP. It is Part 4 of the current Planning scheme. It was developed under the *Sustainable Planning Act.*

Section 113 of Part 2 of Chapter 4 provides the authority for local governments to adopt, by resolution charges for providing trunk infrastructure for developments

Fraser Coast Regional Council has adopted such a Resolution[1]. It was adopted at the Ordinary Council Meeting held on Wednesday, 20 November 2024 (ORD 11.3.4) to take effect from 1 January 2025.

Section 120 deals with the **requirements for levying a charge** for trunk infrastructure.

Subsection 1 of that section provides that a charge **can only be levied** to cover the costs of providing trunk infrastructure when and if a **development places "*extra demand*"** on the relevant trunk infrastructure.

While Subsection 2 and 3 of that section prescribes things to be taken into consideration when **working out** that extra demand, the sections however remained **silent** as to the process for determining what constitutes *extra demand*.

This silence is most likely why the matter has been litigated in the Planning and Environment Court[2] and then in the Court of Appeal[3]

It is important to be cognisant of the fact that the developments that were the subject of consideration by both courts, were;

1. in relation to the application of the *Sustainable Planning Act 2009* (SPA); and
2. did not address the mechanism for determining - 'in what circumstances a development places *extra demand* on relevant trunk infrastructure'.

While the sections considered by the court under that SPA were not dissimilar in their wording to PA16, they are strategically different within the construction of PA16 itself.

The object of this appeal is to determine the correct process under PA16 for an assessment manager to arrive at the conclusion that any particular development results in placing *extra demand* upon trunk infrastructure.

.....

The Argument

Premise 1

In order to levy an infrastructure charge for a particular development, the assessment manager must establish that the development will generate *extra demand* upon trunk infrastructure[4].

What constitutes *extra demand* has not been determined by the courts, however it could comprise 2 elements

[1] *Fraser Coast Regional Council Adopted Infrastructure Charges Resolution March 2025.*
[2] *Wagner Investments Pty Ltd & Anor v Toowoomba Regional Council* [2019] QPEC 24 {PEC} [Get Copy]
[3] *Toowoomba Regional Council v Wagner Investments Pty Ltd & Anor* [2020] QCA 191{CoA} [Get Copy]
[4] PA Section 120(1)

1. Does a development, simply by **type** (i.e. Subdivision of land) constitute sufficient grounds to determine that an *extra demand* will arrive as consequence of its approval; or
2. If an assessment is required to first determine if a development generates an *extra demand,* does *extra demand* mean:
   (a) 'a demand' that exceeds the current design capacity of the current infrastructure to accommodate increase at the required service standard level; or
   (b) 'a demand' over and above the current use of the infrastructure even if within the current design capacity of that infrastructure;

Section 120 (20 provides some insight into possible scenarios in support of the interpreting of the legislation regarding what comprises extra demand, in favour of No 2(a)

Two examples are provided by Section 120(2) in the context of an acknowledgement that *demands* can be generated under certain circumstances and that these *demands* are not to be considered for the purposes of determining under section 120 (1) as "*extra*"

The two examples are:

Section 120(2)(b) provides the scenario where there was a 'previous use', that would have without question generated a certain *demand* and, in the situation, where the use had stopped thus removing the demand and when considering a further development, the previous demand cannot form part of the component in determination of what is *extra*; and

Section 120(2)(c) provides that another development on a premises that is lawful being carried out and no doubt generating existing *demands* for that premises similarly do not qualify as contributing *extra* demands for 120(1)

The best example I can think of from my experience is Blackwater in Central Queensland.

In the 1960s the Town of Blackwater was designed and constructed with infrastructure to accommodate a town population of 10,000 people.

Not only did Blackwater fail to reach the design parameters to fully utilise the constructed infrastructure but changes in mining practice saw dramatic decreases in the population size of the town from the 1980's over the period of the late 20th century and early 21st century (increasing mechanism and later FIFO).

Applying infrastructure charge on development in that context, would be contrary to the spirit and intentions of the legislator in introducing the mechanism that resulted in the development of LGIPs

LGIP

Premise 2

LGIP are essential in managing infrastructure decisions.

According to the department's website[5] LGIPs performed two functions.

[5] https://www.planning.qld.gov.au/planning-framework/infrastructure-planning/infrastructure-charges

They are necessary:

1. In order to levy infrastructure charges; and
2. Determining development will place *extra demand* on the trunk infrastructure network.

And

> *During the **development assessment process**, a local government may determine whether development places additional demand on trunk infrastructure by undertaking a demand assessment of the development using criteria within its LGIP and charges resolution.*[6]

Fraser Coast Regional Council (Council) Local Government Infrastructure Plan (LGIP) comprises **Part 4** of the Council's *Local Planning Instrument*

Council advises, via its web site that the LGIP

> *"identifies council's plans for trunk infrastructure that is necessary to service urban development at the desired standard of service in a coordinated, efficient and financially sustainable manner";* and
>
> *"The LGIP includes planning assumptions (for population and employment), priority infrastructure area, desired standards of service and plans for trunk infrastructure".*

The Department advises, via its web site that:

> **4.2 Levying infrastructure charges through** development
>
> 4.2.1 Levied infrastructure charges
>
> New development is **likely** to result in additional demand being placed on the existing trunk infrastructure servicing an area. Where a **LGIP** has been adopted, a local government may levy infrastructure charges on new development to recover costs associated with future expenditure on trunk infrastructure that is necessary to support the increased demand that the **new** development places on trunk networks.
>
> .....
>
> ***During the development assessment process**, a local government may determine whether development places **additional demand** on trunk infrastructure by undertaking a demand assessment of the development using criteria within its LGIP and charges resolution.*[7]

Part 4

Provides at

4.1 Preliminary

(1) that "*This local government infrastructure plan has been prepared in accordance with the requirements of Sustainable Planning Act 2009.*"

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[6] *Local infrastructure planning Guidance for local governments and applicants August 2023* – vs1.4 (4.2.1{p33})

[7] ***Local infrastructure planning Guidance for local governments and applicants*** August 2023 – vs1.4-Department of State Development, Infrastructure, Local Government and Planning

It then advises at subsection 2

'The purpose of the ***priority infrastructure plan***[8] *is to:-"*

No document by that title "*priority infrastructure plan"* could be located in an extensive search of Council's website.

All that could be located was a reference in *Schedule 3 Titled ***Local Government infrastructure plan mapping and tables*** (last updates on 9 September 2019 [More than 5 years ago]) –

Schedule 3 is a schedule to the Planning Scheme.

Schedule **3** contained SC3.4 *Priority Infrastructure Plan Mapping* [S3-21]

SC3.4 title the *Local Government Infrastructure Plan Mapping* is a blank page in that Schedule.

The term *demand* appear 3 times in the LGIP.

1. **Part 4 Local Government infrastructure plan**
   4.1 Preliminary
   .....
   (3) The local government *infrastructure plan*:-
   (b) growth and urban development including the assumptions of *demand* for each trunk infrastructure network;

2. **4.2 Planning assumptions**
   (1) The planning assumptions state the assumptions about:
   (b) the type, scale, location and timing of development including the *demand* for each trunk infrastructure network.

3. **4.2.2 Development**
   .....
   (2) The planned **density** for future development is stated in *Table SC3.1.3 (Titled *Planned density and **demand** generation rate for a trunk infrastructure network*) in *Schedule 3-Local government infrastructure plan mapping and tables.*

*
Schedule 3 - *Local Government infrastructure plan mapping and tables* provides in **SC3.1** *Planning assumption tables* - a Table, **SC3.1** *(Planning assumption table index) lists the planning assumption tables applicable to the planning scheme area,* and then within SC3.1 the **Table SC3.1** *Planning assumption table index* which lists tables contained within the schedule.

[8] Sustainable Planning Act 2009- Priority infrastructure plan=PIP means a priority infrastructure plan under the unamended Act.

The list identifies the **Table SC3.1.3** as *Planned density and **demand** generation rate for a trunk infrastructure network.*

The first column in that *Table SC3.1.3* is titled - "Development Type" and listed are:

- detached dwellings
- attached dwellings
- commercial and retail
- community
- industry
- others and
- environmental management

There is no development type for **reconfiguring a lot** the subject of this appeal

Further

SC3.2 *Schedule of works tables* provides "*Table SC3.2 (Schedule of works table index) lists the schedule of works tables applicable to the planning scheme area*", which identifies **SC3.2.4** *Transport network schedule of trunk works (roads and public transport)*

SC3.2.4 List "LGIP ID", "Asset Names" and "Locality"

- **Tuan** does not appear as a *Locality* and
- The road network connection **Tuan** to **Maryborough** via Wilkinson Road; Booroonoo Road; and Maryborough-Cooloola Road, are not identified in the Table for the local government's infrastructure plan mapping.

4.2 Planning assumptions (of the LGIP provides)

(3) The planning assumptions have been prepared for:

(a) the base date 2011 and the following projection years to accord with future Australian Bureau of Statistics census years:

(i) mid 2016;
(ii) mid 2021;
(iii) mid 2026; and
(iv) mid 2031.

(b) the LGIP **development types** in column 2 that include the **uses** in column 3 of **Table 4.2.1** - Relationship between LGIP development **categories**, LGIP development **types** and **uses**.

(c) the projection areas identified on Local Government Infrastructure Plan Map PA-001 Projections Area Map in Schedule 3 - Local government infrastructure plan mapping and tables.

There is no ***projection areas identified*** as *Plan Map PA-001.* These is however online, a Plan Map **PIA-001** this however does not Include **Tuan**

The subject development is located in **Tuan.**

Tuan is located in online map titled **PIA-004** of the *Projections Area Maps*

PA-004 is not called up by '*4.2- Planning Assumptions' of the LGIP.*

PIA-004 in any event only identifies the 'PIA' and 'Zoning' it does not address development types. In the case of the subject development - **Reconfiguring a Lot**

Charge Resolution 2025

The Resolution states that it '*applies to all of Council's area'.*

The adopted charges for *trunk infrastructure* for **all** areas is for "*identified networks"*

The charges levied are **NOT** earmarked to **any** particular *trunk infrastructure.*

However, the resolution provides a notional proportional breakdown of the charges as follows:

- water supply – 7%
- sewerage – 21%
- stormwater – 7.5%
- transport – 53%
- parks and land for community facilities – 11.5%

Infrastructure CHARGE – 100%

Overview

The charge resolution itself is difficult to interpret.

The purpose of a Charge Resolutions (Resolution) is to determine, by resolution, the charge to be levied on a development which places an *extra demand* on specifically defined trunk infrastructure

The Schedule

Schedule 1 of the Resolution is titled **Adopted Charge Rates.**

The notes in a schedule advise the number of things

They include:

That the content of column 1 is just included for convenience and to align (one assumes) to the contents with Schedule 16 of the planning regulations.

Schedule 16 of the *Planning Regulations 2017* identifies wide range of **terms** which in general refer to the 'nature of a building or a structure' but in some contexts, refer to an 'activity' for which either a building or parcel of land is used for.

Table A of the Schedule relates to **Reconfiguring a Lot** and comprises 4 columns and two rows. The first column is labelled "*Use Category*". In this column it identifies a number of spatial named localities within local government area and includes a term - "All zones"

Column 1 of Table A identifies "*Use Category*"

The first row of the *Use Category* identifies

- Harvey Bay
- Barham Head
- Toogoom
- Booral
- River Heads

all zones (not uses)

The second row identifies

	Census 2021
• Maryborough	Pop 18,558
• Howard	Pop 1,394
• Torbanlea	pop 841
• Tiaro and	pop 778
• **Rural townships**	

all zones (not uses)

Column 3 AC of the Table -*Adopted Charge* displays the value in dollars

It is important however to note that Section 113(2) of PA16 reminds local authorities that the mere adoption of a charge resolution of its self, DOES NOT provide for the levying of that charge.

There are other requirements to be met in this regard.

In a planning context *zones* are used to define areas where certain *uses* are permitted. According to the Queensland government's Department of State Development Infrastructure and Planning "*every piece of land in Queensland is included in a zone*"

On the correct interpretation of Column 1. the statement provided in 1.6 (a) of the Resolution that "*This resolution applies to all of Council's local government area.*" is not correct.

If Schedule 1 is to be applied as drafted the contents of the Resolution apply **only** to all the "zones" in the spatial areas identified in that column.

This then leads us to the next area of contention.

Some of the spatial areas are identified by a 'locality name' (i.e. Toogoom) and easily defined I would say even by a metes and bounds description available through the mapping system of the planning scheme.

However, a significant problem arises in the use of the term *Rural townships*

"*Rural townships*" are not defined **textually** or **spatially** in the Resolution

The Fraser Coast Regional Council area ,according to **ID.com.au** includes the **localities** of

> Aldershot, Antigua, Aramara, Bauple, Bauple Forest, Beaver Rock, Beelbi Creek, Bidwill, Boompa, Boonooroo, Boonooroo Plains, Booral, Brooweena, Bunya Creek, Burgowan, Burrum Heads, Burrum River, Burrum Town, Calgoa, Cherwell, Craignish, Duckinwilla, Doongul, Dundathu, Dundowran, Dundowran Beach, Dunmora, Eli Waters, Eurong, Ferney, Fraser Island, Gigoomgan, Glenbar, Glenorchy, Glenwood (part), Gootchie, Grahams Creek, Granville, Great Sandy Strait, Gunalda (part), Gundiah, Gungaloon, Howard, Island Plantation, Kanigan (part), Kawungan, Maaroom, Magnolia, Malarga, Marodian, Maryborough, Maryborough West, Miva (part), Mount Urah, Mungar, Munna Creek (part), Neerdie (part), Netherby, Nikenbah, North Aramara, Oakhurst, Owanyilla, Pacific Haven, Paterson, Pialba, Pilerwa, Pioneers Rest, Point Vernon, Poona, Prawle, River Heads, Scarness, St Helens, St Mary, Sunshine Acres, Susan River, Takura, Talegalla Weir, Tandora, Teddington, Teebar, The Dimonds, Theebine (part), Thinoomba, Tiaro, Tin Can Bay (part), Tinana, Tinana South, Tinnanbar, Toogoom, Toolara Forest (part), Torbanlea, Torquay, **Tuan**, Tuan Forest (part), Urangan, Urraween, Walkers Point, Walliebum, Walligan, Wondunna, Woocoo, Yengarie and Yerra.

And the **Districts** are:

> Booral - River Heads, Burrum Heads, Craignish - Dundowran (part), Eli Waters, Fraser Island - Great Sandy Strait, Glenwood and District, Granville and Surrounds, Howard - Torbanlea - Pacific Haven District, Kawungan, Maryborough Central – North, Nikenbah - Dundowran (part), Oakhurst - Yengarie and District, Pialba, Point Vernon, Rural West, Scarness, Sunshine Acres - Walligan - Takura District,Tiaro - Bauple and District Tinana and District, Toogoom, Torquay, Urangan, Urraween, Wondunna

And also

*The Fraser Coast Regional Council area encompasses **rural areas** and growing **rural-residential** and residential areas, with some commercial and industrial land uses. The main urban centres are Hervey Bay and Maryborough, with numerous **smaller townships** and **villages**.*[9]

So, what area constitutes a *Township*, *Rural Township*, *Village* or just a *Locality*?

According the Resolution[10], a term used but not defined in this resolution will, unless the context otherwise requires, have the meaning give to it by (in the following order):

(a) the Planning Act;
(b) the Planning Reg;
(c) the Planning Scheme;
(d) the Acts Interpretation Act 1954 (Qld); or

Rural Townships are not defined in any of the (a-d) above

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[9] https://profile.id.com.au/fraser-coast/about?
[10] Charge Resolution 2025 (6.2)

(e) its ordinary meaning.

Position 1

It is unclear if Tuan constitutes '*Rural Townships* or not.

Premise 3

A development for *Reconfiguring a lot* does not of itself generating a demand on infrastructure.

The Planning and Environment Court determined that:

> *While under the SPA the term "development" includes "reconfiguring a lot", it does not follow that that form of development would be capable of generating a demand on infrastructure.*
>
> *The reconfiguration of a lot of itself does not involve the carrying out of work on land, nor does it involve a material change in use of premises. Instead, it is concerned with the re-arrangement of boundaries of premises rather than the use to which those premises may be put.*
>
> *A distinction identified by Everson DCJ in Johnson v Cassowary Coast Regional Council.*[11]

It then went on to determine:

> *While the evidence concerning this particular appeal is not entirely satisfactory, the evidence, such as it is, is sufficient to satisfy me that there is no rational link between the reconfiguration of the land to create the subject lot and the estimated additional demand the Council considers will be placed on the transport trunk infrastructure network.*

And what did the Court of Appeal (CoP) say about that position?

Firstly, it said this

> ***If*** *the charge applied for reconfiguring a lot, the charge became payable .....*

The use of the term "***If***" clearly indicating that it is simply not automatic that a development for *reconfiguring a lot*, would, solely because of the 'type' of development, qualify to attract the application of a charge under an Infrastructure Charge Notice (ICN) which in order to be levied must firstly satisfy Section 120(1) of PA16.

The CoP went on to state the primary judge's position thus:

> *The proceeding below was conducted on the basis of pleadings and expert evidence and the agreed issues before the primary judge were summarised at [9] of the reasons. The approach of the primary judge to the construction of s 636 and other relevant provisions of the SPA is set out at [12]-[15] of the reasons. The primary judge found (at [17] of the reasons)* ***that there are two pre-conditions that must be satisfied before a local authority can issue an ICN:***
>
> - *there must be a relevant trunk infrastructure and*

[11] *(2008) QPEC 102, [10],*

- *there must be **additional demand** placed on that trunk infrastructure*[12].

