

# Infrastructure charges - Keeping it simple

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Infrastructure charges are undoubtedly the least favoured topic in town planning. The regime is considered difficult to navigate due to the number of documents which need to be consulted. However, once you know where everything is located, and understand the particular terms used and how the system operates, it is actually quite simple and straightforward.

## Infrastructure charges funding higher-order (trunk) infrastructure

Infrastructure charges are used to fund the supply of local government trunk infrastructure networks – sewerage, water supply, transport, community purposes and stormwater.<sup>1</sup> Trunk infrastructure services multiple developments or an entire catchment as opposed to non-trunk infrastructure which may only service a particular property, or that is internal to a development.

## The adopted infrastructure charges regime

Infrastructure charges are triggered when development occurs on land that creates extra demand on the trunk infrastructure networks. Infrastructure charges are regulated under the *Planning Act 2016 (the Act)* and through local government resolutions. The Act permits local governments to adopt infrastructure charges by making a resolution (called a charges resolution)<sup>2</sup> and levy those charges by issuing an infrastructure charges notice (**ICN**) when development approvals are issued.<sup>3</sup>

## Charges are capped by the state

The charges' dollar value is capped by the State government. A local government is permitted to adopt a charge for a particular use of land up to the maximum set by the State. The maximum charges are prescribed in the Planning Regulation 2017.<sup>4</sup> By way of example, the maximum adopted charge for a development involving:<sup>5</sup>

- a dwelling house (involving 3 or more bedrooms) is \$28,335.90; and
- an office is \$141.65/m<sup>2</sup> of gross floor area (**GFA**) and \$10.10/m<sup>2</sup> impervious to stormwater.

Use	Demand unit	Sewerage network charge	Water supply network charge	Transport, community purposes and stormwater networks total charge	Total adopted charge (per demand unit)
Residential	1 or 2 bedroom dwelling	\$6,774.47	\$3,336.68	\$10,111.15	\$20,222.30
	3 or more bedroom dwelling	\$9,484.25	\$4,671.35	\$14,155.60	\$28,311.20

Use	Demand unit	Sewerage network charge	Water supply network charge	Transport, community purposes and stormwater networks total charge	Total adopted charge (per demand unit)
Accommodation	Suite with 1 or 2 bedrooms	\$3,387.24	\$1,668.34	\$4,044.46	\$9,100.04
	Suite with 3 or more bedrooms	\$4,742.13	\$2,335.68	\$6,066.69	\$13,144.50

## Charges resolution

The charges resolution outlines which charges have been adopted by the local government for uses of land and reconfiguring a lot. The resolution will also detail how an infrastructure charge is 'calculated', including how credits, offsets and refunds are recognised and applied. The charges apply when development involves reconfiguring a lot, material change of use of premises, or building work. Above is an extract of the adopted charges for material change of use or building work for residential development under the Brisbane Infrastructure Charges Resolution (No. 6) 2017.<sup>6</sup> The figure in the far right column identifies the total adopted charge (made up of the charge attributable to each of the infrastructure networks) for the specified uses of land.

## Infrastructure credits

Infrastructure charges are only payable for the extra demand that development places upon trunk infrastructure.<sup>7</sup> Existing and previous lawful uses of land do not create 'extra demand' and are credited against the total charge. A simple example is an application to subdivide one lot into four lots where there is an existing three bedroom house on the original lot. The infrastructure charges for the four new lots (to be used for three bedroom houses) is  $\$28,311.20^8 \times 4 = \$113,244.80$ . However, because there is an existing three bedroom house, a credit of \$28,311.20 is applied for that existing use. The total infrastructure charges payable is  $(\$28,311.20 \times 4) - \$28,311.20 = \$84,933.60$ . The situation is different when crediting money or financial contributions that may have been paid under historical development approvals or rezoning approvals. The Act does not require local governments to recognise these payments against charges triggered for new development (over the same land). It is at the local government's discretion to recognise these payments or not, and it will be dealt with in the charges resolution. Some local governments for example, will only recognise certain charges and contributions that have been paid under historical planning schemes and planning scheme policies.<sup>9</sup>

## Infrastructure 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 ICN will still be issued where adopted infrastructures apply).<sup>10</sup> Where the cost of providing the trunk infrastructure is greater than the infrastructure charges, a refund will be paid to the developer.

