

## Purpose

The purpose of this policy is to provide a guidance for administering infrastructure charges revenue through development approvals as well as through Council's own internal processes and has been developed to aid Council in its compliance with the infrastructure charges legislative obligations, pursuant to the *Planning Act 2016*.

## Scope

This policy is applicable to all trunk infrastructure asset providers (both internal and external to Council).

## Applicable Legislation

This policy is pursuant to Chapter 4 of the *Planning Act 2016*.

## Policy Statement

### 1.0 Introduction

Infrastructure charges revenue is used by the Whitsunday Regional Council (Council) to fund new trunk infrastructure to service development and increase standards of service in existing areas.

The release of infrastructure charges revenue can occur in two ways. The first of is through the development approval process, which requires developments to be conditioned to provide trunk infrastructure. The second method is internal – where Council is responsible for procuring the trunk infrastructure or delivering the trunk infrastructure itself.

When administering infrastructure charges revenue under each method, many of the matters to be considered by Council staff will be similar. It is often only the process by which the outcome is implemented that differs.

This Infrastructure Charges Administration Policy (ICAP) provides Council with a policy position for administering infrastructure charges revenue through development approvals as well as through Council's own internal processes and has been developed to aid Council in its compliance with the infrastructure charges legislative obligations, pursuant to the *Planning Act 2016*.

## 2.0 Overview of infrastructure funding responsibilities under the Planning Act 2016

Council is responsible for planning its trunk infrastructure networks to ensure that urban development is serviced with infrastructure in a co-ordinated, efficient and financially sustainable manner. If it wants to impose infrastructure charges to help fund this infrastructure, the *Planning Act 2016* (the Act) requires a Local Government Infrastructure Plan (LGIP) to be prepared. The LGIP forms Part 4 and Schedule 3 of the Whitsunday Regional Council Planning Scheme (the Scheme).

The preparation of an LGIP is an iterative process that involves the following key steps:

- preparation of development and infrastructure demand projections;
- preparation of an infrastructure servicing strategy;
- preparation of an infrastructure plan, which:
  - o identifies a priority infrastructure area; and
  - o identifies trunk infrastructure necessary to service projected demand within the priority infrastructure area;
- calculation of the cost of the identified trunk infrastructure; and
- undertake a financial analysis, which considers:
  - o the trunk infrastructure budget over the term of the infrastructure plan (e.g. infrastructure charges revenue, other revenues);
  - o projected infrastructure expenditure over the term of the infrastructure plan; and
  - o the feasibility of funding the identified trunk infrastructure over the term of the infrastructure plan.

Whilst infrastructure identified in an LGIP may be delivered by Council or by developers as conditions of development approvals, its funding remains the responsibility of Council. Developers contribute to this funding by paying infrastructure charges which are commensurate with the demand for trunk infrastructure created by their development.

To ensure that Council's financial sustainability is not adversely impacted by having to fund the cost of infrastructure it had not anticipated in the LGIP, Chapter 4, Part 2 of the Act provides Council with a suite of powers to address this issue. These powers allow Council to condition developers to fund the delivery of the following development infrastructure made necessary by development:

- non-trunk infrastructure – infrastructure which services a limited number of users or is internal to a premises; and
- trunk infrastructure which services development that is inconsistent with the planning assumptions about the type, scale, location and timing of future development used in the LGIP and which results in extra trunk infrastructure costs to Council.