And

> *The primary judge concluded (at [99] of the reasons) that **there was no rational link between the reconfiguration of the land to create the subject lot and the estimated additional demand the Council considers will be placed on the transport trunk infrastructure network and that** "the levied infrastructure charge could not sensibly be said to be based on a reasonable estimate of likely additional demand placed upon trunk infrastructure that would be generated by this approval".*[13]

Then

> *The relevant development is the proposed uses of the land as a result of the reconfiguration and the accompanying application for a material change of use. It was not to the point that, technically, the mere reconfiguration of a lot, did not result in any change to the demand on infrastructure networks (as observed by the primary judge at [98] of the reasons). What was relevant was that the reconfiguration of a lot is one of the trigger points for the issuing of an ICN in relation to that* (material change of use) *development.*[14]

And finally

> ***Orders***
>
> *It therefore follows that the orders should be:*
>
> *1. Application for leave to appeal granted, **but not including leave to argue that there was an error in the legal approach of the primary judge to the appeals**.*

So, the legal approach by the primary judge was to express the opinion that there is 'no link between a development application for *reconfiguring a lot*, in determining whether or not there **is additional demand,** as a consequence of that development'

Claim 1

> The assessment manager under section 120(1) of PA16 is required to undertake the exercise of determining whether or not additional demand on existing trunk infrastructure will occur as a consequence of that development, in order to issue a ICN.
>
> No material has been produced or discovered to that identifies that this process was undertaken by the assessment manager.

Evidence for extra demand

Council provides on its website information in relation to its current LGIP. Amongst the information provided is an Excel spreadsheet which details trunk infrastructure Schedule of Works Model (SOW) Within the file is a spreadsheet labelled *Existing Trunk assets – Transport.*

12 CoA [P16(39)]

13 CoA [P18(53)]

14 CoA [P35(115)]

This particular spreadsheet lists all the road assets identified as a *trunk asset*

The development, the subject of the ICN, is located on Wilkinson's Road- Tuan. It is the trunk asset that would be subjected to the maximum impact of any increase in demand placed upon the trunk infrastructure asset for road transport.

Column 'O' of that spreadsheet indicates the 'current valuation' of the road asset: Column 'V' indicates the 'current replacement cost' of the asset.

The current *replacement cost* for the asset of Wilkinson's Road is exactly the same as the *current valuation* for Wilkinson's Road.

Under accounting principles this indicates that the asset has not depreciated below its replacement value, indicating no requirement for the allocation of funds for capital upgrading of the assets value.

No historic data is provided as to the traffic counts for the history of Wilkinson's Road that would support the proposition that road traffic in and out of Tuan is continuing to expand in demand and that the design of Wilkinson's Road would be required to be **upgraded** to handle this increased demand.

One of the two principal indicators used in the LGIP to assess potential generation of extra demands on infrastructure is **population growth**.

The appellant provided details to Council in their Representation to support the position that the Village of Tuan is actually contracting in population PLUS the population density of Tuan is significantly less than larger urbans residential areas in the LGA area.

Further Tuan hosts a significant boat ramp facility with low tide access to the Great Sandy Strait providing for significant demand for traffic on this road not associated with residential development in the village. This creates the proposition that Wilkinson's Road already has reserve traffic capacity and corresponding standard in excess of that required to cater for transport generated by the development of 4 additional residential lots.

The principal of the LGIP system is to provide funds for capital works required to expand existing infrastructure. The LGIP system is not for the purposes of raising funds for the maintenance of existing infrastructure- This is a function of a local governments rates system.

Conclusion

The Appellant asserts that the onus was upon Council to undertake the process required by Section 120(1) of PA16, to arrive at a determination that a development actually is responsible for '*extra demand*' over and above that which is within the capability of current existing trunk infrastructure.

The courts have determined that the mere classification of a development **type** is of itself not necessary a criterion indicating the generation of *extra demand*.

Proposed Finding

The Council failed to undertake the necessary assessment required by section 120(1) of PA16 to determine if *extra demand* on existing trunk infrastructure actually existed and thereby required for the issuing of the ICN.

The ICN is therefore flawed and should be withdrawn.

Warren Bolton

Saturday, 12 July 2025

Attachment B

Submission-Supplementary

LEGISLATION

The *Planning Act 2016* (PA16) provides that an assessment manager may **only** levy a **charge** for its **trunk infrastructure**, when an issuing a *development permit* (DP) for a specific development[1], if that development would result in ***demand*** being **generated,** which places ***extra*** *demand*[2] on the service delivery capacity, of the local *trunk infrastructure*[3].

Compliance with this provision is mandatory for the issuing of an *Infrastructure Charge Notice* (ICN) by a local authority.

The provision encompasses 4 essential components.

A. *the development* must be of a **type** provided for by the legislation; and then

B. They are *the development* type must **generate** a ***demand***; and then

C. That *demand* must produce an ***extra*** load on the local trunk infrastructure; and then

D. A process is required to be undertaken to determine the application of Section 120(1) before issuing an ICN.

Section 120(2) reinforces the requirement for a process to be to undertake[4] by advising that, 'when working out this *extra demand* there are certain things that must not be taken into consideration' and then detail those exemptions.

THE PROCESS

A -Applicable development

Section 112 can be of assistance determining what and if a development application will generate *'extra demand'*

This section advises that a regulation [*Planning Regulation 2017* (PR17)] provides the following knowledge.

1. It will prescribe the **maximum amount** of a charge that can be levied in relation to a **particular development**; and
2. more cogently, it will actually **identify the developments,** for which there may be an adopted charge under a *charge resolution* adopted by a local authority

So, let's look and see what PR17 has to say.

The relevant section is 52.

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[1] PA19 Section119(1)(a)- *a development approval has been given;*

[2] PA16 Section 120(1)-..... *charge may be only...*

[3] Note: While legislation is silent as to the *trunk infrastructure* for which an ICN may be levied, the determination that it **must** be in relation to "local" is the only conclusion that can be drawn from studying the mechanism by which the *charge is calculated* in compliance with Section 52 of the *Planning Regulations 2017.*

[4] PA16 Section 120(2)(a)- *When working out extra demand,*

It tells us, that for the purposes of determining the **maximum amount** of a charge that can be levied in relation to a particular development one needs to consult **Schedule 16** of PR17 which comprises 2 Columns.

PR17 advises that **Column 2** contains the *'prescribed amount'* that although not actually saying the word 'maximum' is the maximum amount that can be charged for the USE, provided in **Column 1**, opposite the *prescribed amount*.

This is our first clue in establishing the process for determining **what** developments attract determination of a charge to be levied.

The most poignant part of Section 52 however, is subsection 3(a) for it describes the developments, defined[5] in PA16 **and their circumstances** that make them eligible for the application of levied charge.

There are three development types defined by PA16.

A. a material change of use
B. reconfiguring a lot and
C. building work

BUT here is a **most** significant part of that advice.

Those three development types are contingent (*and*[6]) on being a development that attracts a charge, by delivering a USE that is identified in Column1 of Schedule 16

So, to take the first step in the process, which is to identify **a development which would attract a levy** one needs to first determine that the particular development is identified as being **eligible**, by PR17.

And whether or not a particular development **type** (the subject of the DP) is eligible, will be determined by the USE it engenders as identified in Column 1 of Schedule 16

Section 114 also lends authority to the position that for a development to be eligible to be considered for an *adopted charge*, the charge to be levied, must be that *prescribed by the regulation for the development* identified in the regulation (PR17)

Section 114 also deals with the ability to **adopt** an infrastructure charge for a particular development.

This section clearly demonstrates that to do this, any charge that the local authority wishes to incorporate into their resolution must be a charge *prescribed by regulation*[7]

The charges *prescribed by regulation* can be located in Column 2 of Schedule 16 of PR17.

So, if there is no charge identified in Schedule 16 then the resolution cannot contain a charge outside of that circumstance.

To reiterate - If a development is not a development in terms of the regulation that attracts an infrastructure charge, then there is no need to progress to the step or indeed necessity, for determining if it generates *extra demand* or not, because only developments prescribed by the regulation are subjected to the application of Part 2 of Chapter 4 of PA16

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[5] PA16 Schedule 2 - (p415)
[6] Regulation s52(3)(a)"... *and is for a use stated in schedule 16, column 1"*
[7] PA16 s114(1)(a)

Position 1

If a development does not generate a USE, prescribed in Column 1 of Schedule 16, it is not a development prescribed under Section 112 of PA16[8] as being a development to which an *adopted charge* can be levied by a local authority, even if the development is responsible for generating *extra demand* on trunk infrastructure.

B-Generate Demand

The next issue to be determined is to consider whether a development **type** (i.e. reconfiguring a lot) solely of itself which does not generate a USE has any support at law as being the mechanism for determining its liability to be the recipient of an ICN.

This matter has already been dealt with in the primary submission. But to reiterate, simply being a development for the *reconfiguring a lot* of itself does not even in accordance with PR17, qualify it to be the recipient of an ICN.

C-Extra demand

The initial problem with *'extra demand'* is, what actually is it.

The term is not defined anywhere within PA16 or PR17 or the *Explanatory Notes* for either.

In trying to interpret the intent of Parliament in relation to the application of *extra demand in* section 120(1) we must look elsewhere other than Section 120.

The *Department of State Development, Infrastructure, Local Government and Planning* in their publication *Local infrastructure planning Guidance for local governments and applicants January 2022 – vs1.2* only has to this to say

> *7. Working out extra demand placed on trunk infrastructure that the development will generate*
>
> *Section 120 of the Planning Act provides that a levied charge may be only for extra demand placed on trunk infrastructure that the development will generate. In working out extra demand, the demand generated by the following* ***must not*** *be included:*
>
> - *an existing use on the premises if the use is lawful and already taking place on the premises*
> - *a previous use that is no longer taking place on the premises if the use was lawful at the time it was carried out*
> - *other development on the premises if the development may be lawfully carried out without the need for a further development permit.*

Unfortunately, this tells us what extra demand **is not**, it doesn't tell us what extra demand **actually is.**

But it does tell us one thing though, it has to **be a thing** that can be **measured** at the **point of making a termination** whether or not to apply an infrastructure charge.

For a search of the department website for the subject *"Extra Demand" planning act 2016 infrastructure*. - No publication where encountered.

[8] PA16 a112(3)(b)

Legal precedent

I could find only three cases[9] where the P&E court considered matters associated with 'extra demand'. None of those cases attempted to define exactly what constitutes *extra demand,* just the mechanism by which it would it arise and in those three cases, only two were mildly relative to the consideration of its application to the development application RAL21-0138.

As far as I can determine the P&E court has not determined what constitutes 'extra demand' in relation to the alternatives set out in my Submission.

There is a tendency at present to hold the view that it means the 'additional use of existing infrastructure' regardless of whether or not that additional use has the potential to eventually require its the infrastructure's expansion in order to cope with the extra demand.

While at present it is rare, but not unknown, that there are areas in the state of Queensland where populations in established urban areas is declining and that in such places new development may simply be serving no better purpose than nudging the circumstances back towards historic levels of utilisation of existing infrastructure.

In such cases it would be considered to be an incorrect and in appropriate interpretation of the legislation that simply because its new development it will lead to consequences where existing infrastructure must inevitably be upgraded and consequently levy charges for such an event are supported by PA16.

Applying these findings to RAL21-0138

The first thing to note, is that this development application was for reconfiguring a lot (RAL) **only**.

> NOTE: It is relevant to the circumstances under consideration in this appeal that residential development that simply generates vacant lots of land are no longer a common form of subdivision of land. The vast majority of development for residential housing occurs now as a house/land package and only land more of the rural orientation is subdivided as just a RAL.

Fraser Coast Regional Council Infrastructure Charges Resolution 2025 sets out in schedule 1 the adopted charge rates

Schedule 1 contains the following notes

Notes –

> *1. *The categories shown in Column 1 below are **included only for convenience**, and to align with schedule 16 of the Planning Reg.*
>
> *2. Table A identifies the Adopted Charge rate for development that is **reconfiguring a lot**. Table B identifies the Adopted Charge rates for development that is a material change of use or building work.*
>
> *3. If a development approval approves a material change of use for more than one use, and provides for an area that is able to be used for more than one use, or is common between two or more uses, the Adopted Charge applicable to that area is to be calculated based on the applicable **use** listed in the table below with the highest Adopted Charge rate.*

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[9] *1. Douglas Construction & Engineering Pty Ltd v Logan City Council [2023] QPEC 28-OPD*[**Douglas**] – *2. Developers Pty Ltd v Logan City Council [2025] QPEC 8* [**OPD**] – *3. Allen-Co Holdings Pty Ltd v Gympie Regional Council [2021] QPEC 64*[**Allen-Co**]

4. For an existing lawful use to which a development application is seeking to expand the gross floor area of the facility, the infrastructure charge is only to be applied on the part of the development which is subject to intensification or extension.

* It is difficult to comprehend the nature and explanation for this statement, because the identification of the use generated by a particular development is **paramount** in the decision-making as to if or what infrastructure charges will be served on the applicant as a consequence of the issuing of the development permit and seems to infer that Schedule 16 of the regulation has no real application to this *charge resolution*

Table a provides the following

Table A – Reconfigure a Base Charge Rate

Column 1 USE Category	Column 2 Reconfigure a Lot USE	Column 3 (U) Charge Category	Column 3 (AC) Adopted Charge
Maryborough, Howard, Torbanlea, Tiaro and Rural townships- **All zones**	New lot with development entitlement.	$ per lot	$19,000

While Table B provides:

Column 1 Use Category	Column 2 USE	Column 3 (U) Charge Category	Column 3 (AC) Adopted Charge
Rural townships	Dwelling House	$ per 1 bedroom dwelling	$6,500
		$ per 2 bedroom dwelling	$10,500
		$ per 3 or more bedroom dwelling	$19,000

I believe the Planning and Environment Court has satisfactorily established the principle that *reconfiguring a lot* of itself does not constitute a USE[10], in terms of the USE provided for within PR17.

As we have seen the USE defined in Column 1 of Schedule 16 are almost universally describes as the USE of a **facility**, which of themselves **are not a zone**.

Column 1 of Schedule 6 does have headings above the facilities for the USE that it defines but these do not necessarily correlate to zones within local planning instruments but grouping of types of facilities that service the nature of that activity.

Position 2

The Appellant contention is that:

1. A particular development in order to attract the facility of being the subject of infrastructure charge must be one that delivers a USE as defined within the parameters of those prescribed in Schedule 16 Column 1

   RAL21-0138 is not a USE development and, of itself, does not indicate a USE defined within Schedule 16 of PR17.

   There is no argument that in the future that lots, the consequence of the subdivision may attract a development with a USE prescribed within the regulations but the Appellants other

[10] *Wagner Investments Pty Ltd & Anor v Toowoomba Regional Council* [2019] QPEC 24 @ [98]

contention is that the legislation does not provide the facility for an assessment manager to 'guess the future' and this is exactly what an assessment manager would be required to do in order to apply a USE as prescribed by the regulations to RAL21-0138.

The other contention is that:

2. The circumstance that would also need to be overcome, in order to apply a charge to RAL21-0138 is that the charge itself would need to be a **charge provided for by the regulations** which sets the maximum for that particular charge based on use.
   There is **no use** within Schedule 16 that can correctly be applied to RAL21-0138

The final contention is that:

3. A ***zone*** under planning scheme of itself does not constitute a USE under the terms of Schedule 16 of the regulations and accordingly relying on a permitted zone use in a planning context. For a zone is clearly **not** the mechanism chosen by the legislator for applying infrastructure charges to a USE for a particular development application.

   This opinion is supported by the construction of the documents that provide for assessment, calculation, and application of infrastructure charges, where the charges are required to directly relate to the resources that are required to be provided by the developer to address specific *extra demands* placed on trunk infrastructure by a particular development approval, as is demonstrated in Schedule 16 by the prescribed amounts relevant to a defined USE

OUTCOME

Accordingly, under the correct interpretation of the legislation, RAL21-0138 is not lawfully subjected to the imposition of an *Infrastructure Charge Notice* and if that is not the case, then the imposition of infrastructure charges would offend the Purpose of PA16.

Warren Bolton

Sunday, 17 August 2025

Attachment C

Final Submission

Appellant's response to the Respondent's Written Submission.,

I make the following observations.

Overview

I concur with the position of the Respondent that the consideration by the Tribunal is restricted to:

A. Consideration of:

(i.) *the application of the relevant adopted charge*; **and**

(ii.) *the working out of extra demand, for section 120;*[1] ***and***

B. *The appeal may not be about the adopted charge*; **and**

C. The decision is required to be based on:

(i.) *the evidence that was before the person who made the decision appealed against (i.e., the Respondent)* at the time the decision was made; **and**

D. *The Appellants have the onus of establishing that the appeal should be upheld*

I could not find a connection or relevance for the material raised in the Written Submission in relation to:

a. The quality of the Appellants submission; or

b. The citing of a matter in progress in the P&E court.[2]

Minor disagreements

Respondents Comments

[20] It is irrelevant that, in a technical sense, the mere reconfiguration (as opposed to the further use of the lots so created) does not give rise to additional demand. It is enough if the ***further use*** *of the lots so created gives rise to the additional demand, in order for section 120 to be satisfied*[21]*. As the Court of Appeal observed:*

Firstly, what was missing in the observation from the Court of Appeal case cited, was Judge Mullins previous sentence.

> *The relevant development is the proposed uses of the land as a result of the* ***reconfiguration*** *and the accompanying application for a* ***material change of use****.*

[1] Respondents Submission - 9 to 14 and *Allen-Co Holdings Pty Ltd v Gympie Regional Council* [2021] QPEC 64 @ [2]

[2] Respondents Submission - 11 and 22

The misconstruing of the content.

> *It was not to the point that, technically, the mere reconfiguration of a lot did not result in any change to the demand on infrastructure networks (as observed by the primary judge at [98] of the reasons). What was relevant was that the reconfiguration of a lot is one of the trigger points for the issuing of an ICN in relation to that development.*

Thus making no mention of section 120 of the Planning Act or Justice Jones opinion that *Reconfiguring a Lot* does not constitute a **Use** as within a land planning context

And importantly - the following

> *Section 5.2(b) of the Charges Resolution expressly limits the accumulation of the charges, so that they do not exceed the maximum adopted charge for the development. Whether the maximum adopted charge for the development will be exceeded cannot be determined until the time for payment of the infrastructure charge arises. In the meantime, there was no error in issuing the ICN in conjunction with the reconfiguration of lot application, as it will be a matter of timing as to which ICN is paid first (which was recognised in the report prepared within the Council that preceded the issue of the ICN in respect of the reconfiguration).*

The '*trigger point*' referred to obviously is in a *Charge Resolution* not the Planning Act 2016 (PA16) or the Planning Regulations 2017 (PR17) and it is the matter of the *Charge Resolution* that we will get to later, as being a crucial element in this appeal.

