



TORRES SHIRE COUNCIL

Charges Resolution (No. 1) 2015

1.0 Introduction

1.1 This is a charges resolution ("resolution") made pursuant to the *Sustainable Planning Act 2009* ("SPA").

1.2 This resolution is structured as follows:

Section / Attachment #	Name	Function
1.0	Introduction	Background, legal authorisation and timing, applicable areas and types of development that trigger charges calculation, definitions of relevant terms
2.0	Adopted Charges	Refers to types of development that attract charges, and identifies the adopted charges.
3.0	Discounts	Identifies the discounts that will be taken into account in the calculation of a levied charge.
4.0	Calculation of the Levied Charge	Identifies the method by which the levied charge will be calculated.
5.0	Payment Triggers	Identifies when a levied charge is to be paid.
6.0	Automatic Increase Provision for Levied Charges	Identifies how a levied charge is to be increased to the date it is paid.
7.0	Conversion Applications	Identifies Council's requirements for making a conversion application and the process of assessing and deciding the conversion application.
8.0	Offsets and Refunds for Trunk Infrastructure	Identifies method for determining the establishment cost of trunk infrastructure, the process for reconciling an offset or refund, and the timing of refunds.
Tables	Tables 1.1, 2.1, 2.2 and 2.3	For reference purposes when undertaking charge calculations
Attachment 1	Methodology for Determining the Final Contract Value for Trunk Infrastructure Works	Outlines the default methodology for determining the establishment cost of trunk infrastructure costs and the value of offsets and refunds.

1.3 This resolution applies to the following zones as shown on the Zoning Map 1 (Thursday Island) and Zoning Map 3 (Town of Wasaga, Horn Island) of the Torres Shire Planning Scheme:

- Residential Zone (Precinct 1)
- Residential Zone (Precinct 2)
- Business Zone
- Industry Zone
- Special Purpose Zone.

1.4 This resolution seeks to implement the requirements of the *Sustainable Planning Act 2009*, State Planning Regulatory Provision (adopted charges) (the “**SPRP**”) and Statutory Guideline 03/14 – Local Government Infrastructure Plans, and has effect on and from **20 May 2015**..

It is advised that this Charges Resolution (CR):

- (a) does not retrospectively apply to previous approvals, even if they have not yet paid charges. It only applies to decisions made after CR No. 1 comes into effect;
- (b) will be applied to development applications that have not yet entered Decision Stage (prior to CR No. 1 coming into effect), irrespective of when the application was lodged;
- (c) can be applied to a request for a ‘permissible change’ to a development approval made under section 369 of SPA; and
- (d) can be applied to a request to extend the relevant period made under section 383 of SPA (currency period extensions).

Refer to section 626 of SPA for details and limitations on Council’s ability to give applicants infrastructure charges notices for change approvals and extension approvals.

1.5 This resolution adopts a charge for particular development that is equal to or less than the maximum adopted charge specified within the SPRP. **Table 1.1** herein identifies the relationship between existing Torres Shire Planning Scheme use types and the classes of development to which the adopted infrastructure charges apply. This table is required in order to align the different land-use charge categories applied under the SPRP with those of the Torres Shire Planning Scheme.

1.6 The issuing of an infrastructure charges notice may be triggered by assessable development or development requiring compliance assessment. The types of development that may trigger the issuing of an infrastructure charges notice are:

- (a) reconfiguring of a lot;
- (b) material change of use; and
- (c) carrying out building work.

1.7 In this resolution the expression “development application” includes a request for compliance assessment and the expression “development approval” includes a compliance permit.

1.8 Interpretation

In this resolution:

adopted charge means the charge set by this resolution to be applied for the purpose of calculating a levied charge as stated in section 2.0

bedroom means an area of a building or structure which:

- (a) is used, designed or intended for use for sleeping but excludes a lounge room, dining room, living room, kitchen, water closet, bathroom, laundry, garage or plant room; or
- (b) a space that can be readily closed off for sleeping such as a den, study, loft, media or home entertainment room, library, family or rumpus room or other similar space.

discount means the assessed demand for an existing or past lawful use right prior to the development application to be applied within the calculation of a levied charge which acknowledges the existing usage of the trunk infrastructure networks by the premises and reduces the charges accordingly as stated in section 3.0 (Discounts).

Dwelling means a residential use of premises for one household that contains a single dwelling.

Gross floor area (GFA), for a building, means the total floor area of all storeys of the building, including any mezzanines, (measured from the outside of the external walls and the centre of any common walls of the building), other than areas used for—

- (a) building services; or
- (b) a ground floor public lobby; or
- (c) a public mall in a shopping complex; or
- (d) parking, loading or manoeuvring of vehicles; or
- (e) balconies, whether roofed or not.

impervious area means the area of the premises that is impervious to rainfall or overland flow that results in the discharge of stormwater from the premises.

lawful use see schedule 3 (Dictionary) of the *Sustainable Planning Act 2009*.

levied charge means the charge levied on an applicant through an infrastructure charge notice in accordance with section 635 of SPA, worked out by applying the provisions of this Charges Resolution.

maximum adopted charge see schedule 3 (Dictionary) of the *Sustainable Planning Act 2009*.

planning scheme means the Torres Shire Planning Scheme.

producer price index (PPI) means 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.