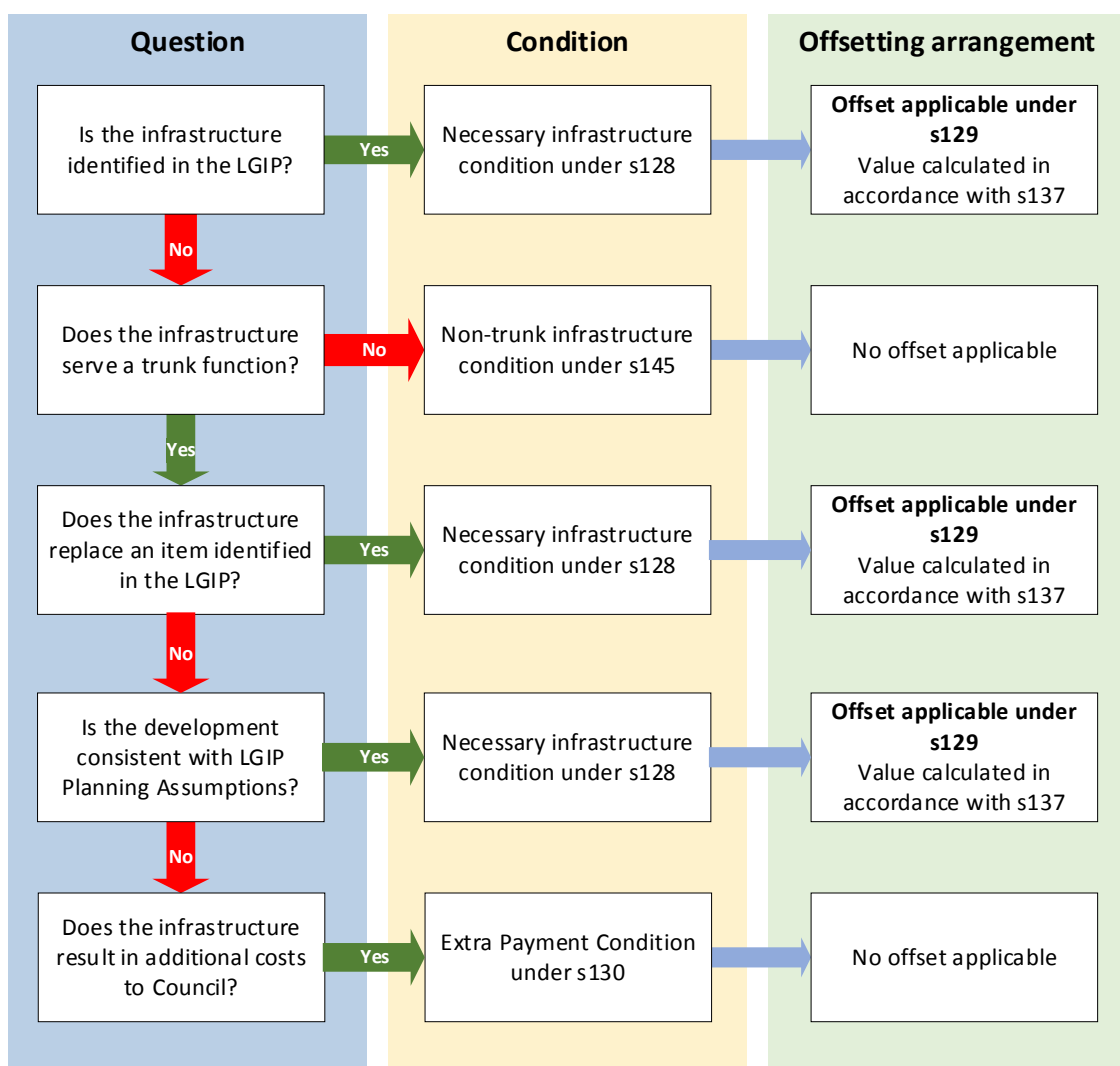
The correct implementation of these powers is important because Council's funding obligation for infrastructure is crystallised at the time the condition about infrastructure is imposed on a development approval.

### 3.0 Trunk infrastructure provided by developer – decision tree

Chapter 4, Part 2 of the Act provides Council with a suite of powers which allow it to condition development to provide development infrastructure. These powers allow Council to fairly allocate infrastructure costs between developer and Council, whilst also providing Council with the opportunity to have its program of trunk infrastructure delivered by developers.

To achieve these outcomes, Council must ask a series of questions about the subject infrastructure prior to imposing a condition on the development approval. Where these questions are posed in the correct order, the answers will direct Council to the appropriate conditioning power, and where relevant, the offsetting rules applicable to that development infrastructure.

The following decision tree summarises this process. Information concerning how Council is to answer each question within the decision tree is provided below.



### *Is the infrastructure identified in the LGIP?*

Infrastructure which is identified in an LGIP is defined by the Act to be trunk infrastructure. Council must consider the infrastructure to be trunk infrastructure.

Outcome	Decision
Infrastructure is identified in LGIP.	Council may impose a necessary trunk infrastructure condition.  A necessary trunk infrastructure condition creates a trunk infrastructure funding liability for Council. Accordingly, approval must be sought from the Manager Strategic Planning prior to the condition being imposed.
Infrastructure not identified in LGIP.	Proceed to next question in decision tree.