[22] *Whilst unclear and not articulated with precision, the Appellants' submissions raises only two potential grounds of appeal:*

While I cannot comment on the clarity and articulation of the Submission that supported the Appeal I would have thought that the 3 *Premises* identified and highlighted in green in that document and the 2 *Position* highlighted in Supplementary, clearly go to the ground to be considered in the appeal.

They are repeated here for convenience.

> ***Premise 1**. In order to levy an infrastructure charge for a particular development, the assessment manager must establish that the development will generate extra demand upon trunk infrastructure*[4].
>
> ***Premise 2.** LGIP are essential in managing infrastructure decisions.*
>
> ***Premise 3**. A development for Reconfiguring a lot does not of itself generating a demand on infrastructure.*

And the supplementary

> ***Position 1**. If a development does not generate a USE, prescribed in Column 1 of Schedule 16, it is not a development prescribed under Section 112 of PA16 as being a development to which an adopted charge can be levied by a local authority, even if the development is responsible for generating extra demand on trunk infrastructure.*
>
> ***Position 2.***
>
> *The Appellant contention is that:*

1.-A particular development in order to attract the facility of being the subject of infrastructure charge must be one that delivers a USE as defined within the parameters of those prescribed in Schedule 16 Column 1

RAL21-0138 is not a USE development and, of itself, does not indicate a USE defined within Schedule 16 of PR17.

There is no argument that in the future that lots, the consequence of the subdivision may attract a development with a USE prescribed within the regulations but the Appellants other contention is that the legislation does not provide the facility for an assessment manager to 'guess the future' and this is exactly what an assessment manager would be required to do in order to apply a USE as prescribed by the regulations to RAL21-0138.

The other contention is that:

2.-The circumstance that would also need to be overcome, in order to apply a charge to RAL21-0138 is that the charge itself would need to be a charge provided for by the regulations which sets the ***maximum*** *for that particular charge, based on use.*

There is no use within Schedule 16 that can correctly be applied to RAL21-0138

The final contention is that:

3.-A zone under planning scheme of itself does not constitute a USE under the terms of Schedule 16 of the regulations and accordingly relying on a permitted zone use in a planning context. For a zone is clearly not the mechanism chosen by the legislator for applying infrastructure charges to a USE for a particular development application.

This opinion is supported by the construction of the documents that provide for assessment, calculation, and application of infrastructure charges, where the charges are required to directly relate to the resources that are required to be provided by the developer to address specific extra demands placed on trunk infrastructure by a particular development approval, as is demonstrated in Schedule 16 by the prescribed amounts relevant to a defined USE

OUTCOME Accordingly, under the correct interpretation of the legislation, RAL21-0138 is not lawfully subjected to the imposition of an Infrastructure Charge Notice and if that is not the case, then the imposition of infrastructure charges would offend the Purpose of PA16.

[22] *a.-under item 4(a)(i) of schedule 1, table 1 of the Planning Act (i.e., that the ICN involved an error relating to the application of the relevant adopted charge), on the basis that no adopted charge applied to the development because the Land is not a "Rural township"; and*

The matter surrounding the term *Rural township* is relevant only to the extent of the application of the *Charge Resolution* correctly identifying the **Use** type and areas to which the provisions of Table A "Use Category" applies.

A matter we shall get to when considering the *Charge Notice* itself.

[22] *b. - under item 4(a)(ii) of schedule 1, table 1 of the Planning Act (i.e., that the ICN involved an error relating to the working out of extra demand for section 120 of the Planning Act), on the basis that the Respondent "…failed to undertake the necessary assessment required by section 120(1) of PA16 to determine if extra demand on existing trunk infrastructure actually existed".*

The matter surrounding the requirement or not, to determine that a development will create *extra demand* we shall get to when considering that aspect of *Demand* and Section 120(1).

[25] *The Appellants' contention is that the Land may not be located within a "Rural Township", with the apparent consequence that an adopted charge does not apply to development that is reconfiguring a lot on the Land.*

This is correct.

[26] This is incorrect. The proper construction of the Charges Resolution is that the areas identified in subparagraphs 22(a) and (b) above apply to the entirety of the Respondent's local government area.

Not sure how the Respondent arrives at this conclusion, as paragraph 22 subparagraphs (a) and (b) above, simply reiterate the grounds of an appeal in the Planning Act 2016 (PA16). I shouldn't have thought they constituted evidence of the proper construction of the *Charge Resolution* and it's application to the entirety of the Respondents local government area. Which according to Clause 1.6 of the *Charge Resolution* it does.

But in any event, here we are not discussing the application of that document we are here discussing the application of Table A, which is an entirely different construct.

By way of example, a development application for reconfiguring a lot within a *Locality* not prescribed by Column 1 of Table A is not caught by that Table, despite the *Charge Resolution* having application over that whole area.

But we shall get to that matter in due course.

[26] *That is so because:*

a. *the Charges Resolution expressly states that it applies to all of the Respondent's local government area24;*

Correct the *Charges Resolution* does express that intent. But as we shall see it does not have APPLICATION to the whole area.

b. *the Charges Resolution adopts the same division into two of the Respondent's local government area for development that is a material change of use of premises and for building works25, which are the only other types of development in respect of which the Charge Resolution applies adopted charges; and*

I think for the purposes of accuracy that statement also needs to be addressed.

Table A (The relevant Table for this Appeal) of the *Charge Resolution* does establish two areas. Essentially, they are *Hervey Bay* and localities of *Maryborough*; *Howard*; *Torbanlea*; *Tiaro* and *Rural townships*

But the Appellant makes the point that the localities set out in that Table, which the Respondent correctly identifies, and that Council has the authority to declare, is problematic because without a definition identifying the precise description or localities of the *Rural townships* it's impossible to know what localities and what circumstances, are caught.

An issue we will address in some detail in due course

[26] *c. there is no indication anywhere in the Charges Resolution that it is intended to exclude any part of the local government area from the application of adopted charges.*

Again, with the greatest of respect, I would assert that the application of Column 1 of both Table A and Table B clearly demonstrate an *indication* that the *Charge Resolution* has an *intention* to exclude areas. Particularly those not defined in the *Use Category* column. With the obvious consequence that those areas are excluded from the *application of an adopted charge* for those development types, (*Reconfiguring a lot*, *building works* and a *material change of use*).

For example,

The *Charge Resolution* appears, on first impressions, to **only** apply to localities named in the Table A and Table B.

Column 1, Table A, provides in row 1, under the heading *Use Category* - **Hervey Bay** (Inc Burrum Heads, Toogoom, Booral and River Heads) with certain details.

Except "Inc" indicates however that the named localities are only a **subset** of Hervey Bay. There are obviously more localities in Hervey Bay. But the undefined *Rural townships* are excluded as a *Use Category* locality within the Hervey Bay rows.

So that application of the *Charge Resolution* for Table A Row 1 – is only Hervey Bay. It does not apply to the whole area,

But, if any of those spatial localities, identified in the Appellant's Submission {Extract Below} constitute *Rural townships* within the spatially defined *Hervey Bay* catchment, then those *Rural townships* would be exempt from the relevant defined *adopted charges* for each defined USE, prescribed by Column 2 and 3 of the Table.

Turning now to row 2 of Column 1, Table A for the *Use Category* - **Maryborough, Howard, Torbanlea, Tiaro** and *Rural townships,* this includes the undefined localities for *Rural townships*.

While *Rural townships* are undefined, they must exclude any localities in the undefined area of Hervey Bay. However, if there are *Rural townships* within the undefined area of Hervey Bay, they are excluded from application of the *Charge Resolution*

The problem caused by the lack of definition of *Rural townships* is set out below

The *localities* below are the defined 'named places' in the Fraser Coast Regional Council area, identified by **ID.com.au** – For Table A and Table B - Blue for row 1; Green for row 2 are, outside of *Rural townships,* the one identified in the Tables

localities of:

Aldershot, Antigua, Aramara, Bauple, Bauple Forest, Beaver Rock, Beelbi Creek, Bidwill, Boompa, Boonooroo, Boonooroo Plains, Booral, Brooweena, Bunya Creek, Burgowan, Burrum Heads, Burrum River, Burrum Town, Calgoa, Cherwell, Craignish, Duckinwilla, Doongul, Dundathu, Dundowran, Dundowran Beach, Dunmora, Eli Waters, Eurong, Ferney, Fraser Island, Gigoomgan, Glenbar, Glenorchy, Glenwood (part), Gootchie, Grahams Creek, Granville, Great Sandy Strait, Gunalda (part), Gundiah, Gungaloon, Howard, Island Plantation, Kanigan (part), Kawungan, Maaroom, Magnolia, Malarga, Marodian, Maryborough, Maryborough West, Miva (part), Mount Urah, Mungar, Munna Creek (part), Neerdie (part), Netherby, Nikenbah, North Aramara, Oakhurst, Owanyilla, Pacific Haven, Paterson, Pialba, Pilerwa, Pioneers Rest, Point Vernon, Poona, Prawle, River Heads, Scarness, St Helens, St Mary, Sunshine Acres, Susan River, Takura, Talegalla Weir, Tandora, Teddington, Teebar, The Dimonds, Theebine (part), Thinoomba, Tiaro, Tin Can Bay (part), Tinana, Tinana South, Tinnanbar, Toogoom, Toolara Forest (part), Torbanlea, Torquay, **Tuan**, Tuan Forest (part), Urangan, Urraween, Walkers Point, Walliebum, Walligan, Wondunna, Woocoo, Yengarie and Yerra.

Districts of:

Booral - River Heads, Burrum Heads, Craignish - Dundowran (part), Eli Waters, Fraser Island - Great Sandy Strait, Glenwood and District, Granville and Surrounds, Howard - Torbanlea - Pacific Haven District, Kawungan, Maryborough **Central** – North, Nikenbah - Dundowran (part), Oakhurst - Yengarie and District, Pialba, Point Vernon, Rural West, Scarness, Sunshine Acres - Walligan - Takura District, Tiaro - Bauple and District Tinana and District, Toogoom, Torquay, Urangan, Urraween, Wondunna

So, according to **ID.com.au** Hervey Bay is not an identified locality but according to **Schedule 3** of the **Planning Scheme** there is an estimate of between 68-76,000 EP[3] demand, within the sewerage network for Hervey Bay. So somewhere in Council documentation Hervey Bay must have a defined spatial area, just not called up within the *Charges Resolution*.

How many of these *localities* above are within the spatially defined area of Hervey Bay and could qualify as *Rural townships* is unknown and dependent on the definition, but in any event, they would be exempt from application of the *Charges Resolution*.

However, we can speculate that the following localities could probably be located in the Hervey Bay area and possible comprise attributes that may be caught by a definition for *Rural townships.*

[3] EQ= Equivalent Persons

Traviston; Craignish; Dunowran; Dunowran Beach; Point Vernon; Eli Waters; Nikenbah; Urraween; Pialba; Kawungan; Scarness; Torquay; Urangan; Wondunna; Walligan; Sunshine Acres; Takura - to name but a few

As for row 2, of *Use Category* in the Tables, that is *Maryborough*, *Howard Torbanlea*, *Tiaro* and *Rural townships,* what members of the localities identified above by ID.com.au, qualify as *Rural townships* and what do not? - The answer is unknowable.

In the **absence of the definition** of what constitutes a *Rural township* it is possible that every *locality* identified above, 'named' could, theoretically, constitute a *Rural township* and for all zones.

Question like:

- does the definition of *Rural townships* prescribe a certain distance from the ocean to become a *Rural township?* or
- does the *Rural townships*, if any, so classified and within Harvey Bay catchment now get caught as the *Rural townships* for the purposes of row 2 of this Use Category of the Tables or
- are localities within this Harvey Bay catchment exempt under some definition for *Rural townships*? or
- is it only *Rural townships* which are located within **a rural atmosphere** (whatever that may be) and not of course in a rural zone (as that would be a zoning problem), are theses the ones caught by the relevant *Use Category* part of row 2 of Tables A

And, who is in possession of this knowledge?

The right and only answer of course is that it can't be known, unless we have a definition of what actually constitutes a *Rural township* and where they are located by say: spatial location, population size, available service, facilities, number of premises, etc, etc.

The absence of a definition for *Rural townships* makes the application of the *Charge Resolution* unworkable and therefore defective as a document to achieve compliance with the statutory provision of the PA16.

.....

Specific content and context

Legislation

Drafting, adopting, utilizing a LGIP is legislatively controlled both by PA16 and the Minister responsible under the act via published guidelines and the adoption of resolutions relevant to a LGIP, is controlled by PA16 and the Local Government Act 2009 (LGA9)

The decision to issue an *Infrastructure Charge Notice* (ICN) is likewise the subject to all these circumstances.

The current LGIP, commenced as a PIP (Priority Infrastructure Plan) and adopted in the Council's current 2014 Planning Scheme. On 3 July 2017 the PIP converted to an LGIP under the *Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014*.

The statutory review of the LGIP required under section 25(3) of PA16 was to be completed by 3 July 2022 but was concluded by the appointed reviewer on 20 March 2024. However, there is no information available as to the consequences for a LGIP from failure to comply with section 25.

On 28 April 2025 the responsible Minister provided me with this personal written advice.

> *During the development assessment process, a Local Government may determine whether development places additional demand on trunk infrastructure by undertaking a demand assessment of the development using criteria within its LGIP and infrastructure charges resolution.*

[15] Section 119 of the Planning Act requires the Respondent to give an ICN where:

> (a) a development approval been given; and
>
> (b) an adopted charge **applies** to providing trunk infrastructure for the development.

[16] However, pursuant to section 120 of the Planning Act, the levied charge under the ICN may only be for *extra demand* placed on trunk infrastructure that the development will generate17.

[17]. What compliance with section 120 of the Planning Act requires, is that[18]:

> a. there is relevant trunk infrastructure for the development; and
>
> b. there is ~~additional~~ extra demand placed on that trunk infrastructure by the development.

[18] If these requirements are satisfied, the adopted charge for the appropriate development category in the Charges Resolution is applied to calculate the levied charge. There is no requirement to calculate the levied charge by reference to actual additional demand generated by the development[19].

The matter at issue in this appeal is not the '**calculation of the levy charged'** what is at issue in this appeal is the '**application** of the levy charge by the adopted *Charge Resolution*.

Cited Authorities

Things to note in relation to the cited authorities

Firstly *Allens*

This appeal was on the ground that there was an error in the calculation of the charge. This is not the basis for the current appeal before the tribunal.

The Court also held (at [24]) that an appeal about the ICN cannot be about the *adopted charge*

Therefore, the Applicant's submission was not within the scope of what was permitted to be appealed against under PA16.

And Justice Rackemann provided the following:

> *The appellant did not directly attack the validity of the charges resolution and as has been observed, the appeal may not be about the adopted charge. Further, the appellant did not attempt to advance the* ***unreasonableness ground*** *of appeal and no sufficient evidentiary basis was laid for it in any event.*[4]

Now **Wagner**

[32] Firstly, and as identified above, the Court of Appeal has made it clear that it is irrelevant that, in a technical sense, the mere reconfiguration of land (as opposed to the use that results from it) does not give rise to additional demand. It is enough for section 120 to be satisfied if the further use of the lots so created gives rise to additional demand[28] The extracts from the Toowoomba Regional Council v Wagner Investments & Anor case (both at first instance and on appeal) that have pages 10 and 11 of the Appellants' Submission that suggest that a reconfiguration of a lot is not capable of generating a demand on infrastructure, are the findings of the judge at first instance, which were overturned on appeal to the Court of Appeal.

The proceeding before the primary judge involved **10 appeals** by Wagner against the ICNs and were concerned with *transport* and *stormwater* infrastructure charges.[5]

Justice Mullins, on appeal, had this to say.

> The primary judge found (at [17] of the reasons) that there are two pre-conditions that must be satisfied before a local authority can issue an ICN: there must be a relevant trunk infrastructure and there must be additional demand placed on that trunk infrastructure [39]
>
> The primary judge noted (at [83] of the reasons) that for those four appeals, there was no relationship between the GFA and the likely traffic outcomes.
>
> The primary judge concluded (at [87] of the reasons) that the approach adopted by the Council in those four appeals was not a lawfully reasonable approach in the sense that it would result in outcomes that would be unlikely to bear any legitimate relationship between these developments and any additional demand placed upon trunk infrastructure for the purposes of s 636 of the SPA [51]
>
> The primary judge then dealt with Appeal 186 of 2017. The primary judge concluded (at [99] of the reasons) that there was no rational link between the reconfiguration of the land to create the subject lot and the estimated additional demand the Council considers will be placed on the transport trunk infrastructure network and that "the levied infrastructure charge could not sensibly be said to be based on a reasonable estimate of likely additional demand placed upon trunk infrastructure that would be generated by this approval". [53]

And

> A minor aspect of the Council's argument takes issue with the primary judge's reference (at [18] and [19] of the reasons) to the observations made by McMurdo P at [46] and Morrison JA at [97] in *Fraser Coast Regional Council v Walter Elliott Holdings Pty Ltd [2017] 1 Qd R 13* as to s636 of the SPA requiring additional demand placed upon trunk infrastructure that will be generated by the development for the issue of an ICN.

---

[4] Allen- [32] p12

[5] Wagner QPEC 24 [7] p5

The observations merely reflect the actual wording of s 636(1) of the SPA and **there could be no error in the primary judge's legal approach** as a result of referring to those observations. [54]

I would therefore not be prepared to grant leave to appeal to permit the Council to argue that there was an error in the legal approach of the primary judge to the appeals.[74]

So, one must be cautious with the statement 'that the findings of the primary judge were overturned on appeal'

Further Justice Mullins went on to say:

In order to deal with the construction of the Charges Resolution that is the subject of ground 2, it is necessary to dispose of the parties' competing arguments about the proper construction of **s 636** of the SPA.

The respondents emphasise the requirements set out in s 636 of the SPA that limit an infrastructure charge to additional demand placed upon trunk infrastructure that will be generated by the development.

They contend that the Charges Resolution must be construed in that context, so that a specialised use required that an approval-specific assessment of actual demand of the development on the trunk infrastructure be carried out by the Council.

The Council's response is that s 636(1) must be construed by having regard to s 636(2) which shows the Legislature's intention was to set up a statutory regime that did not require an approval-specific assessment to be carried out to determine the additional demand generated by the development.