3-yearly PPI index average is defined in section 631 of the *Sustainable Planning Act 2009* and means the PPI index smoothed in accordance with the 3-year moving average quarterly percentage change between quarters.

A term defined in the *Sustainable Planning Act 2009* which is used in the resolution has the meaning given in the *Sustainable Planning Act 2009*.

If a term is not defined in the resolution or the *Sustainable Planning Act 2009* the term is to, subject to section 14A (Interpretation best achieving Act's purpose) of the *Acts Interpretation Act 1954*, have the meaning assigned to it by the edition of the Macquarie Dictionary that is current at the date the resolution takes effect.¹

¹ Section 14A(1) (Interpretation best achieving Act's purpose) of the *Acts Interpretation Act 1954* provides that in the

Table 1.1 – Planning Scheme Use Types to which the *adopted charges* apply

Column 1 Adopted infrastructure charge category	Column 2 Torres Shire Planning Scheme Uses
Residential	Dwelling House Caretaker's Residence Dual Occupancy Multiple Dwelling Units Annexed Apartment
Accommodation (short-term)	Accommodation Building (temporary accommodation) Bed and breakfast Caravan Park (temporary accommodation) Hotel (accommodation component)
Accommodation (long-term)	Accommodation Building (permanent accommodation) Caravan Park (permanent accommodation) Institutional Residence Retirement Village
Places of assembly	Funeral Parlour Special Purpose
Commercial (bulk goods)	Garden Centre Landscape Supplies Produce Store Retail warehouse Sales and Hire Premises Showroom Storage Premises Vehicle Depot
Commercial (retail)	Adult Product Shops Restaurant Service station Shop Takeaway Food Store
Commercial (office)	Office
Education facility	Child Care Centre Special Purpose
Entertainment	Hotel (non- residential component) Indoor Entertainment
Indoor sport and recreational facility	Indoor Sports Facility
Industry	Car Wash Light Industry Machinery Repair Station
High impact industry	General Industry
Low impact rural	Farming
High impact rural	Aquaculture
Essential services	Health Centre Veterinary Surgery

interpretation of a provision of the Act the interpretation that will best achieve the purpose of the Act is to be preferred to any other interpretation.

Column 1 Adopted infrastructure charge category	Column 2 Torres Shire Planning Scheme Uses
Specialised uses	Animal Keeping Borrow Pit Carpark Extractive Industry Local Utility Major Utility Outdoor sport and recreation Park Tourist Facility Transport Terminal
Minor uses	Advertisement Market Home Based Business Telecommunications Facility

2.0 Adopted Charge

2.1 The adopted charge for a *material change of use* or *building work* for:

- (a) Residential development, is stated in **Tables 2.1**;
- (b) Non-residential development (other than a specialised use), is stated in **Table 2.2** which comprises the following:
 - (i) the adopted charge as stated in the column '*Local government adopted charges excluding stormwater*'; and
 - (ii) the adopted charge for stormwater as stated in the column '*Stormwater (\$ per impervious m²)*'.

2.2 The adopted charge for *reconfiguring a lot* for Residential and Non-residential development, is the adopted charge per Allotment as stated in **Table 2.3**.

2.3 *Specialised Uses*: Upon receiving a development application for an undefined use, Council will determine the most appropriate equivalent use charging category from **Table 1.1** to apply to the development in order to determine the adopted charge in accordance with **Tables 2.1 to 2.2**.

Table 2.1 – Adopted Infrastructure Charges – Adopted charge for a Material Change of Use or Building Work for Residential development

