

INFRASTRUCTURE CHARGE NOTICE
(Section 119 of the Planning Act 2016)

ISAAC REGIONAL COUNCIL CHARGES RESOLUTION (NO. 2) 2018

Date of Issue of Infrastructure Charges Notice: 25 September 2020

Sent via Registered Mail and Email: john@coastalda.com.au

Mr Harry Winkle
C/- Coastal Development Approvals Pty Ltd
PO Box 7007
SOUTHPORT PARK QLD 4215

APPROVED DEVELOPMENT: Reconfiguring a Lot (1 Rural Lot into 3 rural lots)

APPLICATION NUMBER: RAL20/0003

APPLICANT: Mr Harry Winkle
C/- Coastal Development Approvals Pty Ltd

LAND TO WHICH CHARGE APPLIES: Lot 3 on SP261147

SITE ADDRESS: 45 Carmila West Road, Carmila

PLANNING SCHEME *Planning Scheme for Broadsound Shire 2005*

THE INFRASTRUCTURE CHARGE

(Details of how these charges were calculated are shown overleaf)

GROSS LEVIED CHARGE	\$26,793.00
OFFSETS APPLIED GROSS	Nil
REFUNDS APPLIED	Nil
CREDITS (DISCOUNTS) APPLIED	-\$8,931.00
INFRASTRUCTURE AGREEMENT IN PLACE AT TIME OF ISSUE OF THIS INFRASTRUCTURE CHARGES NOTICE	Nil
LEVIED CHARGE	\$17,862.00

TIME OF PAYMENT (Sec 122(1) (c) *Planning Act 2016*)

Prior to Council endorsement of the Survey Plan (Confirm charge amount prior to making payment)

ADJUSTMENTS TO THE INFRASTRUCTURE CHARGE

1. AUTOMATIC INCREASE PROVISION

An infrastructure charge levied by Council is to be increased by the difference between the Producer Price Index (PPI) applicable at the time the infrastructure charge was levied, and PPI Index applicable at the time of payment of the levied charge, adjusted by reference to the 3-yearly PPI Index average¹.

If the levied charge is increased using the method described above, the charge payable is the amount equal to the sum of the charge as levied and the amount of the increase. The total sum levied for any of the infrastructure networks can not exceed the maximum adopted charge rate for that infrastructure network calculated for the additional demand of the approved development.

Upon request Council shall provide the indexation amount that needs to be added to the levied charge and confirm the total amount outstanding.

2. INFRASTRUCTURE AGREEMENT

An Infrastructure Agreement may apply in respect of this Infrastructure Charges Notice. The Infrastructure Agreement may be entered into before or after the Decision Notice is issued for the approved development. An agreement about either or both of the following may be entered into:

- a. payment other than as provided by Section 122 of the *Planning Act 2016*, for instance payment by instalment;
- b. provision of infrastructure instead of paying all or part of the levied charge.

In the event of an inconsistency between an Infrastructure Agreement and this Infrastructure Charges Notice, the Infrastructure Agreement may prevail pursuant to Section 157 of the *Planning Act 2016*.

3. FAILURE TO PAY

A levied charge for infrastructure fixed by a local government is, for the purposes of recovery, as per Section 144(1) of the *Planning Act 2016*. This is taken to be a rate within the meaning of the *Local Government Act 2009*. This means:

- a. an adopted infrastructure charge may be recovered by court action for a debt;
- b. an adopted infrastructure charge may be recovered from the person for the time being owning the relevant land, regardless of who was the owner or other person upon whom the charges was imposed;
- c. interest is payable on overdue payments (Compound annual interest at 11% calculated daily is to be applied on an overdue charge); and
- d. if a levied charge is unpaid for 3 years, the land can be sold to recover the outstanding charges.

¹ 3-yearly PPI index average is defined in schedule 2 of the *Planning Act 2016* and means the PPI index smoothed in accordance with the 3-year moving average quarterly percentage change between quarters. PPI Index is the producer price index for construction 6427.0 (ABS PPI) index number 3101 – Road and Bridge construction index for Queensland published by the Australian Bureau of Statistics.

PAYMENT OF THE INFRASTRUCTURE CHARGE

1. PAYMENT BY MAIL

Confirm the current levied charge applicable and obtain an updated payment notice from Council's Planning Department.

Mail this updated payment notice immediately with your payment to: ISAAC REGIONAL COUNCIL, PO Box 97, MORANBAH QLD 4744.

NOTE: Cheques must be made payable to ISAAC REGIONAL COUNCIL

2. PAYMENT AT COUNCIL OFFICES

Confirm the current levied charge applicable.

Present written confirmation of charges with your payment to an Isaac Regional Council Office. Please see Council's website for locations.

NOTE: Cheques must be made payable to ISAAC REGIONAL COUNCIL

3. PAYMENT MADE BY CREDIT CARD

Credit Cards accepted: Mastercard or Visa

4. PAYMENT MADE BY ELECTRONIC FUND TRANSFER (EFT)

BSB: 014-550
Account No: 485 702 245
Account Name: ISAAC REGIONAL COUNCIL
Reference: ICN Notice Number

Provide Council with a copy of the EFT transfer receipt or remittance advice and copy of the confirmed current applicable levied charge.