Instead, the Council points to the methodology of the Charges Resolution that works out the additional demand by the selection of the adopted charge for the appropriate development category and charge area

The Council submits that the working out of additional demand for the purpose of s 636(1) is by the application of the adopted charge that is applicable under the Charges Resolution. [76]

Section 636(1) of the SPA expressly provided for a limitation on the charge that may be levied by the Council for trunk infrastructure.

That limitation is, there must be,

"additional demand placed upon trunk infrastructure that will be generated by the development".

That must be considered in the context of s 635(1) and s 635(2) that empowered the Council to give an applicant for development an ICN where "an adopted charge applies for providing the trunk infrastructure for the development".

The relationship between s 635 and s 636 is important.

Whereas s 635 authorised the levying of an infrastructure charge, s 636(1) imposed a limitation on the levied charge.

The nature of the additional demand contemplated by s 636(1) is set out in the Explanatory Notes for s 636 in the Bill that was enacted as the 2014 Amendment Act:

> "Section 636 provides that a levied charge may be only for additional demand placed upon trunk infrastructure.
>
> For example, an application is lodged for the subdivision of 1 lot into 3 and there is an existing 3 bedroom house on the original lot.
>
> Assuming that each lot is intended to be used for a 3 bedroom dwelling and the local government has set an adopted charge of $28,000 per 3 or more bedroom house, the applicant should receive an infrastructure charge for the 2 new lots only ($56,000).
>
> The adopted infrastructure charge for the third lot, which includes the existing house, does not warrant an infrastructure charge as there is no additional infrastructure demand created by the lot.
>
> The recognition of the existing lawful use of a site or the existing (uncommenced) rights to develop a site through a discounted infrastructure charge is an established practice undertaken by many local governments and is commonly known as a 'credit'. Stipulating the parameters which govern how a 'credit' is issued within the SPA provides greater certainty to all stakeholders."

And went on to advise:

There are therefore **two** aspects to demand in s 635 and s 636.

There **must be** demand which links the development with the relevant trunk infrastructure, but there **must be** additional demand over and above what the current uses of the subject land generate in respect of that trunk infrastructure.

On the basis of the express terms of s 635(1) and s 636(1), there are **two** pre-conditions for the levying of an infrastructure charge by the issue of an ICN.

These were **correctly identified** by the primary judge (at [17] of the reasons) as

- relevant trunk infrastructure and
- additional demand placed on that relevant trunk infrastructure by the development.

Where the parties disagree is **how that additional demand is determined** and reflected in the ICN.
[78]

The key to construing "additional demand" in s 636(1) is again the relationship between s 635 and s 636, the emphasis in s 635(1)(b) on the adopted charge applicable for providing the trunk infrastructure for the development and the relationship between the adopted charge and the SPRP[6] (adopted charges).

When the development generates additional demand on the relevant trunk infrastructure, the adopted charge for the appropriate development category is applied to calculate the levied charge.[79]

The levy charge is not required to be **calculated** by the quantum of additional demand **but** it is required to be triggered, as to if there is any 'actual additional demand generated by that particular development'[7]

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[6] SPER is now reproduced as section 52 of the Planning Regulations 2017 and Schedule 16 of that Regulation

[7] Paraphrased from the contents of the lower portion of Paragraph [79] of Wagner - CoA

This still leaves us though without an unclear understanding of what actually constitutes *additional demand* or in the case of the current legislation's -the *extra demand* criterion.

Finally

> The primary judge erred by rejecting the application of the **adopted charge** for the development category selected by the Council in accordance with the requirement that applied for a use of "Air services" that fell within the development category of "Specialised uses".

Then

> Section 478(3) of the SPA made it clear that any appeal could not be about the adopted charge itself.
>
> The respondents had sought to distinguish between the adopted charge and the levied charge.
>
> Provided the threshold issue of additional demand being generated by the development on the relevant trunk infrastructure was satisfied, it was a distinction without a difference, as the levied charge was determined by the application of the adopted charge. [94]

Significant is:

> There was **no error** in the primary judge's decision to allow the appeal in respect of each of the stormwater charges associated with the **nine** appeals referred to in order 1 made by the primary judge and to set aside the stormwater infrastructure charges in the relevant ICNs.
>
> The Council's appeal against orders 1 and 2 made by the primary judge must be dismissed [107]

Reconfiguring a Lot -

> The relevant development is the proposed uses of the land as a result of the reconfiguration [illegible] and the accompanying application [illegible] for a material change of use.
> It was not to the point that, technically, the mere reconfiguration of a lot did not result in any change to the demand on infrastructure networks (as observed by the primary judge at [98] of the reasons).
> What was relevant was that the reconfiguration of a lot is one of the trigger points (under Council Charges Resolution) for the issuing of an ICN in relation to that development. [115]

What would have been useful to assessing the authority of the opinion of Justice Jones in QPEC [2019] 24 regarding the status of *reconfiguring a lot,* as a development capable of generating a **use**, would have been, a determination by the CoA, if DA RAL/2012/6226 had simply been for solely reconfiguration itself, without a concurrent *material change of use* application.

.....

Conclusion

GROUNDS

The ICN notice involved an error relating to—

A - The application of the relevant adopted charge by;

(i.) The working out of extra demand, for section 120;

(ii.) applying an incorrect 'use category', under a regulation, to the development

Extra demand- Section 120(1)

The Court of Appeal (CoA) clearly has dispelled the mythology that extra demand is whatever an assessment managers *Charges Resolution* says it is. The CoA supported Justice Jones conclusion in QPEC [2019] 24 that the process required to be undertaken by the assessment manager in determining to issue an *Infrastructure Changed Notice* (ICN) is a twofold exercise as described in paragraph 78 of the CoA reasons.

The CoA was not afforded the opportunity of forming a view on Justice Jones determination regarding the ability of the *reconfiguring a lot* to **not** generate a 'use' required as part of the process of making a determination in relation to the correct *adopted charge* to be levied under the *Charge Resolution*, as the concurrent *material change of use* rendered the issue mute.

We are still, as a consequence, lacking a statutory definition or an opinion of the courts, that conclusively defines the meaning of *extra demand* and the intent of the application in relation to criterion No1 under 120(1) of PA16.

However, the current legislation regarding the requirement to assess the impact of 'demand' by a particular development was first introduced in 2014 in the *Sustainable Planning Act*.

The Explanatory Notes to the bill, stated, when dealing with the scope of appeals advice about the 'reasonableness of a levy charge' and consideration of 'if the cost had been correctly apportioned between existing and future users taking into account the anticipated **usage** of the infrastructure or the **capacity** of the infrastructure, allocated to developments"

Specifically identifying of the term *capacity* in relation to the 'infrastructure servicing the development' is a significant element when considering a 'demand' application[8]

The fact that the Respondent has demonstrated the process by which it arrived at the determination that 'extra demand' was not required to be considered by a specific exercise when considered RAL21/0138, demonstrates without argument, that they failed to undertake part 1 of the statutory requirement [120(1) of PA16] before issuing the ICN.

Further, the evidence provided in the **Representation** stage to the Respondent for the ICN and reiterated in the **Submission** for this Appeal, provides good grounds for arriving at a determination that, had the required competent assessment been undertaken, at the appropriate stage, a significant possibility exists that it could have resulted in a finding, for this particular development application, in this specific location, that a distinct possibility existed that **no** extra demand would occur on the infrastructure identified.

Finally, lot 51 MCH 567, the subject of DA RAL21/0138 (Subject Development) was created in 1908. In the 117 years since its creation, this lot has made no demands upon trunk infrastructure.

[8] Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014-Explanatory Notes-See "Capacity" [P13-Clause 9] and [P48-Clause 41]

Demonstrating the fragility of a position that the mere creation of lot of land is a reliable indicator that it will result in subsequently posing, a **demand** on trunk infrastructure.

It is the Appellants position that the Respondents, in ***working out of extra demand, for section 120*** failed to undertake the required process to determine if DA RAL21-0138 will generate an extra demand on the relevant trunk infrastructure before issuing ICN 5138178 and thereby the ICN is ultra vires.

S112 PA16 and 52 PR17

The position that a council's *charge resolutions* and *adopted charges* are largely an unfettered, and liberal expression of authority, under the concept of a 'broad brush' approach is challenged by a forensic examination of s112 of PA16 and s52 of PR17, as set out on pages 1 and 2 of the **Supplementary** in support of this Appeal and should dispense with that position and demonstrate a requirement under law, to still operate in compliance with existing legislation, as detail in the Supplementary.

If further evidence was required, the evolution of infrastructure charges from *Integrated Planning 1997* through to the many iterations of the *Sustainable Planning Act 2009* will demonstrate beyond doubt the solid bases for arriving at the conclusion that this current process is not a free for all in its administration, by local authorities.

As argued in the Supplementary, trunk infrastructure charges applied as a consequence of a LGIP must have their basis squarely rooted in the requirements of the regulations. Both as to the **maximum amount** that can be charged and the spread of **uses** to which they can be applied

The Respondents *Infrastructure Charge Resolution January 2025* (Charge Resolution) in Table A

A. Identifies something termed a "Use Category" - Schedule 16 - Column 1 does not recognise a '*Use Category'.*
B. In Column 2 under the heading "Reconfigure a Lot Use" the Table does not identify any USE prescribed in Schedule 16 - Column 1

Section 52(3)(a) of PR17 called up by section 112 of PA16 makes it abundantly clear that simply being a *prescribed development* is not sufficient of itself to meet the requirements. It must be for a "Use" stated in Schedule 16 column 1 and if it doesn't qualify, then it will not fit the criteria required to be included in the 'local government's *adopted charges* for *trunk infrastructure,* for a development under Chapter 4 of the planning act'.[9]

And then, only when it has been determined that the particular development satisfies requirements of s120(1)

[9] PR17- s52(3)(a)

It is the Appellants position that the Respondents *Charge Resolution* ***applies an incorrect 'use category, under a regulation***, to DA RAL21-0138 and thereby the resultant ICN 5138178 issued as a consequence, is ultra vires.

Rural township

As presented above, the absence of the definition for *Rural townships* within *Charge Resolution* renders the application of Tables A impossible, in determining the *application of the relevant adopted charge.*

The *Purpose* of PA16 states that the Act will "*establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning (planning), development assessment*"

The *Charge Resolution* fails that requirement.

It is the Appellants position that the Respondents *Charge Resolution,* used as a basis to issue ICN 5138178, produced an "***incorrect Use Category***" thus rendering the subsequent ICN as ultra vires.

The Office of the Queensland Parliamentary Counsel's *Principles of good legislation-Clear meaning* provides that Legislation should be simple, precise and organised in a way to enhance comprehension. And that legislation should be user-friendly and accessible, so ordinary Queenslanders can gain an understanding of the laws relating to a particular matter without having to refer to multiple Acts of Parliament; and

legislation should:

- contain provisions that are precisely drafted; and
- contain coherent provisions that address foreseeable matters; and
- be drafted in a style that is as simple as possible and be consistent with the nature of the subject matter.

It is the Appellants position that the Respondents *Charge Resolution* is a *statutory instrument* and as such failed to achieve, under the *Principles of good legislation-Clear meaning*, the OQPC guidelines, for precisely drafted provisions, required in order to determine the correct ***Use Category*** for determination of *infrastructure charges notices*, thereby rendering the document inoperable resulting in the incorrect issuing of ICN 5138178.

Warren Bolton

Monday, 25 August 2025

Attachment D

FRASER COAST REGIONAL COUNCIL

Infrastructure Charges Resolution January 2025

Contents

1. Preliminary

1.1 This Document

This document (resolution) is a charges resolution made by Council under section 113 of the *Planning Act 2016*.

1.2 Citation

This resolution may be cited as the *Fraser Coast Regional Council Adopted Infrastructure Charges Resolution March 2025.*

1.3 Commencement

This resolution has effect on and from 1 January 2025.

1.4 Transitional Arrangements

Indexing will be capped per the Adopted Infrastructure Charges Resolution March 2022 rates for all development that is completed, and the Infrastructure Charges are paid in full within one (1) year from commencement of this resolution. In this regard, the entering into a Delayed Payment Infrastructure Agreement constitutes a paid infrastructure charge. E.g. an indexed lot charge under this arrangement will not exceed the $28,000 maximum charge under the 2022 resolution if completed within 12 months of commencement of this resolution.

1.5 Definitions

Terms used in this resolution are defined in **section 6.1**.

1.6 Application

(a) This resolution applies to all of Council's local government area.

(b) As set out in **section 2**, this resolution adopts charges for providing trunk infrastructure for development, which are no more than the applicable maximum adopted charge, for development that is:

  i. reconfiguring a lot;
  ii. a material change of use; or
  iii. building work.

Editor's note – Section 112(3)(b) of the Planning Act 2016, in combination with section 52(3)(a) of the Planning Regulation 2017, allows Council to have an adopted charge for trunk infrastructure for development that is a material change of use, reconfiguring a lot, or building work.

(c) This resolution adopts a charge for particular development that is equal to or less than the *Planning Regulation*.

(d) To avoid any doubt, the adopted charge does not apply to development that section 113(3) of the *Planning Act* provides an adopted charge must not be for.

2. Adopted Charge

2.1 Adopted Charge

The adopted charge for development is the applicable Infrastructure Charge for the development calculated on the approved use, in accordance with **section 3,** and at the time the decision is made.

2.2 Relationship with maximum adopted charge

(a) **Section 2.1** is intended to have the effect that, at any given time, the adopted charge under this resolution is no more than the maximum adopted charge.

(b) If, in any case, this resolution would have the purported effect of adopting a charge that is higher than the maximum adopted charge, this resolution is to be construed and read down as necessary to ensure that the adopted charge is equal to the maximum adopted charge.

2.3 Trunk infrastructure networks

(a) The adopted charge is a charge for providing trunk infrastructure for development for all trunk infrastructure networks in the Local Government Infrastructure Plan (LGIP), being the following networks:

water supply; sewerage; stormwater; transport (roads, pedestrian and cycle movement); and parks and land for community facilities.

(b) The adopted charge is for trunk infrastructure for all of the above networks, and no part of the adopted charge is earmarked to any particular network. However, the notional proportional breakup of the adopted charge between these networks is as follows:

i. water supply– 7%
ii. sewerage – 21%
iii. stormwater – 7.5%
iv. transport – 53%
v. parks and land for community facilities – 11.5%

3. Levied charges

3.1 Calculation of levied charges

The levied charge for development is to be calculated in accordance with the below formula:

$$LC = [(AC \times U) - C] \times I - EC$$

Where:

LC	=	the levied charge for the development.
AC	=	the Adopted Charge Rate for the development, in accordance with **Schedule 1, column 4**.
U	=	is the unit of measure as identified in **Schedule 1, column 3.**
C	=	the total value of any applicable Credits, determined in accordance with **section 3.2**.
I	=	the sum of the percentage increases for each financial quarter since 1 July 2022 or in accordance with section 3.5, to the date the charge is levied. *Note – In this section, "percentage increases" has the meaning given in section 112(4) of the Planning Act.*
EC	=	the Establishment Cost of trunk infrastructure mentioned in **sections 3.3** or **3.4** (as applicable) and calculated in accordance with **section 4**.

Notes—

1 *AC x I will be equal to the adopted charge under **section 2.1**.*

2 *All levied charges will be subject to automatic indexation in accordance with **section 3.5**.*

3 *If the above formula results in a negative value, a Refund may be payable under **section 3.4**. However, a Refund will not be payable merely because a Credit exceeds the applicable adopted charge.*

4 *The application of infrastructure charge discounts or incentives pursuant to Council policy at the time are to be applied to the net infrastructure amount. (i.e., the infrastructure charge less any applicable credits or offsets).*

3.2 Credits

(a) In accordance with section 120 of the *Planning Act*, the credit is to be calculated in accordance with Section 3.2 (c); and

(b) a Credit will apply where the Credit for the premises is the greater of the following:

i. The amount stated for an *adopted infrastructure charge* for reconfiguring a lot in **Schedule 1, Table A** for each existing residential lot within the premises; or

Note - Commercial and industrial lots where the adopted infrastructure charge was deferred to material change of use and/or building works stage as detailed on the development approval at time of approval shall not be eligible for this credit criteria.

ii. an existing use on the premises if the use is lawful and already taking place on the premises, the amount stated in **Schedule 1, Table B** for the lawful use; or

iii. the amount stated in **Schedule 1, Table B** for the lawful use; or

iv. a previous use that is no longer taking place on the premises if the use was lawful at the time it was carried out the amount stated in **Schedule 1, Table B** for the lawful use; or

v. other development on the premises if the development may be lawfully carried out without the need for a further development permit the amount stated in **Schedule 1, Table B** for the lawful use; or

vi. the monetary contributions for trunk infrastructure previously paid for the development of the premises, subject to Council being satisfied of appropriate evidence of payment.

(c) If a Credit applies, the value of the Credit is to be calculated in accordance with the following formula:

$$C = (AC \times U) \times I$$

Where:

C = the value of the Credit.
AC = the Adopted Charge Rate for the development, in accordance with **Schedule 1, column 4**.
U = is the unit of measure as identified in **Schedule 1, column 3.**
I = the sum of the percentage increases for each financial quarter since 1 July 2022 or in accordance with section 3.5, to the date the charge is levied.

Note – In this section, "percentage increases" has the meaning given in section 112(4) of the Planning Act.

(d) Despite **section 3.2(b)**, a Credit will not apply for a use or development mentioned in section 3.2 if an infrastructure requirement that applies, or applied, to the use or development has not been complied with.

Note – In this section, "infrastructure requirement" has the meaning given in section 120(4) of the Planning Act.

(e) Despite **section 3.2(b)**, if more than one type of use or development mentioned in **section 3.2** is relevant to the premises:

i. to the extent that any such uses or developments are mutually incompatible – a Credit will only apply for the use or development that has the highest Infrastructure Charge; and

Examples –

- *If the relevant premises is a building that is currently being lawfully used for an office, but was historically lawfully used for a funeral parlour, a credit will only be available for the current office use (which has a higher Infrastructure Charge). Because the two uses concern the same building, they cannot occur simultaneously are mutually incompatible.*

- *If the relevant premises is a parcel of land containing multiple buildings, used for different purposes, multiple Credits may be available in respect of the uses of each building.*

ii. otherwise, variable "AC" in the formula in **section 3.2(c)** is to be the sum of the Infrastructure Charges for all applicable Credits.