Development for which an adopted infrastructure charge may apply	Maximum adopted charges	Adopted infrastructure charges per dwelling unit(\$)					
		Local Government adopted charges	Proportional split of adopted charge per network				
			Water Supply	Sewerage	Transport	Community Facilities & Parks	Stormwater
			30%	25%	15%	10%	20%
Residential (1 or 2 bedroom dwelling)	\$20,000 per dwelling	\$20,000 per dwelling	\$6,000	\$5,000	\$3,000	\$2,000	\$4,000
Residential (3 or more bedroom dwelling)	\$28,000 per dwelling	\$28,000 per dwelling	\$8,400	\$7,000	\$4,200	\$2,800	\$5,600
Accommodation (Short Term)	\$10,000 per suite (with 1 or 2 bedrooms)	\$10,000 per suite (with 1 or 2 bedrooms)	\$3,000	\$2,500	\$1,500	\$1,000	\$2,000
	\$14,000 per suite (with 3 or more bedrooms)	\$14,000 per suite (with 3 or more bedrooms)	\$4,200	\$3,500	\$2,100	\$1,400	\$2,800
	\$10,000 per bedroom (that is not within a suite)	\$10,000 per bedroom (that is not within a suite)	\$3,000	\$2,500	\$1,500	\$1,000	\$2,000
Accommodation (Short Term): Caravan Park	\$10,000 per 1 or 2 tent/caravan sites (for a tent or caravan site) and per 1 or 2 bedroom cabin (for a cabin)	\$10,000 per 1 or 2 tent/caravan sites (for a tent or caravan site) and per 1 or 2 bedroom cabin (for a cabin)	\$3,000	\$2,500	\$1,500	\$1,000	\$2,000
	\$14,000 per 3 tent/caravan sites (for a tent or caravan site) and per 3 bedroom cabin (for a cabin)	\$14,000 per 3 tent/caravan sites (for a tent or caravan site) and per 3 bedroom cabin (for a cabin)	\$4,200	\$3,500	\$2,100	\$1,400	\$2,800
Accommodation (Long Term)	\$20,000 per suite (with 1 or 2 bedrooms)	\$20,000 per suite (with 1 or 2 bedrooms)	\$6,000	\$5,000	\$3,000	\$2,000	\$4,000
	\$28,000 per suite (with 3 or more bedrooms)	\$28,000 per suite (with 3 or more bedrooms)	\$8,400	\$7,000	\$4,200	\$2,800	\$5,600
	\$20,000 per bedroom (that is not within a suite)	\$20,000 per bedroom (that is not within a suite)	\$6,000	\$5,000	\$3,000	\$2,000	\$4,000

Accommodation (Long Term): Caravan Park	\$10,000 per 1 or 2 tent/caravan sites (for a tent or caravan site) and per 1 or 2 bedroom cabin (for a cabin)	\$10,000 per 1 or 2 tent/caravan sites (for a tent or caravan site) and per 1 or 2 bedroom cabin (for a cabin)	\$3,000	\$2,500	\$1,500	\$1,000	\$2,000
	\$14,000 per 3 tent/caravan sites (for a tent or caravan site) and per 3 bedroom cabin (for a cabin)	\$14,000 per 3 tent/caravan sites (for a tent or caravan site) and per 3 bedroom cabin (for a cabin)	\$4,200	\$3,500	\$2,100	\$1,400	\$2,800

Table 2.2 – Adopted Infrastructure Charges – Adopted charge for a Material Change of Use or Building Work for Non-residential development

Development for which an adopted infrastructure charge may apply	Maximum adopted charges		Adopted infrastructure charges					
	Maximum adopted charges (\$ per m ² GFA)	Maximum adopted charges for stormwater network (\$ per impervious m ²)	Local Government infrastructure charges (excluding stormwater) (\$ per m ² GFA)	Proportional split of adopted charge per network				Stormwater (\$ per impervious m ²)
				Water Supply	Sewerage	Transport	Community Facilities & Parks	
				35%	30%	20%	15%	
Places of Assembly	\$70	\$10	\$70	\$25	\$21	\$14	\$11	\$10
Commercial (Bulk Goods)	\$140	\$10	\$140	\$49	\$42	\$28	\$21	\$10
Commercial (Retail)	\$180	\$10	\$180	\$63	\$54	\$36	\$27	\$10
Commercial (Office)	\$140	\$10	\$140	\$49	\$42	\$28	\$21	\$10
Education Facility	\$140	\$10	\$140	\$49	\$42	\$28	\$21	\$10
Entertainment	\$200	\$10	\$200	\$70	\$60	\$40	\$30	\$10
Indoor Sport and Recreational Facility	\$20 per m ² of court area	\$10	\$20	\$7	\$6	\$4	\$3	\$10
	\$200 per m ² of GFA	\$10	\$200	\$70	\$60	\$40	\$30	\$10
Industry	\$50	\$10	\$50	\$18	\$15	\$10	\$8	\$10
High Impact Industry	\$70	\$10	\$70	\$25	\$21	\$14	\$11	\$10
Low Impact Rural	Nil	Nil	Nil					
High Impact Rural	\$20	Nil	\$20	\$7	\$6	\$4	\$3	Nil
Essential Services	\$140	\$10	\$140	\$49	\$42	\$28	\$21	\$10
Minor Uses	Nil	Nil	Nil					
Specialised Uses	Use and demand determined by the local government at time of assessment							

Table 2.3 – Adopted Infrastructure Charges – Adopted charge for Reconfiguring a Lot