OTHER MATTERS

1. LAPSING OF INFRASTRUCTURE CHARGES NOTICE

This Infrastructure Charges Notice stops having effect to the extent the approved development stops having effect.

2. GOODS AND SERVICES TAX

The Federal Government has determined that rates and utility charges levied by a Local Government will be GST free. Accordingly, no GST is included in this Infrastructure Charges Notice.

3. APPLICABLE OFFSETS AND REFUNDS

Infrastructure offsets and refunds apply when developers are required to provide trunk infrastructure. These may be physical works (such as a sewer main) or land to accommodate infrastructure (for a future road upgrade). The infrastructure (or land) requirement will be conditioned as part of a development approval. In those circumstances, the cost of that trunk infrastructure will be offset against any infrastructure charges payable under the development approval (as an Infrastructure Charges Notice will still be issued where adopted infrastructures apply). Where the cost of providing the trunk infrastructure is greater than the infrastructure charges, a refund will be paid to the developer.

There are no offsets or refunds associated with this approved development.

4. RATIONALE FOR ISSUE OF INFRASTRUCTURE CHARGES NOTICE

Isaac Regional Council has issued this Infrastructure Charges Notice as a result of additional demand placed upon trunk infrastructure that will be generated by the approved development.

5. CONTACT

For further information please contact your local Council:
Phone: 1300 ISAACS (1300 47 22 27)
or +617 4846 3500 if phoning from overseas
or 07 4846 3500 (alternative phone number)

Write to:
The Chief Executive Officer
Isaac Regional Council
PO Box 97
MORANBAH QLD 4744

E-mail: records@isaac.qld.gov.au
(In order for us to receive your email, please ensure it is no larger than 10MB)

Send a message on our 'Contact' located on the web page:
<https://www.isaac.qld.gov.au/contact-us/home>

This web page also lists all of our office locations if you would prefer to visit your nearest Council office, open Monday to Friday, 8.30 am to 5 pm.

6. APPEAL RIGHTS

Should you wish to appeal an Infrastructure Charges Notice, you may make representations to Isaac Regional Council within twenty (20) business days after receipt of the Infrastructure Charges Notice, under section 125 of the *Planning Act 2016*.

Isaac Regional Council may only give one (1) negotiated infrastructure charge notice in respect of section 125 of the *Planning Act 2016*.

Attached is an extract from the *Planning Act 2016* which details the appeal rights in relation to the Infrastructure Charges Notice, 'Planning Act 2016 – Appeals Information'.

GROSS CHARGE SUMMARY

Water Supply Adopted Charges

Nil

Sewerage Credit Land Use

Nil

Table 1: Transport Adopted Charges

Development Description	Number of Units	Units of Measure	Charge Rate	Reference	Amount
Reconfiguring a Lot	3	Lots	\$8,931	Table 2.1	\$26,793

Table 2: Transport Credit Land Use (Discount)

* Highest value of (a), (b), (c) or (d) or (e) is to be applied as the discount.

** If site is located where it will not to be serviced, or planned to serviced by Council trunk sewerage and water supply then those components shall be deducted from the total adopted charge payable).

*** A discount calculated in this table will not be higher than the levied charge for proposed development and surplus discount will not be refunded, unless it forms part of an infrastructure agreement.

Description	Number of Units	Units of Measure	Discount Rate	Reference	Amount
Existing lot	1	Lots	\$8,931.00	3.1	-\$8,699.00

Parks and Land for Community Facilities Adopted Charges

Nil

Stormwater Adopted Charges

Nil

Table 3: All Networks Levied Charges

Development Description	Water Supply	Sewerage	Transport	Public Parks & Community Land	Stormwater	Total
Reconfiguring a lot	\$0.00	\$0.00	\$26,793.00	\$0.00	\$0.00	\$26,793.00
Discount	\$0.00	\$0.00	\$8,931.00	\$0.00	\$0.00	-\$8,931.00
Amount Payable	\$0.00	\$0.00	\$26,793.00	\$0.00	\$0.00	\$17,862.00

Application of an offset or refund

There are no offsets or refunds associated with this approved development.


DANIEL WAGNER
Manager Liveability and Sustainability
(On behalf of Gary Stevenson PSM, Chief Executive Officer)

Enclosure: Representation and Appeal Information for Infrastructure Charges Notice

Planning Act 2016 Appeal Rights

Chapter 3	Development Assessment
Part 5	Development Approvals
Division 2	Changing development approvals
Subdivision 1	Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (change representations) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or
 - (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
 - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
 - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made,

or a longer period agreed in writing between the applicant and the assessment manager.

- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a negotiated decision notice) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

**Chapter 4
Part 2
Division 2
Subdivision 5**

**Infrastructure
Provisions for local governments
Charges for trunk infrastructure
Changing charges during relevant appeal period**

124 Application of this subdivision

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

125 Representations about infrastructure charges notice

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
- (a) agrees with a representation; and
 - (b) decides to change the infrastructure charges notice; the local government must, within 10 business days after making the decision, give a new

infrastructure charges notice (a **negotiated notice**) to the recipient.

- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
 - (a) must be in the same form as the infrastructure charges notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

126 Suspending relevant appeal period

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

Chapter 6 Part 1

Dispute resolution Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the **appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice— 20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and

- (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person— within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—

decision includes—

 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.