## Levying charges - infrastructure charges notices

Infrastructure charges are 'levied' on development by issuing ICNs. The Act states that in circumstances where a development approval has been issued, and an adopted charge applies for providing trunk infrastructure to service the development (i.e. the charge identified in the charges resolution for the particular use of land), then the local government must issue an ICN for the development.<sup>11</sup> The ICN will detail the total charge payable (including details of any credit) offset or refund which might be applicable.

### When charges are payable

The charges stated in an ICN will become payable in each of the following circumstances:<sup>12</sup>

- **reconfiguring a lot:** the charge becomes payable when the plan of subdivision for the reconfiguration is approved by the local government;
- **building work:** the charge becomes payable when the final inspection certificate for the building work, or the certificate of classification for the building, is given; or
- **material change of use:** the charge becomes payable when the change in use happens.

### Calculating the total charge payable for a development

The table below outlines an example of the infrastructure charges that would be payable under the Brisbane Infrastructure Charges Resolution (No. 6) 2017 for a redevelopment of two lots (with one lot containing an existing three bedroom dwelling) into a service station which has a GFA of 600m<sup>2</sup> and a total area impervious to stormwater of 700m<sup>2</sup>.<sup>13</sup>

Category	Sub-category	Demand unit	Development demand	Demand credit	Extra demand	Levied charge
<b>Material change of use (non-residential transport &amp; community purposes)</b>						
Non-residential commercial (retail)	Service station	m <sup>2</sup> GFA x \$145.60	600	0	600	\$87,360.00
<b>Material change of use (non-residential stormwater)</b>						
Non-residential stormwater	Stormwater impervious area	Impervious area in m <sup>2</sup> x \$10.10	700	0	700	\$7,070.00
<b>Material change of use (residential transport, community purposes &amp; stormwater)</b>						
Residential	Dwelling house - 3 bedroom dwelling	Number of 3 bedroom dwellings x \$14,155.60	0	1	-1	-\$14,155.60
<b>Total charge</b>						<b>\$80,274.40</b>

In this scenario, the charges for the service station are triggered by reference to both the GFA of the service station (for transport and community purposes infrastructure) and by reference to the total area of the service station which is impervious to stormwater (for stormwater infrastructure). The area of each (600m<sup>2</sup> and 700m<sup>2</sup> respectively) represents the 'extra demand' that is placed upon the trunk infrastructure networks as a result of the development. This is multiplied by the demand unit specified

in the charges resolution to get the resultant levied charge. As there is an existing three bedroom dwelling on one of the lots (to be replaced by the service station), a credit for that existing use is applied which reduces charges payable by \$14,155.60. In the above table, this is recognised as a 'demand credit'.

If there was an existing non-residential use on the land (such as an old shop), in addition to the existing residential use, the GFA and area impervious to stormwater of that non-residential use would be shown as a demand credit against the non-residential charge, further reducing the total levied charge payable.

## Conclusion

The infrastructure charging system can seem overwhelming, but the complexities resolve once the key documents are identified and the key terms understood. It is then possible, in many cases, to obtain a positive outcome. A lot of the focus tends to be on infrastructure offsets and refunds, which are associated with delivery of large items of trunk infrastructure. However, it is also important to ensure credits for existing uses must be recognised (including existing impervious area) and to remember the overall control – there can be no infrastructure charge if there is no extra demand on the network.

For more information or discussion, please contact our [Planning team](#).

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1 In some local government areas, the sewerage and water supply infrastructure networks are managed by distributor-retailers

2 Act, s113

3 Act, s119

4 Schedule 16

5 Current as at 27 October 2017

6 Which applies to development applications decided from 3 July 2017

7 Act, s120

8 The amount prescribed in the Brisbane Infrastructure Charges Resolution (No. 6) 2017

9 Council of City of Gold Coast Charges Resolution (No. 2 of 2016)

10 Act, s129

11 The same applies under the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 where a distributor-retailer issues a water approval and an adopted charge applies for providing trunk infrastructure

12 Act, s122

13 Note that an ICN would also be issued by Queensland Urban Utilities for water supply and sewerage infrastructure charges

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