Development for which an adopted infrastructure charge may apply	Adopted infrastructure charges (\$ per Allotment)					
	Total Local Government infrastructure charges	Water Supply	Sewerage	Transport	Community Facilities & Parks	Stormwater
Residential	\$28,000	\$8,400	\$7,000	\$4,200	\$2,800	\$5,600
Non residential	\$28,000	\$8,400	\$7,000	\$4,200	\$2,800	\$5,600

3.0 Discount

- 3.1 In accordance with s636 of SPA, a levied charge may be only for additional demand placed upon trunk infrastructure that will be generated by the development. Council has set out the discounts that will be taken into account for the calculation of the levied charge on the premises over which the application is made, based on the higher value of:
- Where a levied charge has been paid for the development of the premises, the levied charge paid; or
 - Where the premises is subject to an existing lawful use for which evidence can be provided, the adopted charge for the existing lawful use of the premises; or
 - Where the premises contained a previous lawful use that is no longer taking place, and where evidence can be provided of the previous lawful use, the adopted charge based on the previous lawful use of the premises; or
 - Where vacant serviced land exists or where no lawful use has been constructed on the premises, the amount of \$28,000 for each of the lots to which the development relates.
 - Where an infrastructure contribution was provided for the development of the premises under previous infrastructure charging policies, the charge paid at the time of payment subject to indexation² and evidence of payment made.
- 3.2 Discounts in Section 3.1(b) – (c) will be calculated in the same manner in which the relevant demand and charge is calculated under Section 4.0. To avoid doubt, Council is only charging for the additional demand caused by the proposed development. Discounts will not be provided for networks that do not currently service the site.
- 3.3 A discount calculated under Section 3.1 and Section 3.2 will not be higher than the levied charge. To avoid doubt, surplus discounts, if any, will not be refunded.
- 3.4 Despite Section 3.3, Council may in its absolute discretion, enter into an infrastructure agreement to attach any surplus discounts to the land and these discounts may be offset against any future levied charge.
- 3.5 Any discount calculated in accordance with Section 3.1 - 3.4 is to be allocated to the trunk infrastructure network to which the discount was accrued, unless otherwise determined under a separate infrastructure agreement between Council and the applicant.

²To be calculated by indexing the infrastructure contributions previously paid based on the difference between the Producer Price Index (PPI) applicable at the time the infrastructure contribution was paid, and the PPI Index applicable at the time this resolution took effect, adjusted by reference to the 3-yearly PPI Index average.

4.0 Calculation of the levied charge

- 4.1 The following steps identify the process to calculate the levied charge for a development application:

Step 1 Determine the relevant adopted infrastructure charges category based on the translation of the planning scheme use type in Table 1.1 that is applicable to the proposed development.

Step 2 Determine the development demand unit (e.g m² GFA) and associated charge rate (i.e \$/demand unit) that may be levied for the proposed development as stated in Section 2.0:

- *for Material Change of Use or Building Work* - refer to **Tables 2.1 and 2.2**.
- *for Reconfiguring a Lot* - refer to **Table 2.3**

Should the area within which the site is located not be serviced, or is not planned to be serviced, by Council trunk sewerage and water networks then such separate components of the charge shall be deducted from the total adopted charge payable

Step 3 Determine any existing discount amount for each trunk infrastructure network currently servicing the premises as stated in Section 3.0.

Step 4 Calculate the levied charge by subtracting the applicable discount amount from the adopted charge amount for each trunk infrastructure network (in monetary values).

- 4.2 A development proposal that includes more than one use (mixed use development) may involve uses or development with different assessable demands under Tables 2.1 to 2.2. The following rules will apply to the calculation of the demand and associated charge for a mixed use development:

- (a) if more than one use is proposed to occur in any given area the subject of the approval, the levied charge will be the sum of the individual charge for each use calculated in accordance with Section 4.1;
- (b) if an approved development includes an area which is common to two or more uses identified in **Tables 2.1 and 2.2**, the assessable demand for the common area will be based on the use or development with the highest charge amount.

- 4.3 If an adopted charge is intended to be levied pursuant to a building works approval and the building may be used for more than one use under **Tables 2.1 and 2.2**, the levied charge will be the sum of the individual charge for each use calculated in accordance with **Section 4.1**.

5.0 Payment Triggers

This section states when a levied infrastructure charge is to be paid.

5.1 A levied charge is payable at the following time:

- (a) if the charge applies to reconfiguring a lot that is assessable development or development requiring compliance assessment - when the local government approves the plan of subdivision for the reconfiguration;
- (b) if the charge applies to a material change of use - when the change of use happens;
- (c) if the charge applies to building work that is assessable development or development requiring compliance assessment - when the final inspection certificate (for a single detached class 1a building or a class 10 building or structure) or certificate of classification (for a building or structure of another class) for the building work is given.
- (d) if paragraphs (a), (b) and (c) do not apply, on the day stated in the infrastructure charges notice or negotiated infrastructure charges notice under which the charge was levied.
- (e) As otherwise specified in a written agreement between Council and the applicant including whether it may be paid by instalments.