### *Does the infrastructure serve a trunk function?*

If the infrastructure is not identified in Council's LGIP, it must decide whether the infrastructure required to service the development is trunk infrastructure. To assist with this decision, the trunk infrastructure criteria stated in Council's Infrastructure Charges Resolution should be considered.

Outcome	Decision
Infrastructure does not serve a trunk function (non-trunk infrastructure).	Council must impose a non-trunk infrastructure condition.
Infrastructure serves a trunk function (trunk infrastructure).	Proceed to next question in decision tree.

### *Does the infrastructure replace an item identified in the LGIP?*

If the infrastructure is determined to be trunk infrastructure but is not identified in the LGIP, Council must ask whether the infrastructure replaces infrastructure identified in the LGIP. Because planning within the LGIP is typically undertaken at a master planning level, it is often the case that the infrastructure planning will be refined and changed over time. Where trunk infrastructure is different to an item identified in the LGIP but delivers the same standard of service as the identified item, it should be considered to replace the identified infrastructure. Expenditure on this item of infrastructure is therefore considered to have already been contemplated and endorsed by Council as part of the LGIP preparation.

Outcome	Decision
Infrastructure replaces an item identified in the LGIP.	<p>Council may impose a necessary trunk infrastructure condition.</p> <p>A necessary trunk infrastructure condition creates a trunk infrastructure funding liability for Council. Accordingly, approval must be sought from the Manager Strategic Planning prior to the condition being imposed.</p>
Infrastructure not replacing an item identified in the LGIP.	Proceed to next question in decision tree.

### *Is the development consistent with LGIP planning assumptions?*

If the infrastructure is determined to be trunk infrastructure but is not identified in the LGIP and does not replace identified infrastructure in the LGIP, Council must consider whether the development requiring the infrastructure is consistent with the LGIP planning assumptions about the type, scale location and timing of development in the area.

Despite Council having undertaken planning of its trunk infrastructure networks to service forecast development, there will be occasions where the identified trunk infrastructure is not adequate to service development that is consistent with the assumptions in Council's LGIP. In these instances, the infrastructure must be considered necessary trunk infrastructure.

If the development is located outside of the Priority Infrastructure Area (PIA) as identified in the LGIP maps in Schedule 3 of the Scheme, the development cannot be considered consistent with the LGIP planning assumptions. Therefore, the trunk infrastructure associated with the development cannot be considered to be necessary trunk infrastructure.

Outcome	Decision
The development is consistent with the LGIP planning assumptions and is located inside the PIA.	<p>Trunk infrastructure associated with the development is necessary trunk infrastructure. Council may impose a necessary trunk infrastructure condition.</p> <p>A necessary trunk infrastructure condition creates a trunk infrastructure funding liability for Council. Accordingly, approval must be sought from the Manager Strategic Planning prior to the condition being imposed to ensure alignment with the LGIP.</p>
The development is not consistent with LGIP planning assumptions and/or is located outside the PIA.	Trunk infrastructure associated with the development is not necessary trunk infrastructure. Proceed to next question in decision tree.