3.3 Offsets

(a) In accordance with section 129(2) of the *Planning Act*, an Offset will apply if:

i. the relevant development is subject to one or more necessary infrastructure conditions;

ii. the trunk infrastructure that is the subject of the necessary infrastructure condition/s services, or is planned to service, premises other than the subject premises; and

iii. the total Establishment Cost of the trunk infrastructure is equal to or less than the levied charge that would otherwise apply to the development.

(b) If an Offset applies, the levied charge will be the difference between:

i. the levied charge that would otherwise apply to the development; and

ii. the total Establishment Cost of the trunk infrastructure.

*Note – This outcome is reflected in the formula in **section 3.1**.*

3.4 Refunds

(a) In accordance with section 129(3) of the *Planning Act*, a Refund will apply if:

i. the relevant development is subject to one or more necessary infrastructure conditions;

ii. the trunk infrastructure that is the subject of the necessary infrastructure condition/s services, or is planned to service, premises other than the subject premises; and

iii. the total Establishment Cost of the trunk infrastructure is more than the levied charge that would otherwise apply to the development.

(b) If a Refund applies:

i. no levied charge is payable;

*Note – This outcome is reflected in the formula in **section 3.1**, as per note 3 to that section.*

ii. Council will refund to the applicant the difference between:

A. the levied charge that would otherwise apply to the development; and

B. the total Establishment Cost of the trunk infrastructure.

Editor's note – If a refund is payable, the relevant infrastructure charges notice will state when the refund will be given, in accordance with section 121(1)(f) of the Planning Act.

3.5 Automatic Indexation of levied charges

(a) A levied charge will be automatically increased from the date that it is levied until the date of payment in accordance with section.

(b) An automatic increase under this section is to be the lesser of the following:

(a) the difference between the levied charge that the maximum adopted charge that Council could have levied for the development as per the Adopted Infrastructure Charges Resolution in place when the charge is paid; or

(b) the increase worked out using the PPI, adjusted according to the 3-yearly PPI average, for the period starting on the day the charge was levied, and ending on the day the charge is paid.

Note – In this section, "3-yearly PPI average" has the meaning given in section 114(6) of the Planning Act.

(c) To avoid any doubt, this section is an automatic increase provision under the *Planning Act*.

3.6 Discounts

(a) Table 1 below establishes the criteria and eligibility for discounts to Council's adopted charge.

(b) For development (or part of a development) that is eligible for a discount, the charge is the adopted charge identified in **Schedule 1** less any discount identified in **Table 1**.

(c) All discounts in **Table 1** are subject to the following:

i. Discounts are calculated on the amount of the adopted charge identified in Schedule 1;

ii. The amount of any discount cannot result in the development becoming eligible for a refund for the provision of trunk infrastructure. If the discount results in the development becoming eligible for a refund pursuant to section 129 of the *Planning Act* and / or through a conversion application or recalculation of the establishment cost of trunk infrastructure, the amount of the discount will be reduced such that the development is not eligible for a refund.

(d) Charges levied under this resolution are not eligible for further discount under any previous infrastructure charges incentives package.

Table 1 – Criteria and eligibility for discounts to adopted charge

Discount category	Criteria / areas covered	Amount of discount
Health and Community care	Any "Health care service", "Residential care facility", "community care centre' or "Community residence" use	20%
Education, Research and Community uses	Any "Educational establishment", "Research and technology industry" or "Community use" use	20%
Medium Impact Industry Zone (Tiaro & Howard)	Any accepted or code assessable use as defined in Table 5.5.9 Medium impact industry zone – Table of assessment located within Tiaro or Howard townships	45%
District Centre Zone (Tiaro & Howard)	Any accepted or code assessable use (excluding Residential activities) as defined in Table 5.5.5 District centre zone – Table of assessment located within Tiaro or Howard townships	45%
Neighbourhood Centre Zone (Torbanlea, Poona & Maaroom)	Any accepted or code assessable use (excluding Residential activities) as defined in Table 5.5.7 Neighbourhood centre zone – Table of assessment located within Torbanlea, Poona & Maaroom townships	45%
Non-profit organisations'	Development is not on land owned or controlled by Fraser Coast Regional Council	50%
	Development is on land owned or controlled by Fraser Coast Regional Council	100%

3.7 Time of payment of an infrastructure charge

A levied infrastructure charge is payable at the following time:

(a) if the charge applies for reconfigure a lot – when the local government that levied the charge approves a plan for the reconfiguration that, under the *Land Title Act 1994*, is required to be given to the local government for approval; or

(b) if the charge applies for building work – when the final inspection certificate for the building work, or the certificate of classification for the building, is given under the *Building Act 1975*; or

(c) if the charge applies for a material change of use – when the change happens; or

(d) if the charge applies for other development – on the day stated in the infrastructure charges notice under which the charge was levied.

4. Method for Calculating Establishment Cost

4.1 Default position

By default, the Establishment Cost of trunk infrastructure is:

(a) for trunk infrastructure that is the whole of an item in a table in Schedule 3, SC3.2 of the Planning Scheme – the establishment cost for the item stated in column 6 of the applicable table, increased using the PPI, adjusted according to the 3- yearly PPI average, for the period:

i. starting on the base date in the LGIP; and

Editor's note – As of the commencement of this resolution, the base date is 2013.

ii. ending on the date that the charge is levied.

(b) for trunk infrastructure that is part of an item in a table in Schedule 3, SC3.2 of the Planning Scheme – a proportion of the amount described in **section 4.1(a)** for the relevant part; or

(c) otherwise – an amount estimated by Council as reasonably reflecting the approximate costs of land acquisition, design and construction, for the infrastructure.

4.2 Recalculation of Establishment Cost

(a) If an applicant disagrees with the default Establishment Cost under section 4.1, the applicant may give Council a notice under section 137 of the *Planning Act* requiring the Establishment Cost to be recalculated.

(b) If a notice is given under section 137 of the *Planning Act* in relation to trunk infrastructure that is land, the Establishment Cost is to be recalculated in accordance with:

i. the method set out in **Schedule 2**; or

ii. another method agreed in writing between Council and the applicant.

(c) If a notice is given under section 137 of the *Planning Act* in relation to trunk infrastructure that is works, the Establishment Cost is to be recalculated in accordance with:

i. the method set out in **Schedule 3**; or

ii. another method agreed in writing between Council and the applicant.

(d) Where the Establishment Cost is recalculated under this section, the Establishment Cost is to be increased using the PPI, adjusted according to the 3- yearly PPI average, for the period (if any) between:

i. the date as at which the Establishment Cost is recalculated; and

ii. the date on which the amended infrastructure charges notice is given.

(e) To avoid any doubt:

i. **Schedules 2 and 3** state this resolution's method for working out the cost of infrastructure that is the subject of an Offset or Refund, in accordance with section 116 of the *Planning Act;*

ii. for section 137(2) of the *Planning Act*, the method for recalculating establishment cost is set out in **Schedules 2 and 3**;

iii. if a notice is given under section 137 of the *Planning Act* in relation to trunk infrastructure that includes both land and works: **section 4.2(b)** applies to the extent that the trunk infrastructure is land; and **section 4.2(c)** applies to the extent that the trunk is works; and

iv. at any time, Council and an applicant may agree in writing that a stated amount is to be the recalculated Establishment Cost for the purposes of this section.

5. Conversion Criteria

5.1 Purpose of this section

(a) This section sets out Council's conversion criteria for the purposes of section 117 of the *Planning Act*.

(b) Prior to construction commencement an applicant may apply to convert non-trunk infrastructure to trunk infrastructure. The application must be made in writing using the prescribed form (the conversion application).

(c) Non-trunk infrastructure that is the subject of a conversion must comply with all of the conversion criteria in **sections 5.2 to 5.10** in order to be converted to trunk infrastructure.

5.2 Capacity to service other development in accordance with desired standards of service

The infrastructure must have capacity to service other developments in the area, in accordance with the desired standard of service identified in the LGIP.

5.3 Infrastructure consistent with LGIP

The function and purpose of the infrastructure must be consistent with other trunk infrastructure identified in the LGIP.

5.4 Non consistent with non-trunk infrastructure

The infrastructure must not be consistent with non-trunk infrastructure for which a condition may be imposed under section 145 of the *Planning Act*. That is, the infrastructure must not be for any of the following:

(a) a network, or part of a network, internal to premises;

(b) connecting the premises to external infrastructure networks; or

(c) protecting or maintaining the safety or efficiency of the infrastructure network of which the non-trunk infrastructure is a component.

Example – A condition is imposed requiring upgrade works to a trunk road, in order to maintain the safety and efficiency of the network as a result of a development. Although the works relate to a trunk road, they are non-trunk infrastructure and do not satisfy this criterion.

5.5 Cost-effectiveness

(a) The type, size and location of the infrastructure must be the most cost-effective option for servicing multiple users in the area.

(b) This criterion will be satisfied where the infrastructure is the least-cost option based upon the life cycle cost of the infrastructure required to service future urban development in the area at the desired standard of service identified in the LGIP.

5.6 No commencement of construction

Construction of the infrastructure must not have started.

Editor's note – Separately from this criterion, if construction of the non-trunk infrastructure that is the subject of a conversion application commences after the application is made, this may affect the determination of the application. See Planning Act, section 138(b).

5.7 Not for development incentive

The infrastructure must not have been proposed by the applicant for the purpose of obtaining:

(a) an increase in height or density; or

(b) any other concession or relaxation of a requirement under the Planning Scheme.

5.8 Not proposed as non-trunk infrastructure

The infrastructure must not have been proposed by the applicant on the basis that it would be non-trunk infrastructure (or would otherwise not be subject to an Offset or Refund).

5.9 Not to upgrade to service development inconsistent with LGIP assumptions

The infrastructure must not involve an upgrade of an existing trunk infrastructure item made necessary to service development that is inconsistent with the type, scale, location or timing of development assumed in the LGIP.

5.10 Services development consistent with LGIP assumptions

The infrastructure must service development that is consistent with the LGIP's assumptions about the type, scale, location and timing of development.

6. Defined Terms

6.1 Definitions

In this resolution, these terms have the following meanings:

Term	Definition
Infrastructure Charge	The infrastructure charge for development calculated in accordance with **Schedule 1**.
Council	Fraser Coast Regional Council.
Credit	A credit calculated in accordance with **section 3.2** of this resolution.
Establishment Cost	The establishment cost of trunk infrastructure, determined in accordance with **section 4**.
LGIP	Council's local government infrastructure plan, being Part 4 of the Planning Scheme.
Maximum adopted charge	means the charge limit set out in the maximum charging framework established in the *Planning Act 2016* and *Planning Regulation 2017.*
Offset	An offset under section 129(2) of the *Planning Act*.
Original Land	That land that is the subject of the overarching development approval guiding development of the land. *Example – If the land the subject of a specific development application is part of a larger parcel that is the subject of a variation approval, the Original Land will be the whole of the land the subject of the variation approval, regardless of whether or not the land is being developed in stages or by different developers.*
Planning Act	The *Planning Act 2016* (Qld).
Planning Reg	The *Planning Regulation 2017* (Qld).
Planning Scheme	Fraser Coast Regional Planning Scheme.
Refund	A refund under section 129(3)(b) of the *Planning Act*.

6.2 Other Terms

A term that is used but not defined in this resolution will, unless the context otherwise requires, have the meaning give to it by (in the following order):

(a) the *Planning Act*;
(b) the Planning Reg;
(c) the Planning Scheme;
(d) the *Acts Interpretation Act 1954* (Qld); or
(e) its ordinary meaning.

6.3 Construction

Unless expressed to the contrary, in this resolution:

(a) "includes" means includes without limitation;
(b) a reference to:
    i. any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
    ii. "$" or "dollars" is a reference to Australian currency;
    iii. this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties;
    iv. writing includes: any mode of representing or reproducing words in tangible and permanently visible form, including fax transmission; and words created or stored in any electronic medium and retrievable in perceivable form;
    v. this resolution includes all schedules and annexures to it;
    vi. a section, schedule or annexure is a reference to a section, schedule or annexure, as the case may be, of this resolution;
(c) if the date on or by which any act must be done under this resolution is not a business day, the act must be done on or by the next business day; and
(d) headings do not affect the interpretation of this resolution.

Schedule 1

Adopted Charge Rates

Notes –

1. *The categories shown in Column 1 below are included only for convenience, and to align with schedule 16 of the Planning Reg.*
2. *Table A identifies the Adopted Charge rate for development that is reconfiguring a lot. Table B identifies the Adopted Charge rates for development that is a material change of use or building work.*
3. *If a development approval approves a material change of use for more than one use, and provides for an area that is able to be used for more than one use, or is common between two or more uses, the Adopted Charge applicable to that area is to be calculated based on the applicable use listed in the table below with the highest Adopted Charge rate.*
4. *For an existing lawful use to which a development application is seeking to expand the gross floor area of the facility, the infrastructure charge is only to be applied on the part of the development which is subject to intensification or extension.*

Table A – Reconfigure a Base Charge Rate

Column 1 Use Category	Column 2 Reconfigure a Lot Use	Column 3 (U) Charge Category	Column 3 (AC) Adopted Charge
Hervey Bay (inc. Burrum Heads, Toogoom, Booral and River Heads) - All Zones	New lot with development entitlement	$ per lot	$32,000
Maryborough, Howard, Torbanlea, Tiaro and Rural townships - All zones	New lot with development entitlement	$ per lot	$19,000

Table B – Material Change of Use or Building Works Base Charge Rate

Column 1 Use Category	Column 2 Use	Column 3 (U) Charge Category	Column 3 (AC) Charge
Residential Hervey Bay (inc Burrum Heads, Toogoom, Booral and River Heads)	Dwelling House	$ per 1 bedroom dwelling	$12,200
		$ per 2 bedroom dwelling	$19,800
		$ per 3 or more bedroom dwelling	$32,000
	Dwelling Unit	$ per 1 bedroom dwelling	$12,200
		$ per 2 bedroom dwelling	$19,800
		$ per 3 or more bedroom dwelling	$28,000
	Caretaker's accommodation	$ per 1 bedroom dwelling	$12,200
		$ per 2 bedroom dwelling	$19,800
		$ per 3 or more bedroom dwelling	$32,000
	Multiple Dwelling	$ per 1 bedroom dwelling	$12,200
		$ per 2 bedroom dwelling	$19,800
		$ per 3 or more bedroom dwelling	$28,000

Column 1 Use Category	Column 2 Use	Column 3 (U) Charge Category	Column 3 (AC) Charge
	Dual Occupancy	$ per 1 bedroom dwelling	$12,200
		$ pe 2 bedroom dwelling	$19,800
		$ per 3 or more bedroom dwelling	$28,000
Residential Maryborough, Howard, Torbanlea, Tiaro and Rural townships	Dwelling House	$ per 1 bedroom dwelling	$6,500
		$ per 2 bedroom dwelling	$10,500
		$ per 3 or more bedroom dwelling	$19,000
	Dwelling Unit	$ per 1 bedroom dwelling	$6,500
		$ per 2 bedroom dwelling	$10,500
		$ per 3 or more bedroom dwelling	$15,000
	Caretaker's accommodation	$ per 1 bedroom dwelling	$6,500
		$ per 2 bedroom dwelling	$10,500
		$ per 3 or more bedroom dwelling	$19,000
	Multiple Dwelling	$ per 1 bedroom dwelling	$6,500
		$ per 2 bedroom dwelling	$10,500
		$ per 3 or more bedroom dwelling	$15,000
	Dual Occupancy	$ per 1 bedroom dwelling	$6,500
		$ pe 2 bedroom dwelling	$10,500
		$ per 3 or more bedroom dwelling	$15,000
Accommodation (Short-term) Hervey Bay (Inc Burrum Heads, Toogoom, Booral and River Heads)	Hotel	$ per 1 bedroom dwelling	$6,000
		$ per 2 bedroom dwelling	$10,000
		$ per 3 or more bedroom dwelling	$14,000
	Short-term accommodation	$ per 1 bedroom dwelling	$6,000
		$ per 2 bedroom dwelling	$10,000
		$ per 3 or more bedroom dwelling	$14,000
	Tourist park – caravan or tent	$ per unpowered tent site	$2,500
		$ per powered caravan site	$4,500
		$ per cabin site	$6,000
	Tourist park – self-contained recreational vehicle grounds	$ per self-contained recreational vehicle (as defined in the *Fraser Coast Planning Scheme 2014*	Nil
	Nature based tourism	$ per unpowered tent site	$2,500
		$ per powered caravan site	$4,500
		$ per cabin site	$6,000
	Nature based tourism- self-contained recreational vehicle grounds	$ per self-contained recreational vehicle (as defined in the *Fraser Coast Planning Scheme 2014*	Nil
Accommodation (Short-term)	Hotel	$ per 1 bedroom dwelling	$3,200
		$ per 2 bedroom dwelling	$5,300
		$ per 3 or more bedroom dwelling	$7,500

Column 1 Use Category	Column 2 Use	Column 3 (U) Charge Category	Column 3 (AC) Charge
Maryborough, Howard, Torbanlea, Tiaro and Rural townships	Short-term accommodation	$ per 1 bedroom dwelling	$3,200
		$ per 2 bedroom dwelling	$5,300
		$ per 3 or more bedroom dwelling	$7,500
	Tourist park – caravan or tent	$ per unpowered tent site	$1,350
		$ per powered caravan site	$2,400
		$ per cabin site	$3,200
	Tourist park – self-contained recreational vehicle grounds	$ per self-contained recreational vehicle (as defined in the *Fraser Coast Planning Scheme 2014*	Nil
	Nature based tourism	$ per unpowered tent site	$1,350
		$ per powered caravan site	$2,400
		$ per cabin site	$3,200
	Nature based tourism- self-contained recreational vehicle grounds	$ per self-contained recreational vehicle (as defined in the *Fraser Coast Planning Scheme 2014*	Nil
Accommodation (Long-term) Hervey Bay (Inc Burrum Heads, Toogoom, Booral and River Heads)	Community residence	$ per 1 bedroom dwelling	$12,200
		$ per 2 bedroom dwelling	$19,800
		$ per 3 or more bedroom dwelling	$28,000
	Rooming accommodation	$ per 1 bedroom (< 6 beds per room)	$12,200
		$ per 1 bedroom (> 6 beds per room)	$19,800
		$ per 2 bedrooms in a suite	$19,800
		$ per 3 or more bedrooms in a suite	$28,000
	Relocatable home park	$ per 1 bedroom dwelling	$12,200
		$ per 2 bedroom dwelling	$19,800
		$ per 3 or more bedroom dwelling	$32,000
	Retirement facility	$ per 1 bedroom dwelling	$12,200
		$ per 2 bedroom dwelling	$19,800
		$ per 3 or more bedroom dwelling	$32,000
	Rural workers accommodation	$ per 1 bedroom dwelling	$12,200
		$ per 2 bedroom dwelling	$19,800
		$ per 3 or more bedroom dwelling	$32,000
Accommodation (Long-term) Maryborough, Howard, Torbanlea, Tiaro	Community residence	$ per 1 bedroom dwelling	$6,500
		$ per 2 bedroom dwelling	$10,500
		$ per 3 or more bedroom dwelling	$15,000
	Rooming accommodation	$ per 1 bedroom (< 6 beds per room)	$6,500