6.0 Automatic increase provision for levied charges

- 6.1 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 the PPI Index applicable at the time of payment of the levied charge³, adjusted by reference to the 3-yearly PPI Index average⁴.
- 6.2 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.
- 6.3 The sum of the charge as levied and the amount of the increase is not to exceed the maximum adopted charge the Council could have levied for the development at the time the charge is paid.

³ To be clear, the charge to be paid is the greater of the charge as levied by Council and the levied charge indexed using the Producer Price Index (adjusted by reference to the 3-yearly PPI Index Average) for the period starting on the day the charge is levied and ending on the day the charge is paid.

⁴ 3-yearly PPI index average is defined in section 631 of the *Sustainable Planning Act 2009* 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.

7.0 Conversion applications

7.1 Purpose

7.1.1 This section applies where:

- a) A condition of a development approval under section 655 of SPA requires non-trunk infrastructure to be provided; and
- b) The construction of the non-trunk infrastructure has not started; and
- c) The applicant for the development approval is seeking to apply to Council to convert the non-trunk infrastructure to trunk infrastructure (a conversion application).

7.1.2 Council's requirements for making an application and the process of assessing and deciding the conversion application is identified below.

7.2 Process for making a conversion application

7.2.1 A conversion application must:

- a) be in writing;
- b) be accompanied by the completed Council prescribed form for conversion applications (if applicable);
- c) relate to non-trunk infrastructure conditioned under section 655 of SPA;
- d) be lodged with Council before construction of the relevant non-trunk infrastructure commences;
- e) be accompanied by supporting information including:
 - (i) Details of the relevant development approval including application number, property address and real property description;
 - (ii) The applicant's contact details;
 - (iii) The relevant condition(s) for non-trunk infrastructure imposed under section 655 of SPA to which the conversion application relates;
 - (iv) A written statement that construction of the infrastructure had not commenced prior to the making of the conversion application;
 - (v) A description of the circumstances giving rise to the conversion application including supporting commentary and rationale that addresses Council's trunk infrastructure criteria;
 - (vi) Other relevant supporting information where available including:
 - Engineering estimates of works;
 - Preliminary design plans;
 - Network servicing analysis;
 - Details of special considerations (e.g. geographical context).

7.3 Assessing and deciding a conversion application

7.3.1 The process of assessing and deciding a conversion application is as follows:

- a) Council will assess the application having regard to its trunk infrastructure criteria (outlined below);
- b) Council must consider and decide the application within the required period being 30 business days after:
 - (i) Generally – the making of the application; or
 - (ii) If an information requirement is made – the requirement is complied with.
- c) Before making its decision, Council may give notice to the applicant requiring additional information for making the decision.
- d) The notice must detail:
 - (i) The information required;
 - (ii) A period of at least 10 business days for giving the information;
 - (iii) That the application will lapse if the applicant does not comply with the notice within the specified period, or any later period as agreed between Council and the applicant within the specified period.

- e) Council must, as soon as practicable after deciding the conversion application, give the applicant notice of its decision.
- f) If the decision is to convert the non-trunk infrastructure to trunk infrastructure, the notice must state whether an offset or refund applies and if so, the details of an offset or refund.
- g) If the decision is to not convert the non-trunk infrastructure to trunk infrastructure, the notice must be an information notice that states:
 - (i) The decision and the reasons for it;
 - (ii) That its recipient may appeal against the decision; and
 - (iii) How the recipient may appeal.

7.4 Effect of conversion

- 7.4.1 If Council's decision is to convert the non-trunk infrastructure to trunk infrastructure:
 - a) the condition of the relevant development approval requiring non-trunk infrastructure to be provided no longer has effect;
 - b) Council may, within 20 business days after making the decision, amend the development approval by imposing a necessary infrastructure condition for the trunk infrastructure; and
 - c) if the necessary infrastructure condition is imposed, Council will, within 10 business days after imposing the condition, give an infrastructure charges notice or amend, by notice to the applicant, any existing infrastructure charges notice for the development approval for the purposes of determining offset or refund requirements.

7.5 Trunk infrastructure criteria

- 7.5.1 The identified trunk infrastructure criteria for deciding whether or not to convert non-trunk infrastructure to trunk infrastructure are the following:
 - 1. The infrastructure is consistent with Council's Standards of Service stated in Schedule 4 of the Planning Scheme; and
 - 2. The infrastructure is consistent with all of the following ***trunk infrastructure principles***:
 - a) Facilitates development of other premises by enabling increased development or overcoming deficiencies in service through its provision; and
 - b) Reduces or eliminates unnecessary and interim staged infrastructure; and
 - c) Is shared between multiple development or provides a critical shared link between multiple development sites and the defined trunk network; and
 - d) Would be identified as 'trunk' infrastructure if the ultimate demand and development pattern is known in more detail at the time of Council preparing a plan for trunk infrastructure; and
 - e) The type, size and location of the infrastructure is the *most cost effective option* for servicing multiple users in the area. The most effective option means the least cost option based upon the life cycle cost of the infrastructure required to service existing and future development in the area at the desired standards of service.

8.0 Offsets and Refunds for Trunk Infrastructure

8.1 Application of an offset and refund

8.1.1 Unless otherwise provided for in an infrastructure agreement, this section applies where:

- a) a development application has been conditioned to provide necessary trunk infrastructure; or
- b) non-trunk infrastructure has been converted to trunk infrastructure through a conversion application; and
- c) an adopted charge applies to the development.

8.1.2 Where the establishment cost for the trunk infrastructure is equal to or less than the levied charge, the cost will be offset against the levied charges (an **offset**).

8.1.3 Where the establishment cost for the trunk infrastructure is more than the levied charge and the trunk infrastructure has been provided:

- a) there is no amount payable for the development approval; and
- b) Council will provide a refund to the applicant for the difference between the establishment cost of the trunk infrastructure and the levied charge (a **refund**), in accordance with the provisions of this charges resolution.

8.1.4 The value, timing and reconciliation of payments may also be managed by an infrastructure agreement which may further specify or alter the provisions in this resolution including for staged development.

8.2 Determining the establishment cost of trunk infrastructure

8.2.1 The Infrastructure Charges Notice for a development approval may specify an establishment cost for trunk infrastructure that is the subject of a necessary trunk infrastructure condition.

8.2.2 The establishment cost in the Infrastructure Charges Notice is an indicative preliminary establishment cost only based on Council's best estimate at the time of issuing the Infrastructure Charges Notice and will not be used as the basis for determining the value of an offset or refund unless agreed to under clause 8.2.6.

8.2.3 The establishment cost for trunk infrastructure works will be recalculated following detailed design and quantification of trunk infrastructure requirements to determine the Final Contract Value, in accordance with the processes outlined in **Attachment 1**.

8.2.4 The establishment cost for trunk infrastructure that is land will be recalculated following confirmation of the land area to be dedicated based on the undeveloped, Englobo value of the land, which has nominally been set at \$25 per square metre as at June 2014. The land value is to be indexed in line with the 3-yearly PPI Index Average, from the June 2014 to the date the levied charge becomes payable.

8.2.5 A final determination of whether a refund applies can only be made upon confirmation of the Final Contract Value and/or Land Value (as applicable).

8.2.6 Despite Clauses 8.2.3 to 8.2.5 Council, at its absolute discretion, may agree with the applicant to use the establishment cost specified in the Infrastructure Charges Notice as the basis for determining the value of an offset or refund (**Agreed Value**).

8.3 Reconciliation of an offset or refund

- 8.3.1 An applicant entitled to an offset or refund for the trunk infrastructure contribution is to give to Council a notice in the prescribed form which states:
- a) The date the fully completed trunk infrastructure was accepted 'On Maintenance'; or
 - b) The date Council accepted an Uncompleted Works Deed for uncompleted works.
- 8.3.2 Council will as soon as reasonably practicable after receiving a notice under section 8.3.1 confirm if the establishment cost is:
- a) For an offset, less than the levied charge; or
 - b) For a refund, greater than the levied charge.
- 8.3.3 For the purposes of determining if an offset or refund applies, the levied charge is to be indexed from the date it was levied to date that the establishment cost was determined by Council, using the 3-yearly PPI Index average.
- 8.3.4 If an offset applies, Council is to set off the establishment cost against the levied charge when the levied charge stated in the infrastructure charges notice is payable.
- 8.3.5 If a refund applies, Council is to:
- a) determine the value of the refund by subtracting the levied charge⁵ from the establishment cost; and
 - b) give the refund to the applicant.
- 8.3.6 Council has adopted a policy position in relation to the form of the refund to be given to the applicant. Council's policy position is that the refund will be proved as either an:
- a) Infrastructure demand credit, in the first instance and where agreed to with the applicant; or
 - b) Cash payment refund.

8.4 Infrastructure demand credits

- 8.4.1 In the first instance, Council will seek to provide a refund in the form of an Infrastructure demand credit through written agreement with the applicant. The following methods for assigning the demand credits will be applied in order of preference:
- a) Where future stages are to be developed under the approval and the future stages will be subject to a levied charge; the refund is to be held as a demand credit on the land that is the subject of the future stages of development;
 - b) Where (a) does not apply, and the applicant or related entities of the applicant hold development approvals over other land in the Local Government Area that will be subject to a levied charge, the refund is to be held as a credit against the parcels of land the subject of the development approval(s);
 - c) Where (a) or (b) do not apply and the applicant or related entities of the applicant:
 - (i) have development applications currently being assessed by Council in the Local Government Area that, if approved, would be subject to a levied charge; and
 - (ii) is the current owner of the land;the refund is to be held as a credit against the land that is the subject of the development applications upon the application(s) being approved.