Column 1 Use Category	Column 2 Use	Column 3 (U) Charge Category	Column 3 (AC) Charge
and Rural Townships		$ per 1 bedroom (> 6 beds per room)	$10,500
		$ per 2 bedrooms in a suite	$10,500
		$ per 3 or more bedrooms in a suite	$15,000
	Relocatable home park	$ per 1 bedroom dwelling	$6,500
		$ per 2 bedroom dwelling	$10,500
		$ per 3 or more bedroom dwelling	$19,000
	Retirement facility	$ per 1 bedroom dwelling	$6,500
		$ per 2 bedroom dwelling	$10,500
		$ per 3 or more bedroom dwelling	$19,000
	Rural workers accommodation	$ per 1 bedroom dwelling	$6,500
		$ per 2 bedroom dwelling	$10,500
		$ per 3 or more bedroom dwelling	$19,000
Places of Assembly	Community use (library)[1]	$ per m2 GFA plus $10.00 per m2 impervious area	$70
	Community use (museum)[1]	$ per m2 GFA plus $10.00 per m2 impervious area	$70
	Community use (hall)[1]	$ per m2 GFA plus $10.00 per m2 impervious area	$70
	Community use (other)[1]	$ per m2 GFA plus $10.00 per m2 impervious area	$70
	Function Facility	$ per m2 GFA plus $10.00 per m2 impervious area	$70
	Funeral parlour	$ per m2 GFA plus $10.00 per m2 impervious area	$70
	Place of worship	$ per m2 GFA plus $10.00 per m2 impervious area	$70
Commercial (bulk goods)	Agricultural supplies store	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Bulk landscape supplies	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Garden centre	$ per m2 TUA plus $10.00 per m2 impervious area	$140
	Hardware and trade supplies	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Outdoor sales (Indoor sales component)	$ per m2 GFA plus $10.00 per m2 impervious area	$70

[1] No Charge for uses on Council-controlled land

Column 1 Use Category	Column 2 Use	Column 3 (U) Charge Category	Column 3 (AC) Charge
	Outdoor sales (Outdoor sales component)	$ per m2 TUA plus $10.00 per m2 impervious area	$30
	Showroom	$ per m2 GFA plus $10.00 per m2 impervious area	$140
Commercial (retail)	Adult store	$ per m2 GFA plus $10.00 per m2 impervious area	$180
	Food and drink outlet (fast food restaurant)	$ per m2 GFA plus $10.00 per m2 impervious area	$180
	Food and drink outlet (fast food restaurant with drive through)	$ per m2 GFA plus $10.00 per m2 impervious area	$180
	Food and drink outlet (other)	$ per m2 GFA plus $10.00 per m2 impervious area	$180
	Service industry (Laundromat)	$ per m2 GFA plus $10.00 per m2 impervious area	$180
	Service industry (other)	$ per m2 GFA plus $10.00 per m2 impervious area	$180
	Service station (fuel pumps)	Nil charge	Nil
	Service station (shop component)	$ per m2 GFA plus $10.00 per m2 impervious area	$180
	Service station (vehicle repair shop)	$ per m2 GFA plus $10.00 per m2 impervious area	$180
	Service station (food and drink outlet)	$ per m2 GFA plus $10.00 per m2 impervious area	$180
	Shop	$ per m2 GFA plus $10.00 per m2 impervious area	$180
	Shopping Centre	$ per m2 GFA plus $10.00 per m2 impervious area	$180
Commercial (office)	Office	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Sales office	$ per m2 GFA plus $10.00 per m2 impervious area	$140
Education facility	Child care centre	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Community care centre	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Educational establishment	$ per m2 GFA plus $10.00 per m2 impervious area	$140
Entertainment	Bar	$ per m2 GFA plus $10.00 per m2 impervious area	$200

Column 1 Use Category	Column 2 Use	Column 3 (U) Charge Category	Column 3 (AC) Charge
	Hotel (non-residential component)	$ per m2 GFA plus $10.00 per m2 impervious area	$200
	Nightclub entertainment facility	$ per m2 GFA plus $10.00 per m2 impervious area	$200
	Theatre	$ per m2 GFA plus $10.00 per m2 impervious area	$200
	Club	$ per m2 GFA plus $10.00 per m2 impervious area	$200
Indoor sport and recreation[1]	Indoor sport and recreation (squash or other court areas)	$ per m2 GFA plus $10.00 per m2 impervious area	$20
	Indoor sport and recreation (other)	$ per m2 GFA plus $10.00 per m2 impervious area	$70
Industry	Low impact industry	$ per m2 GFA plus $10.00 per m2 impervious area	$50
	Marine industry	$ per m2 GFA plus $10.00 per m2 impervious area	$50
	Medium impact industry	$ per m2 GFA plus $10.00 per m2 impervious area	$50
	Research and technology industry	$ per m2 GFA plus $10.00 per m2 impervious area	$50
	Rural industry	$ per m2 GFA plus $10.00 per m2 impervious area	$50
	Transport Depot	$ per m2 GFA plus $10.00 per m2 impervious area	$50
	Warehouse (self-storage facility)	$ per m2 GFA plus $10.00 per m2 impervious area	$50
	Warehouse (other)	$ per m2 GFA plus $10.00 per m2 impervious area	$50
High impact industry	High impact industry	$ per m2 GFA plus $10.00 per m2 impervious area	$70
	Special industry	$ per m2 GFA plus $10.00 per m2 impervious area	$70
Low impact rural	Animal husbandry	Nil charge	Nil
	Cropping	Nil charge	Nil
	Permanent plantation	Nil charge	Nil
	Renewable energy facility	Nil charge	Nil
High impact rural	Aquaculture	$ per m2 GFA for the high impact rural use	$20
	Intensive animal industry	$ per m2 GFA for the high impact rural use	$20

Column 1 Use Category	Column 2 Use	Column 3 (U) Charge Category	Column 3 (AC) Charge
	Intensive horticulture	$ per m2 GFA for the high impact rural use	$20
	Wholesale nursery	$ per m2 GFA for the high impact rural use	$20
	Winery	$ per m2 GFA for the high impact rural use	$20
Essential services	Detention facility	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Emergency services[2]	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Health care services	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Hospital	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Residential care facility	$ per m2 GFA plus $10.00 per m2 impervious area	$140
	Veterinary services	$ per m2 GFA plus $10.00 per m2 impervious area	$140
Specialised uses	Air Services	As for Other uses, Column 1	*
	Animal keeping	As for Other uses, Column 1	*
	Brothel	As for Other uses, Column 1	*
	Car wash	$ per m2 GFA plus $10.00 per m2 impervious area	Nil
	Parking Station	$ per m2 GFA plus $10.00 per m2 impervious area	Nil
	Crematorium	As for Other uses, Column 1	*
	Extractive industry	As for Other uses, Column 1	*
	Major electricity infrastructure		
	Major sport, recreation and entertainment facility	As for Other uses, Column 1	*
	Motor sport facility	As for Other uses, Column 1	*
	Non-resident workforce accommodation	As for Other uses, Column 1	*
	Outdoor sport and recreation[1]	As for Other uses, Column 1	*
	Port services	As for Other uses, Column 1	*
	Resort complex	As for Other uses, Column 1	*
	Tourist attraction	As for Other uses, Column 1	*

[2] No Charge for State Emergency Service facilities on Council-controlled land

Column 1 Use Category	Column 2 Use	Column 3 (U) Charge Category	Column 3 (AC) Charge
	Utility installation	As for Other uses, Column 1	*
Minor uses	Advertising device	Nil charge	Nil
	Cemetery	Nil charge	Nil
	Home based business	Nil charge	Nil
	Landing	Nil charge	Nil
	Market	Nil charge	Nil
	Outstation	Nil charge	Nil
	Park	Nil charge	Nil
	Roadside stall	Nil charge	Nil
	Substation	Nil charge	Nil
	Telecommunications facility	Nil charge	Nil
	Temporary uses	Nil charge	Nil
	Ancillary storage to sporting or community activity land uses.	Nil charge	Nil
Other uses	A use not otherwise listed in column	The maximum adopted charge is the charge (in column 3(A) and 3(B)) for a use category (in column 2) that appropriately reflects the use at the time of assessment	

Schedule 2

Method for calculating Establishment Cost – Land

Where **section 4.2(b)** applies, the Establishment Cost of trunk infrastructure that is land is to be recalculated in accordance with the method set out in the below table, and subject to indexation as provided for in **section 4.2(d).**

Step	Description	Details	Timing
1	**Valuation**	The **applicant** must, at its own cost, obtain and provide Council with a valuation of the land, which must: (a) be prepared by a certified practicing valuer, who must act professionally and as a neutral and independent expert; (b) assess the market value of the land using a before-and-after methodology, by: i. determining the value of the Original Land, before any land is transferred to Council; ii. determining the value of the remaining land that will not be transferred to Council; and iii. subtracting the amount in (ii) from the amount in (i), with the value being the difference between those two amounts. (c) assess the value as at the following date, as applicable: i. if the land is identified in a table in Schedule 3, SC3.3 of the Planning Scheme – the day the development application which is the subject of the relevant necessary infrastructure condition first became properly made; or ii. otherwise – the day that the development application which is the subject of the relevant necessary infrastructure condition was approved; (d) include supporting information regarding the highest and best of use the land which the valuer has relied on to form an opinion about the value; (e) identify the area of land that is above the Q100 flood level and the area that is below the Q100 floor level; (f) identify and consider all other relevant constraints, including: vegetation protection; ecological values, including riparian buffers and corridors; stormwater or drainage corridors; slope; bushfire and landslide hazards; heritage; airport environs; coastal erosion; extractive resources; flooding; land use buffer requirement; tenure related constraints; and restrictions such as easements, leases, licences and other dealings, whether or not registered on title; and	Within 10 business days after the applicant gives a notice under **section 4.2.**

		(g) contain relevant sales evidence and clear analysis of how those sales and any other information was relied upon in forming the valuation assessment.	
2	**Response to valuation**	**Council** must consider the valuation report provided under **Step 1** and give the applicant a notice stating either: (a) that Council accepts the applicant's valuation – in which case the Establishment Cost will be the amount stated in the valuation report provided under **Step 1**; or (b) that Council does not accept the applicant's valuation – in which case, **Step 3** applies.	Within 15 business days **Step 1**.
3	**Council valuation**	**Council** must, at its own cost: (a) obtain a further valuation report for the land, in accordance with the parameters set out in **Step 1**; and (b) provide a notice to the applicant stating Council's proposed valuation, and attaching a copy of Council's valuation report.	Within 20 business days after **Step 2**.
4	**Response to Council valuation**	The **applicant** must give a notice to Council stating either: (a) that the Applicant accepts Council's valuation – in which case the Establishment Cost will be the amount stated in Council's notice under **Step 3**; or (b) that the applicant does not accept the applicant's valuation – in which case, **Step 5** applies.	Within 10 business after **Step 3**.
5	**Further valuation**	**Council** must obtain a further valuation report in accordance with the parameters set out in **Step 1**. The valuer is to be chosen by Council, in consultation with the applicant. Council and the applicant are to share equally in the costs of the valuation. If this step applies, the Establishment Cost will be the amount stated in the valuation report.	Within 20 business days after **Step 4**.

Schedule 3

Method for calculating Establishment Cost – Work

Where **section 4.2(c)** applies, the Establishment Cost of trunk infrastructure that is works is to be recalculated in accordance with the method set out in the below table, and subject to indexation as provided for in **section 4.2(d)**.

Step	Description	Details	Timing
1	**Scope of works**	The **applicant** must, at its own cost, prepare and provide to Council a scope of works for the works which must include: (a) specifications for the works; (b) the standard to which the works are to be provided; and (c) the location of the works.	Within 10 business days after the applicant gives a notice under **section 4.2.**
2	**Approval of scope of works**	**Council** must review the scope of works provided under **Step 1** and give the applicant a notice stating either: (a) that Council approves the scope of works – in which case, **Step 3** applies; or (b) that Council requires changes to the scope of works – in which case, the applicant must submit a revised scope of works under **Step 1.**	Within 10 business days after **Step 1.**
3	**Bill of quantities and cost estimate**	The **applicant** must, at its own cost, obtain and provide to Council the following, prepared by a suitably qualified person: (a) a bill of quantities for the design, construction and commissioning of the works, in accordance with the approved scope of works; and (b) a "first principles" estimate for the cost of designing, constructing and commissioning the works in accordance with that bill of quantities.	Within 15 business days after **Step 2.**
4	**Response to bill of quantities and cost estimate**	**Council** must consider the bill of quantities and cost estimate provided under **Step 3** and give the applicant a notice stating either: (a) that Council accepts the applicant's bill of quantities and cost estimate – in which case, the Establishment Cost will be the amount stated in the applicant's cost estimate; or (b) that Council does not accept the applicant's bill of quantities and cost estimate and either: i. that the revised cost estimate process in **Steps A1 to A3** is to apply; or ii. that the tender process in **Steps B1 to B10** is to apply.	Within 10 business days after **Step 3.**

		Option A – Revised cost estimate process	
A1	**Council bill of quantities and cost estimate**	**Council** must, at its own cost, obtain and provide to the applicant a revised bill of quantities and cost estimate, prepared by a suitably qualified person, in accordance with the parameters set out in **Step 3**.	Within 20 business days after **Step 4**.
A2	**Response to Council bill of quantities and cost estimate**	The **applicant** must give a notice to Council stating either: (a) that the Applicant accepts Council's bill of quantities and cost estimate – in which case the Establishment Cost will be the amount stated in Council's cost estimate; or (b) that the applicant does not accept Council's bill of quantities and cost estimate – in which case, **Step A3** applies.	Within 10 business days after **Step A1.**
A3	**Further bill of quantities and cost estimate**	**Council** must obtain a bill of quantities and cost estimate, prepared by a suitably qualified person, in accordance with the parameters set out in **Step 3**. The suitably qualified person is to be chosen by Council, in consultation with the applicant. Council and the applicant are to share equally in the costs of the suitably qualified person. If this step applies, the Establishment Cost will be the amount stated in the suitably qualified person's cost estimate	Within 20 business days after **Step A2**.
		Option B – Tender process	
B1	**Submission of design material**	The **applicant** must obtain and provide to Council designs and specifications for the works, which must comply with all relevant standards and be prepared by a suitably qualified person.	Within 20 business days after **Step 4**.
B2	**Approval of design material**	**Council** must give a notice to the applicant stating either: (a) that Council approves the applicant's design material – in which case, **Step B3** applies; or (b) that Council requires specified changes to the design material – in which case, the applicant must resubmit the design material under **Step B1**.	Within 10 business days after **Step B1**.
B3	**Submission of draft tender material**	The **applicant** must prepare and provide to Council draft tender documentation for the works.	Within 20 business days after **Step B2**.
B4	**Approval of draft tender material**	**Council** must give a notice to the applicant stating either: (a) that Council approves the applicant's draft tender material – in which case, **Step B5** applies; or (b) that Council requires specified changes to the design material – in which case, the applicant must resubmit the design material under **Step B3.**	Within 10 business days after **Step B3**.
B5	**Conduct of tender and submission of recommendation**	The **applicant** must: (a) conduct a tender process in accordance with the approved documentation, which must include a requirement that prospective tenders state a dollar value figure for the construction cost of the works, which must be exclusive of any costs for:	Within 20 business days after **Step B4**.

		i. project management services; ii. superintendent fees iii. planning; iv. construction administration; and v. supervision; *Note – for the approved tenderer, the dollar value figure stated under this paragraph will form part of the Establishment Cost, as specified in **Step B10**. The costs mentioned in sub-paragraphs (i) to (v) do not directly form part of the Establishment Cost, but are included in the allowance mentioned in paragraph (c) of **Step B10**.* (b) undertake an analysis of the properly submitted tenders; and (c) give Council a notice that states: i. the applicant's recommendation as to the award of the works contract; ii. the tender documents distributed to prospective tenderers; iii. each tender submitted; iv. the applicant's analysis of the tenders; and (v) any other relevant information.	
B6	**Approval of tenderer**	**Council** must give a notice to the applicant stating: (a) that Council approves of the applicant's recommendation as to the award of the works contract – in which case, the contractor is to be appointed in accordance with the applicant's recommendation; or (b) that Council requires a different specified tenderer to be appointed – in which case, the contractor specified by Council is to be appointed.	Within 10 business days after **Step B5**.
B7	**Notice of proposed variation**	If, during the course of the works contract, the contractor proposes a variation that will increase the cost of the works, the applicant must give a notice to Council that: (a) describes the proposed variation; and (b) states a dollar value figure for the additional costs arising from the variation, which must be exclusive of any additional costs for: i. project management services; ii. superintendent fees; iii. planning; iv. construction administration; and v. supervision. *Note – if the variation is approved under **Step B8**, the dollar value figure stated under this paragraph will form part of the Establishment Cost, as specified in **Step B10**. The costs mentioned in sub-paragraphs (i) to (v) do not directly form part of the Establishment Cost, but are include in the allowance mentioned in paragraph (e) of **Step B10**.*	Within 5 business days of any variation being proposed by the contractor.