⁵ Indexed from the date it was levied to date that the establishment cost of the trunk infrastructure was confirmed by Council using the 3-yearly PPI Index average.

- 8.4.2 Demand credits are determined by dividing the monetary value of the refund by the total adopted charge rate for a 3-bedroom dwelling (for applicable networks only) in the charge area in which the demand credits are to be assigned. The value of one demand credit is the total adopted charge (for applicable networks) for a 3-bedroom dwelling in the charge area in which the credit is assigned.

Example:

- A refund of \$100,000 has been calculated for an approved development in Precinct 1 of the Residential Zone.
- The refund is to be held on the land to be used in future stages of the same development.
- The adopted charge for a 3-bedroom dwelling is \$28,000 (for all networks).
- The demand credit is four (4) 3-bedroom dwellings (\$100,000 / \$28,000).

- 8.4.3 Claiming Demand Credit – The demand credits calculated in 8.4.2 are to be multiplied by the current adopted charge rate for a 3-bedroom dwelling in the charge area in which the demand credit was assigned. This amount can be used to reduce the amount of the levied charge that is payable for other development that is subject to the agreement.

8.5 Timing of refund

- 8.5.1 Where infrastructure demand credits do not apply, a cash payment refund will be paid in accordance with the following payment triggers:

- a) for a refund which is an amount that is \$150,000 or less – the refund may be given by 30 June in the financial year following the date the trunk infrastructure contribution was completed;
- b) for a refund which is an amount that is more than \$150,000 but not more than \$300,000 – the refund may be given in installments by 30 June of each financial year for up to 3 years following the date the trunk infrastructure contribution was completed;
- c) for a refund which is more than \$300,000 – the refund may be given in installments by 30 June of each financial year for up to 5 years following the date the trunk infrastructure contribution was completed.

- 8.5.2 Where the refund or part of the refund is not given in the same financial year that it was calculated, the refund or part of the refund provided in the subsequent financial year(s) is to be indexed to the time that it is refunded in accordance with the 3-yearly PPI Index average.

8.6 Infrastructure Agreements

- 8.6.1 Council, at its absolute discretion, may enter into an Infrastructure Agreement where alternatives to the above processes are being sought by an applicant or to address other matters including (but not limited to):

- the method for determining the establishment cost of trunk infrastructure;
- the required charges or trunk infrastructure to be contributed for each component or hierarchy of the network;
- the timing of payment of levied charges;
- the nature and timing of offsets and refunds;
- the nature of any security to be lodged and the details of the use and release of such security;
- details of the trunk infrastructure to be provided and the provision program;

- details of the responsible entity for the funding, design and construction of the trunk infrastructure including land acquisition (if applicable);
 - Limited novation, assignment and rescission provisions to allow an alternate party to construct the same trunk infrastructure detailed in the agreement;
 - Provisions for unforeseen delays and redundancy provisions where a development approval and trunk infrastructure construction activities are held in abeyance;
 - Any other details considered appropriate by the Council.
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Attachment 1 – Methodology for Determining Final Contract Value for Trunk Infrastructure Works

1. Notice of Design with Operational Works

- a) Upon lodgment of the development application for Operational Works, the applicant is to provide Council a formal Notice of Trunk Infrastructure Design (the **Notice of Design**), including a plan which clearly depicts the trunk infrastructure items that is the subject of the necessary trunk infrastructure condition. The plan may be in the same format as the operational works plan; however it must clearly distinguish the trunk infrastructure from any non-trunk infrastructure.
Note: The intent of the Notice of Design process is to attain early agreement as to the scope and nature of the trunk works generally described in the Development Approval.
- b) Council will assess the Notice of Design in conjunction with the Operational Works application and will advise the applicant if Council:
 - (i) agrees; or
 - (ii) agrees with conditions, or
 - (iii) disagrees with the Applicant's Notice of Design.
- c) Once a Design Approval is given which forms part of the Operational Works Approval and Permit, the applicant may then seek to tender the construction of the trunk works.

2. Call for Tender Notification

- a) At the time that the applicant calls for public tenders for the trunk infrastructure works, a notice (a **Notice to Tender**) containing the following information is to be submitted to Council. :
 - (i) Final detailed design documents;
 - (ii) A Bill of Quantities* for the Trunk Works (no costs required) that matches the Trunk Works identified in the Operational Works Approval including the Notice of Design.
 - (iii) Notification of any prospective tenderers that the tender documents have been sent to specifically as part of the open public tender.
 - (iv) The criteria and process for tender assessment that the Applicant and the RPEQ will undergo.

***Note:** The bill of quantities should be presented as a 'separable portion' from the rest of the non-trunk (internal) development works, and in the same format it would be presented to tenderers as part of a tender process. Providing the information in this manner will ensure Council's assessment of the trunk infrastructure design, bill of quantities and costs is seamless and expedited.

3. Tender Assessment of Trunk Works

- a) In procuring the Trunk Works, the following costs can be included in the offset/refund value:
 - (i) the cost of planning and designing the work;
 - (ii) the cost of survey and site investigation for the work;
 - (iii) the cost of relocation of services which are considered necessary to deliver the works in accordance with Council standards;
 - (iv) a cost (fixed or provisional) under a construction contract for the work;
 - (v) contract administration;
 - (vi) construction/engineering supervision;
 - (vii) a portable long service leave payment for a construction contract;

- (viii) an insurance premium for the work;
 - (ix) Council's inspection fee for the commencement and end of the maintenance period for the work;
 - (x) the cost of an approval for the work;
 - (xi) any variations agreed to by Council as a result of agreed site directions including the superintendent of works and the Council officer.
- b) The following is to be excluded from the offset/refund value of the trunk works:
- (i) the cost of carrying out temporary infrastructure;
 - (ii) the cost of carrying out non-trunk infrastructure;
 - (iii) the cost of the decommissioning, removal and rehabilitation of infrastructure identified in (i) and (ii) above;
 - (iv) the part of the trunk infrastructure contribution provided by Council or a person other than the person seeking the infrastructure offset;
 - (v) a cost to the extent that GST is payable and an input tax credit can be claimed for the work;
 - (vi) the cost of carrying out relocation or rehabilitation works for existing infrastructure not directly associated with the supply of trunk works.
- c) In procuring the trunk works, the applicant is to provide to Council a Notice (**Notice of Tender Assessment**) which identifies:
- (i) the tender process conducted;
 - (ii) the tenders received including separable portions and contract values for trunk works within the bill of quantities;
 - (iii) the applicant's preferred tenderer;
 - (iv) the applicant's reason(s) for the preferred tenderer in a tender evaluation report;
 - (v) the terms of the proposed work contract;
 - (vi) a plan for each infrastructure network clearly showing the extent of the works or land for which the infrastructure offset is sought.
- d) Within 10 business days of receiving a Notice of Tender Assessment, Council is to provide a Notice confirming the Contract Value, having regard to matters outlined in this section only.

4. Reconciliation of Final Contract Value

A Reconciliation of Final Contract Value is to occur following lodgment of the earlier of:

- a) an application for 'On Maintenance' with Council for the Trunk Works; or
- b) Lodgment of an Uncompleted Works Bond

If the Applicant has fully completed the Trunk Works and is seeking an 'On Maintenance' certificate from Council for the Trunk Works, the Applicant is to provide to Council a **Notice of Final Contract Value**. The Notice is to include the following:

- a) Copy of RPEQ Certificate(s) of Payment for each Progress Claim for the Trunk Works and any agreed variations;
- b) A reasonable amount of evidence to support any claimed and agreed variations (e.g. consultant reports, weigh bills, meeting minutes with Council officers, design details etc.)
- c) A consolidated Final Bill of Quantities in the same general format as was included in the Notice to Tender, but having regard for (a) and (b) above.

Within five (5) business days of Council's satisfaction that:

1. (a) and (b) above are consistent with the Design Approval and Notice of Tender Assessment; and
 2. 'On Maintenance' being given by Council for the Trunk Works;
- the Council is to confirm the Final Contract Value.

In certain circumstances, and at Council's full discretion, Council may accept a bond for Uncompleted Works prior to the Trunk Works being accepted as 'On Maintenance'. In this circumstance, the following will apply:

If the Applicant has **not** fully completed the Trunk Works and is seeking early Plan Sealing or compliance with Conditions from Council through the signing of an Uncompleted Works Deed, the Applicant is to provide a **Notice of Final Contract Value**. The Notice is to include the following:

- (a) Copy of an RPEQ Certificate of Payment for each Progress Claim for the Trunk Works and any agreed variations to the date of the calculation of remaining works for the purpose of the Uncompleted Works Bond;
- (b) A reasonable amount of evidence to support any claimed and agreed variations (e.g. consultant reports, weigh bills, meeting minutes with Council officers, design details etc.)
- (c) An RPEQ certified assessment in line with the quantities and costs of remaining works specified for the Trunk Works component in the Uncompleted Works Deed submitted to Council;
- (d) A consolidated Final Bill of Quantities in the same general format as was included in the Notice to Tender, but having regard for (a) and (b) above, and including the estimated amount in line with (c) above.

Within 5 business days of Council's satisfaction that:

- 1. (a) and (b) above are consistent with the Design Approval and Notice of Procurement; and
- 2. The acceptance of an Uncompleted Works Deed by Council for the Trunk Works; the Council is to confirm the Final Contract Value.