B8	**Approval of proposed variation**	**Council** must consider the proposed variation and give notice to the applicant stating either: (a) that Council approves the proposed variation; or (b) that Council does not approve the proposed variation, and the reasons why.	Within 5 business days of receiving a notice under **Step B7.**
B9	**Request for confirmation of Establishment Cost**	The **Applicant** must give a notice to Council requesting that Council confirm the Establishment Cost of the works.	Not before **Step B6**, and within 10 business days after the works are completed.
B10	**Confirmation of Establishment Cost**	**Council** must give the Applicant a notice stating the amount of the Establishment Cost, which is to be the sum of the following (each of which must also be stated in the notice): (a) the construction cost of the works, being the dollar value amount stated under paragraph (a) of **Step B5**; (b) the associated QLeave levy amount, being 0.575% of the amount in paragraph (a) above; (c) an allowance for project management, superintended, planning, construction administration and supervision costs, being: i. for works for the parks and land for community facilities infrastructure networks – 10.5% of the amount in paragraph (a) above; or ii. otherwise – 16% of the amount in paragraph (a) above; (d) the total additional costs for any approved variations, being the total of the amounts stated under paragraph (b) of **Step B7** for all approved variations; and (e) an allowance for project management, superintended, planning, construction administration and supervision costs relating to approved variations, being 4% of the amount in paragraph (d) above. The Establishment Cost is to be the amount stated in Council's notice.	Within 10 business days after **Step B9**.

Attachment E

In the Development Tribunal
Held at: Brisbane

Appeal No. 25-021

Between:	**MARK AND JULIEANNE GRUNSKE**	Appellants
And:	**FRASER COAST REGIONAL COUNCIL**	Respondent

RESPONDENT'S WRITTEN SUBMISSIONS

Part A – Introduction

1. The appeal to the Development Tribunal ("*the Tribunal*") is against infrastructure charges notice[1] dated 21 February 2025 ("*the ICN*")[2] given by the Respondent in relation to a development approval[3] ("*Development Approval*") for the reconfiguration of a lot (1 lot into 5 lots), in respect of land situated at Wilkinson Road, Tuan[4] ("*the Land*").

2. It is noted that the Development Approval is the subject of an appeal by the Appellants to the Planning and Environment Court about development conditions.[5] Notwithstanding the existence of that appeal to the Planning and Environment Court and the fact it is presently unresolved, that does not affect this appeal to the Tribunal or its outcome.

3. The Appellants assert that the ICN is flawed and should be withdrawn for the reason that the Respondent "*...failed to undertake the necessary assessment*

[1] No 5138178
[2] A copy of which is attached to the Appellants' "*Submission*"
[3] RAL 21/0138.
[4] Lot 51 on MCH 567
[5] Grunske v Fraser Coast Regional Council (P&E Appeal No D29 of 2025), Maroochydore

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required by section 120(1) of PA16 [the Planning Act 2016] to determine if extra demand on existing trunk infrastructure actually existed and thereby required for the issuing of the ICN"[6]. The Appellants also appear to raise a concern that the Land may not be located within an area identified by the *Infrastructure Charges Resolution January 2025* ("*the Charges Resolution*")[7] for the application of an adopted charge[8].

4. For the reasons that will be developed below, the appeal is misguided, the Appellants have failed to discharge their onus in the appeal and the Respondent's decision to give the ICN should be confirmed.

Part B – The ICN and the Levied Charge

5. The ICN was given for the Development Approval. "*Annexure A*" to these submissions is a copy of the Development Approval. As mentioned above, the appeal to the Planning and Environment Court is about development conditions and that appeal does not impact on questions in the appeal to the Tribunal.

6. The ICN levied the adopted charge applying under the Respondent's Charges Resolution for a reconfiguration of a lot in the "*Maryborough, Howard, Torbanlea, Tiaro and Rural townships areas*", being $19,000 per lot[9] but, relevantly, the ICN applied credits to the levied charge for[10]:

   (a) the percentage of the adopted charge that the Charges Resolution apportions to the water supply and sewerage trunk infrastructure networks, being a

---

[6] "*Proposed Finding*" on page 13 of the Appellants' "*Submission*"
[7] A copy of which is attached to the Appellants' "*Submission*"
[8] "*Position 1*" on page 10 of the Appellants' "*Submission*" and the discussion on pages 7 to 10 that preceded it
[9] Schedule 1, table A of the Charges Resolution
[10] See the "*Basis Of Credit*" note at the foot of the first page of the ICN

combined 28%[11], which reduced the amount of the levied charge from $19,000 per lot to $13,680 per lot; and

(b) the existing entitlement to use the Land for one residential dwelling.

7. The application of those credits resulted in a total levied charge of $54,720[12].

Part C – Relevant Statutory Provisions and Legal Principles

Tribunal's Jurisdiction to Hear Appeal

8. Like the Planning and Environment Court, the Tribunal has a jurisdiction conferred by statute.

9. Here, a appeal to the Tribunal against the giving of an infrastructure charges notice, is limited to one or more of the grounds set out in schedule 1, table 1, items 4(a) to (c) of the Planning Act, which are extracted below:

> *"4. Infrastructure charges notices*
>
> *An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds—*
>
> *(a) the notice involved an error relating to—*
>
> *(i) the application of the relevant adopted charge; or*
>
> *Examples of errors in applying an adopted charge—*
>
> - *the incorrect application of gross floor area for a non-residential development*

[11] Section 2.3(b) of the Charges Resolution
[12] $13,680 for each of the four additional lots

- *applying an incorrect 'use category', under a regulation, to the development*

(ii) the working out of extra demand, for section 120; or

(iii) an offset or refund; or

(b) there was no decision about an offset or refund; or

(c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund".

10. The appeal may not be about the adopted charge itself[13].

11. Whilst the Appellants' submissions are unclear and not drafted with precision, the only potential grounds of appeal that it raises are items 4(a)(i) and (ii) of schedule 1, Table 1 of the Planning Act (underlined above).

12. The Tribunal must hear and decide the appeal by way of a reconsideration of the evidence that was before the person who made the decision appealed against (i.e., the Respondent)[14].

13. The Appellants have the onus of establishing that the appeal should be upheld[15].

14. The Tribunal is required to decide the appeal by doing one of the following things in relation to the Respondent's decision to give the ICN[16]:

(a) confirming the decision;

(b) changing the decision;

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[13] Section 229(6) of the Planning Act
[14] Section 253(4) of the Planning Act
[15] Section 253(2) of the Planning Act
[16] Section 254(2) of the Planning Act

(c) replacing the decision with another decision; or

(d) setting the decision aside and ordering the Respondent to remake the decision by a stated time.

Respondent's Power to Give ICN

15. Section 119 of the Planning Act requires the Respondent to give an ICN where:

(a) a development approval been given; and

(b) an adopted charge applies to providing trunk infrastructure for the development.

16. However, pursuant to section 120 of the Planning Act, the levied charge under the ICN may only be for extra demand placed on trunk infrastructure that the development will generate[17].

17. What compliance with section 120 of the Planning Act requires, is that[18]:

a. there is relevant trunk infrastructure for the development; and

b. there is additional demand placed on that trunk infrastructure by the development.

18. If these requirements are satisfied, the adopted charge for the appropriate development category in the Charges Resolution is applied to calculate the levied charge. There is no requirement to calculate the levied charge by reference to actual additional demand generated by the development[19].

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[17] Section 119(12)(a) and section 120(1) of the Planning Act
[18] *Allen-Co Holdings Pty Ltd v Gympie Regional Council* [2021] QPEC 64 at [6]; *Toowoomba Regional Council v Wagner Investments & Anor* [2020] QCA 191 at [78] to [79]
[19] Ibid

19. All that is required for the levying of the adopted charge is that there will be some additional demand placed on the trunk infrastructure network as a consequence of the development. The adopted charge in the Charges Resolution is, for the purposes of the appeal, immutable[20] and beyond challenge.

20. It is irrelevant that, in a technical sense, the mere reconfiguration (as opposed to the further use of the lots so created) does not give rise to additional demand. It is enough if the further use of the lots so created gives rise to the additional demand, in order for section 120 to be satisfied[21]. As the Court of Appeal observed:

> *"It was not to the point that, technically, the mere reconfiguration of a lot did not result in any change to the demand on infrastructure networks (as observed by the primary judge at [98] of the reasons). What was relevant was that the reconfiguration of a lot is one of the trigger points for the issuing of an ICN in relation to that development."*

Part D – Application to the Present Case

21. As identified above, if a development approval has been given and an adopted charge applies to that development, the Respondent is required to give an infrastructure charges notice, which levies that adopted charge, subject to the limitation, inter alia, that the levied charge may only be for extra demand placed on trunk infrastructure that the development will generate.

22. Whilst unclear and not articulated with precision, the Appellants' submissions raises only two potential grounds of appeal:

    a. under item 4(a)(i) of schedule 1, table 1 of the Planning Act (i.e., that the ICN involved an error relating to the application of the relevant adopted

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[20] *Allen-Co Holdings Pty Ltd v Gympie Regional Council* (supra) at [4]

charge), on the basis that no adopted charge applied to the development because the Land is not a "*rural township*"; and

b. under item 4(a)(ii) of schedule 1, table 1 of the Planning Act (i.e., that the ICN involved an error relating to the working out of extra demand for section 120 of the Planning Act), on the basis that the Respondent "*...failed to undertake the necessary assessment required by section 120(1) of PA16 to determine if extra demand on existing trunk infrastructure actually existed*".

Error Relating to Application of the Relevant Adopted Charge

23. It is common ground that a development approval was given to the Appellants, being that which is attached as "*Annexure A*" to these submissions. That development approval approved a reconfiguration of a lot (1 lot into 5 lots) on the Land.

24. The Charges Resolution applies an adopted charge to such development[22], with different adopted charges applying dependent upon where in the Respondent's local government area the development occurs[23] and, in particular, the Charges Resolution applies an adopted charge of:

a. $32,000 per lot within Hervey Bay (including Burrum Heads, Toogoom, Booral and River Heads); and

b. $19,000 per lot within Maryborough, Howard, Torbanlea, Tiaro and Rural Townships.

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[21] *Toowoomba Regional Council v Wagner Investments & Anor* (supra) at [115]
[22] Table A of Schedule 1 of the Charges Resolution
[23] As the Respondent was permitted to do, pursuant to section 114(2) of the Planning Act

25. The Appellants' contention is that the Land may not be located within a "*Rural Township*", with the apparent consequence that an adopted charge does not apply to development that is reconfiguring a lot on the Land.

26. This is incorrect. The proper construction of the Charges Resolution is that the areas identified in subparagraphs 22(a) and (b) above apply to the entirety of the Respondent's local government area. That is so because:

    a. the Charges Resolution expressly states that it applies to all of the Respondent's local government area[24];

    b. the Charges Resolution adopts the same division into two of the Respondent's local government area for development that is a material change of use of premises and for building works[25], which are the only other types of development in respect of which the Charge Resolution applies adopted charges; and

    c. there is no indication anywhere in the Charges Resolution that it is intended to exclude any part of the local government area from the application of adopted charges.

27. Consequently, it is the case that one of the two adopted charge categories identified in subparagraphs 22(a) and (b) above must apply to the approved development and it is further the case that the Respondent has applied the lower of the two categories.

28. In the premises, the Appellants have failed to discharge their onus that there was an error in the application of the adopted charge.

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[24] Section 1.6(a) of the Charges Resolution
[25] Table B of Schedule 1 of the Charges Resolution

Error Relating to the Working out of Extra Demand for Section 120

29. As identified above, all that is required for compliance with section 120 is that[26]:

    a. there is relevant trunk infrastructure for the development; and

    b. there is additional demand placed on that trunk infrastructure by the development.

30. The basis upon which the Appellants allege section 120 of the Planning Act has not been complied with are:

    a. *"development for reconfiguring a lot does not of itself generate demand on infrastructure"*[27]; and

    b. the Respondent did not undertake the process required by section 120 to *"arrive at a determination that a development actually is responsible for 'extra demand' over and above that which is within the capability of current existing trunk infrastructure"*.

31. Both of those grounds reflect a fundamental misunderstanding of the law as it applies to section 120 of the Planning Act.

32. Firstly, and as identified above, the Court of Appeal has made it clear that it is irrelevant that, in a technical sense, the mere reconfiguration of land (as opposed to the use that results from it) does not give rise to additional demand. It is enough for section 120 to be satisfied if the further use of the lots so created gives rise to additional demand[28]. The extracts from the *Toowoomba Regional Council v Wagner Investments & Anor* case (both at first instance and on appeal) that have

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[26] *Allen-Co Holdings Pty Ltd v Gympie Regional Council* (supra) at [6]; *Toowoomba Regional Council v Wagner Investments & Anor* (supra) at [78] to [79]
[27] "*Premise 3*" on page 10 of the Appellants' "*Submission*"
[28] *Toowoomba Regional Council v Wagner Investments & Anor* (supra) at [115]

been included on pages 10 and 11 of the Appellants' Submission that suggest that a reconfiguration of a lot is not capable of generating a demand on infrastructure, are the findings of the judge at first instance, which were overturned on appeal to the Court of Appeal.

33. Secondly, it is not necessary that the development generate demand "*over and above*" the capacity of currently existing trunk infrastructure. All that is required to satisfy section 120, is that the development generate some additional demand on relevant trunk infrastructure networks. The capacity of the existing trunk infrastructure to accommodate that additional demand is entirely irrelevant to that question, as is the extent of the additional demand generated[29].

34. In the present case, given that the ICN applied credits for the proportion of the adopted charge apportioned to the water supply and sewerage trunk infrastructure networks, in order for the Appellants to be successful in the appeal, they must demonstrate that the approved development (i.e., the five lot reconfiguration) did not give rise to any additional demand on the Respondent's stormwater, transport or parks and land for community facilities trunk infrastructure networks.

35. The Appellants, being the parties with the onus in the proceeding, have not demonstrated this.

Part E – Conclusion

36. In the premises, the Appellants have failed to discharge their onus in the appeal and Tribunal should confirm the Respondent's decision to give the ICN.

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[29] *Allen-Co Holdings Pty Ltd v Gympie Regional Council* (supra) at [6]; *Toowoomba Regional Council v Wagner Investments & Anor* (supra) at [78] to [79]

Attachment F

Development Tribunal – Decision Notice

***Planning Act 2016*, section 255**

Appeal Number:	**25-021**
Appellant:	Mark and Julieanne Grunske
Respondent:	Fraser Coast Regional Council
Site Address:	Wilkinson Road, Tuan Qld 4650 and described as Lot 51 on MCH 567

Appeal

Appeal under section 229 and schedule 1, table 1, item 4(a) of the *Planning Act 2016* against an infrastructure charges notice given by the Fraser Coast Regional Council on the grounds the notice involved an error relating to the application of the relevant adopted charge or the working out of extra demand.

Date and time of hearing:	19 August 2025 at 10:00am
Place of hearing:	Online via video
Tribunal:	Travis Schmitt – Chair Stewart Somers – Member

Decision:

The Development Tribunal, in accordance with section 254(2)(a) of the *Planning Act 2016*, confirms the decision of the Council to give the infrastructure charges notice in the amount of $54,720.

Background

1. The Appellants made a development application to the Fraser Coast Regional Council (**the Council**) for the reconfiguration of a lot (1 lot into 5 lots) at a property at Wilkinson Road, Tuan.

2. That application was approved, and an infrastructure charges notice was issued by the Council on 21 February 2025 (**the ICN**).

3. The ICN detailed the infrastructure charge applicable to the approved development as follows:

NET CHARGE				$54,720.00
Residential Charge Calculation - Transport, Stormwater, Community Facilities & Parks				
	Qty		Rate	Charge Amount
Residential ROL with single detached dwelling entitlement	5	@	13,680.00	$68,400.00
			Total Charge	**$68,400.00**
Charge Calculation - Credits				
	Qty		Rate	Credit Amount
Residential ROL with single detached dwelling entitlement	1	@	13,680.00	$13,680.00
			Total Credits	**$13,680.00**
Charge Calculation - Offsets				
				Offset Amount
Water, Sewer, Transport, Parks & Stormwater				$0.00
			Total Offsets	**$0.00**

4. That charge was purportedly calculated pursuant to the Council's *Infrastructure Charges Resolution January 2025* (**the Charges Resolution**).

5. On or about 9 April 2025, the Appellants made representations to the Council concerning the ICN. The Council did not agree with those representations and issued a notice about its decision to confirm the ICN on 17 June 2025.

6. In this appeal the Appellants argue that in levying the charge the Council has failed to comply with section 120 of the *Planning Act*, insofar as it only permits a charge for "extra demand placed on trunk infrastructure that will be generated by the development the subject of the approval." The Appellants also argue that the ICN involves an error as to the application of the relevant adopted charge.

7. The Council opposes the relief sought and says the ICN should be confirmed.

Conduct of appeal

8. The Tribunal convened to hear the appeal via video link on 19 August 2025. The Appellants appeared and were represented by Warren Bolton. The Council was represented by its officer James Cockburn.

9. The Tribunal has considered the following material in determining the appeal:

   (a) Form 10 – Notice of Appeal and attachments:

      (i) Appellants' submissions dated 12 July 2025

      (ii) Decision Notice for Infrastructure Charges Notice Representations dated 11 June 2025 (and covering email serving that notice on the Appellants on 17 June 2025)

      (iii) Infrastructure Charges Notice dated 21 February 2025

      (iv) Representations prepared by Mr Bolton dated 9 April 2025

      (v) Extracts from the *Fraser Coast Planning Scheme 2014*

      (vi) *Toowoomba Regional Council v Wagner Investments Pty Ltd* [2020] QCA 191

      (vii) *Wagner Investments Pty Ltd v Toowoomba Regional Council* [2019] QPEC 24

(b) *Infrastructure Charges Resolution January 2025*

(c) Appellants' supplementary written submissions dated 17 August 2025

(d) Council's written submissions provided 19 August 2025 and attachments:

(i) Decision Notice for Reconfiguring a Lot RAL21/0138

(ii) *Toowoomba Regional Council v Wagner Investments Pty Ltd* [2020] QCA 191

(iii) *Allen-Co Holdings Pty Ltd v Gympie Regional Council* [2021] QPEC 64

(e) Appellants' final written submissions dated 25 August 2025

The parties' contentions

The Appellants

10. The Appellants have filed with the Tribunal three sets of written submissions. Those submissions are lengthy and detailed. In its written submissions, the Council offered the following summary of the Appellants' arguments:

> The Appellants assert that the ICN is flawed and should be withdrawn for the reason that the Respondent "*...failed to undertake the necessary assessment required by section 120(1) of PA16 [the Planning Act 2016] to determine if extra demand on existing trunk infrastructure actually existed and thereby required for the issuing of the ICN*". The Appellants also appear to raise a concern that the Land may not be located within an area identified by the *Infrastructure Charges Resolution January 2025* ("*the Charges Resolution*") for the application of an adopted charge.
>
> ...
>
> Whilst unclear and not articulated with precision, the Appellants' submissions raises only two potential grounds of appeal:
>
> a. under item 4(a)(i) of schedule 1, table 1 of the Planning Act (i.e., that the ICN involved an error relating to the application of the relevant adopted charge), on the basis that no adopted charge applied to the development because the Land is not a "*rural township*"; and
>
> b. under item 4(a)(ii) of schedule 1, table 1 of the Planning Act (i.e., that the ICN involved an error relating to the working out of extra demand for section 120 of the Planning Act), on the basis that the Respondent "*...failed to undertake the necessary assessment required by section 120(1) of PA16 to determine if extra demand on existing trunk infrastructure actually existed*".

11. At the hearing of the appeal on 19 August 2025, the Appellants generally accepted that summary as being accurate. In their final written submissions dated 25 August 2025, the Appellants, in response to the above portion of the Council's summary, also submitted:

> While I cannot comment on the clarity and articulation of the Submission that supported the Appeal I would have thought that the 3 Premises identified and highlighted in green in that document and the 2 Position highlighted in Supplementary, clearly go to the ground to be considered in the appeal.
>
> They are repeated here for convenience.

Premise 1. In order to levy an infrastructure charge for a particular development, the assessment manager must establish that the development will generate extra demand upon trunk infrastructure.

Premise 2. LGIP are essential in managing infrastructure decisions.

Premise 3. A development for Reconfiguring a lot does not of itself generating a demand on infrastructure.

And the supplementary

Position 1. If a development does not generate a USE, prescribed in Column 1 of Schedule 16, it is not a development prescribed under Section 112 of PA16 as being a development to which an adopted charge can be levied by a local authority, even if the development is responsible for generating extra demand on trunk infrastructure.

Position 2.

The Appellant contention is that:

1.-A particular development in order to attract the facility of being the subject of infrastructure charge must be one that delivers a USE as defined within the parameters of those prescribed in Schedule 16 Column 1

RAL21-0138 is not a USE development and, of itself, does not indicate a USE defined within Schedule 16 of PR17.

There is no argument that in the future that lots, the consequence of the subdivision may attract a development with a USE prescribed within the regulations but the Appellants other contention is that the legislation does not provide the facility for an assessment manager to 'guess the future' and this is exactly what an assessment manager would be required to do in order to apply a USE as prescribed by the regulations to RAL21-0138.

The other contention is that:

2.-The circumstance that would also need to be overcome, in order to apply a charge to RAL21-0138 is that the charge itself would need to be a charge provided for by the regulations which sets the **maximum** for that particular charge, based on use.

There is no use within Schedule 16 that can correctly be applied to RAL21-0138

The final contention is that:

3.-A zone under planning scheme of itself does not constitute a USE under the terms of Schedule 16 of the regulations and accordingly relying on a permitted zone use in a planning context. For a zone is clearly not the mechanism chosen by the legislator for applying infrastructure charges to a USE for a particular development application.

This opinion is supported by the construction of the documents that provide for assessment, calculation, and application of infrastructure charges, where the charges are required to directly relate to the resources that are required to be provided by the developer to address specific extra demands placed on trunk infrastructure by a particular development approval, as is demonstrated in Schedule 16 by the prescribed amounts relevant to a defined USE

OUTCOME Accordingly, under the correct interpretation of the legislation, RAL21-0138 is not lawfully subjected to the imposition of an Infrastructure Charge Notice and if that is not the case, then the imposition of infrastructure charges would offend the Purpose of PA16.

12. Having considered the Appellants' written submissions in full, the Tribunal accepts the above summaries as an accurate representation of the Appellants' contentions.

The Council

13. The Council submits that the Tribunal has limited jurisdiction and that the appeal, properly construed, may only be about an error in the ICN relating to "the application of the relevant adopted charge" or "the working out of extra demand, for section 120".[1] The Council also submits the appeal may not be about the adopted charge itself.[2]

14. In regard to the Council's power to give the ICN, the Council submits:[3]

> Section 119 of the Planning Act requires the Respondent to give an ICN where:
>
> (a) a development approval been given; and
>
> (b) an adopted charge applies to providing trunk infrastructure for the development.
>
> However, pursuant to section 120 of the Planning Act, the levied charge under the ICN may only be for extra demand placed on trunk infrastructure that the development will generate.
>
> What compliance with section 120 of the Planning Act requires, is that:
>
> a. there is relevant trunk infrastructure for the development; and
>
> b. there is additional demand placed on that trunk infrastructure by the development.
>
> If these requirements are satisfied, the adopted charge for the appropriate development category in the Charges Resolution is applied to calculate the levied charge. There is no requirement to calculate the levied charge by reference to actual additional demand generated by the development.
>
> All that is required for the levying of the adopted charge is that there will be some additional demand placed on the trunk infrastructure network as a consequence of the development. The adopted charge in the Charges Resolution is, for the purposes of the appeal, immutable and beyond challenge.
>
> It is irrelevant that, in a technical sense, the mere reconfiguration (as opposed to the further use of the lots so created) does not give rise to additional demand. It is enough if the further use of the lots so created gives rise to the additional demand, in order for section 120 to be satisfied. As the Court of Appeal observed:
>
> > "It was not to the point that, technically, the mere reconfiguration of a lot did not result in any change to the demand on infrastructure networks (as observed by the primary judge at [98] of the reasons). What was relevant was that the reconfiguration of a lot is one of the trigger points for the issuing of an ICN in relation to that development."

15. The Council submits that the Charges Resolution applied an adopted charge to the development the subject of the reconfiguration approval. In particular, the Charges Resolution applied an adopted charge of $19,000 per lot within "Rural Townships" and $32,000 per lot within Hervey Bay.

16. To the point the Appellants argue that the subject land may not be within a Rural Township, the Council says the Charges Resolution applies to the whole of its local

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[1] *Planning Act 2016*, Schedule 1, Table 1, Items (4)(a)(i) and (ii).

[2] *Planning Act 2016*, s.229(6).

[3] Footnotes omitted. The Tribunal notes the Council's references to *Allen-Co Holdings Pty Ltd v Gympie Regional Council* [2021] QPEC 64 and *Toowoomba Regional Council v Wagner Investments & Anor* [2020] QCA 191.

government area and, therefore, one of the two adopted charges described above must apply. The Appellants have been charged the lesser of the two possible charges. In that premise, the Council says there is no error in the application of the adopted charge.

17. In response to the Appellants' arguments relating to the working out of extra demand for section 120 of the *Planning Act*, the Council submits that all that is required for compliance with that section is that there is relevant trunk infrastructure for the development, and there is additional demand placed on that trunk infrastructure by the development. The Council submits, in reference to the Court of Appeal's decision in *Toowoomba Regional Council v Wagner Investments & Anor* [2020] QCA 191, that:

> Firstly, and as identified above, the Court of Appeal has made it clear that it is irrelevant that, in a technical sense, the mere reconfiguration of land (as opposed to the use that results from it) does not give rise to additional demand. It is enough for section 120 to be satisfied if the further use of the lots so created gives rise to additional demand.
>
> ...
>
> Secondly, it is not necessary that the development generate demand "*over and above*" the capacity of currently existing trunk infrastructure. All that is required to satisfy section 120, is that the development generate some additional demand on relevant trunk infrastructure networks. The capacity of the existing trunk infrastructure to accommodate that additional demand is entirely irrelevant to that question, as is the extent of the additional demand generated.

18. The Council concludes by submitting that the Appellants have failed to discharge their onus in the appeal and that the Tribunal should confirm the Council's decision to give the ICN.

Jurisdiction

19. The Tribunal finds that the appeal was made within the appeal period prescribed by sections 125(7) and 229(3)(e) of the *Planning Act.*

20. As the Council has correctly submitted, the Tribunal has a limited jurisdiction. The Tribunal accepts, having had regard to the issues raised by the parties' contentions, that this appeal may only be about an error in the ICN relating to "the application of the relevant adopted charge" or "the working out of extra demand, for section 120".

21. The Tribunal also accepts that the appeal may not be about the adopted charge itself. To the extent the Appellants' submissions have been construed as challenging the adopted charge, the Tribunal has not considered those matters in determination of the appeal.

22. In the premises above and having had regard to the material and the parties' submissions, the Tribunal finds it has jurisdiction to hear the appeal pursuant to section 229 of the *Planning Act*.[4]

23. The appeal is by way of a reconsideration of the evidence that was before the Council.[5] It is for the Appellants to establish that the appeal should be upheld.[6]

24. The Tribunal acknowledges that there is currently an appeal before the Planning and Environment Court concerning development conditions of the reconfiguration approval. The Tribunal is satisfied that the appeal to the Planning and Environment Court does not affect this appeal to the Tribunal or its outcome.

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[4] *Planning Act 2016*, Schedule 1, Table 1, Item 4(a).
[5] *Planning Act 2016*, s.253(4).
[6] *Planning Act 2016*, s.253(5).

Findings and reasons

25. Pursuant to section 119 of the *Planning Act* a local government must give an infrastructure charges notice to the applicant if a development approval has been given and an adopted charge applies to providing trunk infrastructure for the development. The levied charge is subject to section 120,[7] which relevantly provides that "A levied charge under an infrastructure charges notice for a development approval may be for extra demand placed on trunk infrastructure that will be generated by the development the subject of the approval."

Approval and adopted charge

26. It is common ground between the parties that a development approval (RAL21/0138) has been given to the Appellant.

27. Similarly, it is uncontroversial that the Council has adopted charges for providing trunk infrastructure for development by the Charges Resolution. That resolution took effect on 1 January 2025 and applied at the material time.

28. Paragraph 1.6 provides that the Charges Resolution applies to all the Council's local government area and states that it adopts charges for providing trunk infrastructure for development, including reconfiguring a lot.

29. Paragraph 2.1 then provides that "The adopted charge for development is the applicable Infrastructure Charge for the development calculated on the approved use, in accordance with section 3, and at the time the decision is made."

30. Paragraph 3.1 supplies the formula to be used in calculating the levied charge. Relevantly, the "Adopted Charge Rate" is that applicable to the development in Schedule 1, column 4 of the Charges Resolution.

31. Schedule 1, Table A applies to "Reconfigure a Base Charge Rate" [sic]:

Table A – Reconfigure a Base Charge Rate

Column 1 Use Category	Column 2 Reconfigure a Lot Use	Column 3 (U) Charge Category	Column 3 (AC) Adopted Charge
Hervey Bay (inc. Burrum Heads, Toogoom, Booral and River Heads) - All Zones	New lot with development entitlement	$ per lot	$32,000
Maryborough, Howard, Torbanlea, Tiaro and Rural townships - All zones	New lot with development entitlement	$ per lot	$19,000

32. The Appellants say the locality descriptions in Column 1 are imprecise. In particular, the Appellants submit that "The absence of a definition for *Rural townships* makes the application of the *Charge Resolution* unworkable and therefore defective as a document to achieve compliance with the statutory provision of the [*Planning Act*]". This argument is addressed by the Tribunal under the heading "Rate of Charge" below.

[7] *Planning Act 2016*, s.119(12)(a).

33. Having considered those provisions of the Charges Resolution, and for reasons further developed below, the Tribunal is satisfied that an adopted charge applies in respect of the approved development. In that premise, the Tribunal finds the Council was empowered by section 119 of the *Planning Act* to give the ICN.

34. To the extent the Appellant challenges the adopted charge itself, such matters are outside this Tribunal's jurisdiction. As the Planning and Environment Court has considered, the adopted charge is immutable.[8] The Tribunal accepts the Council's submissions in that regard.

Extra demand

35. The levied charge under the ICN is subject to section 120 of the *Planning Act*. As was considered in *Toowoomba Regional Council v Wagner Investments Pty Ltd & Anor* [2020] QCA 191, a levied charge must satisfy two requirements:

    (a) There must be demand on relevant trunk infrastructure as a consequence of the proposed development; and

    (b) That demand must be over and above what the current uses of the subject land generate.

36. If those "pre-conditions" are satisfied, the amount of the charge must then be calculated by applying the methodology in the relevant charges resolution.

37. The Tribunal accepts the Council's submissions that there is no requirement to calculate the levied charge by reference to actual additional demand generated by the development. Moreover, the Tribunal accepts that it is irrelevant that, in a technical sense, the mere reconfiguration does not give rise to additional demand. In that regard, the Tribunal refers to the Court of Appeal's reasons at [115].

38. As section 120 of the *Planning Act* makes clear, in working out extra demand, the demand on trunk infrastructure generated by a "prescribed development" (defined to include "development that may be carried out on the premises without a development permit") may also be included. In this case, upon reconfiguration of the subject land, the new lots may be used for a variety of uses as "accepted development" under the Council's Planning Scheme.[9]

39. In that premise, the Tribunal is satisfied that there will be some demand on the relevant trunk infrastructure as a consequence of the approved development. The Tribunal finds that the first pre-condition is satisfied.

40. For the reasons developed above, and having regard to the nature of the approved development (an increase from 1 lot to 5 lots) the Tribunal is also satisfied that the approved development will place some extra demand on the relevant trunk infrastructure. The Tribunal finds that the second pre-condition is satisfied.

41. The Tribunal accepts the Council's submissions in that regard.

Rate of charge

42. As noted above, the Appellants contend that the locality descriptions in Column 1 of Schedule 1, Table A are imprecise, having the effect that the application of the Charges

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[8] *Allen-Co Holdings Pty Ltd v Gympie Regional Council* [2021] QPEC 64 at [4].

[9] See *Fraser Coast Planning Scheme*, Part 5 Tables of Assessment, Table 5.5.1 Low Density Residential zone.

Resolution is unworkable. In this regard, the Appellants' challenge is to the Council's treatment of the subject land as being within the "Rural townships" described in row 2 of Table A. The Tribunal has considered the Appellants' detailed and lengthy submissions on this point in full.[10]

43. The Tribunal acknowledges that the phrase "Rural townships" is not defined in the Charges Resolution. The Tribunal therefore accepts that the absence of a definition does introduce some ambiguity as to the application of Schedule 1, Table A.

44. However, the Charges Resolution makes clear that it applies to all the Council's local government area, and that it adopts charges for development that is reconfiguring a lot. The Tribunal also accepts the Council's submission that there is no indication anywhere in the Charges Resolution that it is intended to exclude any part of the local government area from the application of the adopted charges. In that premise, the Tribunal is satisfied that the Charges Resolution applied to the approved development on the subject land.

45. It has not been argued by either party that the subject land falls within the localities described in row 1 of Table A. Similarly, it has not been argued by either party that the subject land falls within Maryborough, Howard, Tornanlea or Tiaro, as listed in row 2 of Table A. In circumstances where the Charges Resolution applies to the whole of the local government area and where the subject land is not contained in the localities otherwise described in Table A, the Tribunal is satisfied that "Rural townships" acts as a catchall to capture the other areas in the Council's local government area.

46. It follows that the Tribunal is satisfied that the subject land should be treated as being in a "Rural township" for the purposes of Schedule 1, Table A. In that premise, the Tribunal finds that the applicable adopted charge is $19,000 per lot.

47. For completeness, the Tribunal observes that paragraph 3.6 of the Charges Resolution refers to the Poona and Maaroom townships. That paragraph contemplates some discounting to the adopted charge for certain development in those townships. Plainly, the Charges Resolution applies to Poona and Maaroom. However, those townships are not otherwise referred to in the Charges Resolution, particularly in Schedule 1. That the Charges Resolution applies to development in those townships, notwithstanding that they are not referred to Schedule 1, supports the Tribunal's above reasoning.

Calculation of charge

48. Being satisfied that the two "pre-conditions" have been satisfied, the amount of the infrastructure charge to be levied on the approved development must then be calculated by applying the methodology in the Charges Resolution.

49. In calculating the charge, the Council applied credits for the percentage of the adopted charge that the Charges Resolution apportions to the water supply and sewerage trunk infrastructure networks, being a combined 28%, which reduced the amount of the levied charge from $19,000 per lot to $13,680 per lot. That was done in circumstances where those networks do not service the subject land and having regard to paragraphs 2.3 of the Charges Resolution, which provides a notional proportional breakup of the adopted charge between the various trunk networks. No challenge was made by the Appellants to that credit.

50. The Council also applied a credit for the existing entitlement to use the subject land for one residential dwelling. That credit was adjusted in the same way the Council adjusted the adopted rate to account for the fact that the subject land is not serviced by all trunk

[10] In particular, Appellants' final written submissions dated 25 August 2025, pages 4 to 7.

networks. The credit applied by the Council was $13,680. Again, no challenge was made by the Appellants to that credit.

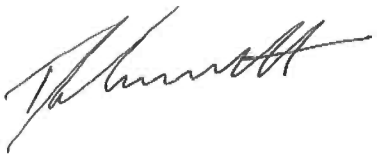
51. For the reasons developed above, the Tribunal calculates the infrastructure charge as $54,720. That charge has been calculated using the formula at paragraph 3.1 of the Charges Resolution:

$$\$54,720 = [(\$13,680 \times 5) - \$13,680] \times 1$$

Disposition

52. The Appellants have not satisfied the Tribunal that the appeal should be allowed.

53. The decision of the Council to give the ICN in the amount of $54,720 is confirmed.



Travis Schmitt
Development Tribunal Chair
Date: 3 November 2025

Appeal rights

Schedule 1, table 2, item 1 of the *Planning Act 2016* provides that an appeal may be made against a decision of a Tribunal to the Planning and Environment Court, other than a decision under section 252, on the ground of -

(a) an error or mistake in law on the part of the Tribunal; or
(b) jurisdictional error.

The appeal must be started within 20 business days after the day notice of the Tribunal decision is given to the party.

The following link outlines the steps required to lodge an appeal with the Court.
http://www.courts.qld.gov.au/courts/planning-and-environment-court/going-to-planning-and-environment-court/starting-proceedings-in-the-court

Enquiries

All correspondence should be addressed to:

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