*Does the development result in extra trunk infrastructure costs to Council?*

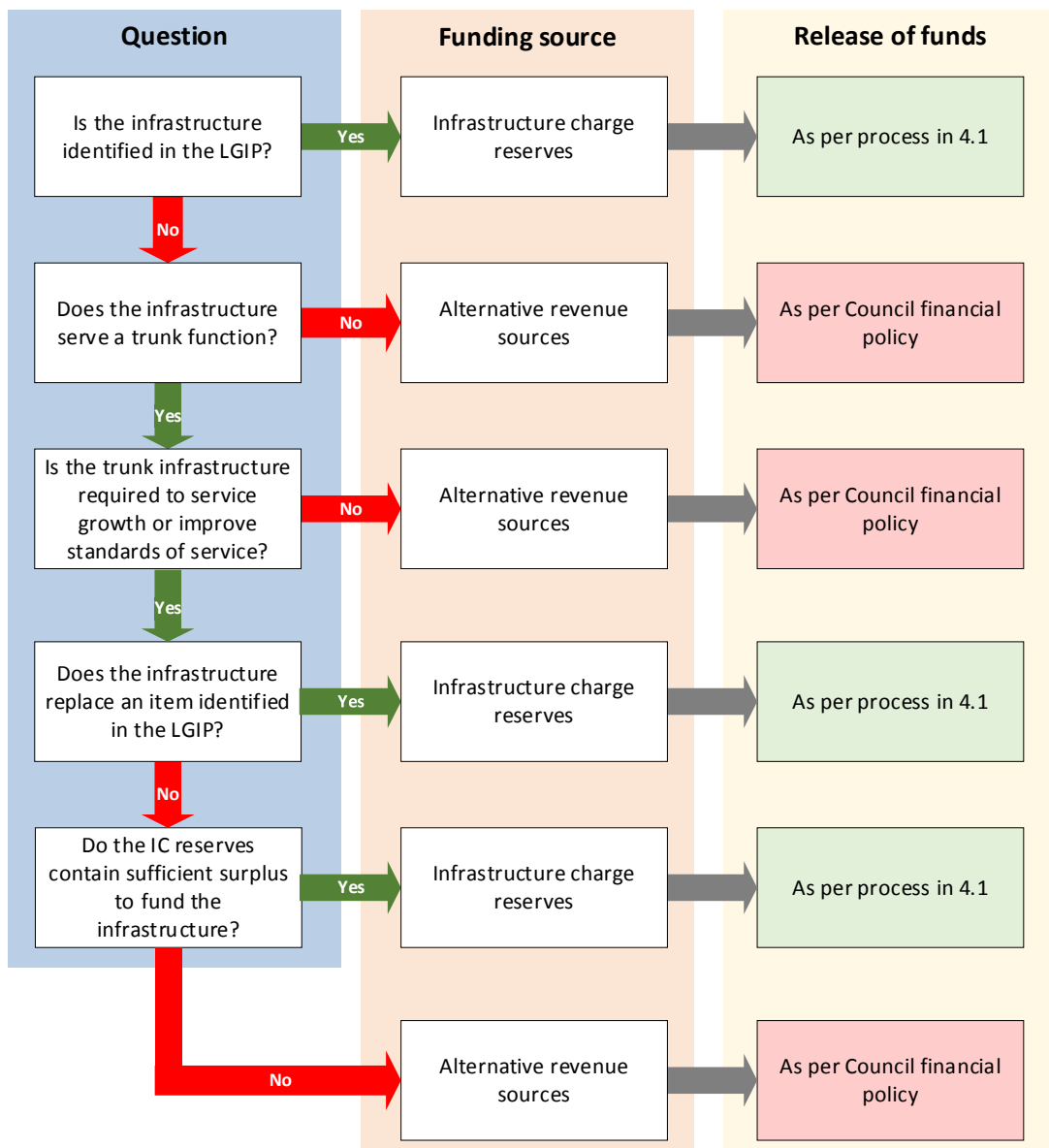
If the infrastructure is determined to be trunk infrastructure but the development it is required to service is not consistent with the LGIP planning assumptions and/or is located outside the PIA, Council must consider whether the infrastructure imposes an extra infrastructure cost on Council. Guidance on how an extra trunk infrastructure cost is determined is provided in Appendix 1 the ICAP.

Outcome	Decision
It is determined that the trunk infrastructure is an extra trunk infrastructure cost to Council.	<p>Council may impose an extra payment condition for the cost of the extra trunk infrastructure cost – <i>refer Appendix 1 of the ICAP.</i></p> <p>Approval must be sought from the Manager Strategic Planning prior to imposing an extra payment condition requiring the payment of extra trunk infrastructure costs.</p>
It is determined that the trunk infrastructure is not an extra trunk infrastructure cost to Council.	<p>Where trunk infrastructure associated with a development that is inconsistent with LGIP planning assumptions does not result in extra trunk infrastructure costs, Council cannot use the extra payment or necessary trunk infrastructure conditioning powers to require the developer to provide the infrastructure. Accordingly, it must provide the extra trunk infrastructure through its internal processes.</p> <p>If Council prefers that the applicant provide the extra trunk infrastructure, it must enter into an infrastructure agreement with the applicant to achieve this on agreed terms.</p>

### 4.0 Trunk infrastructure provided by Council – decision tree

On a periodic basis, Council will identify trunk infrastructure to be funded by infrastructure charges and which will be delivered by Council through its internal process. The trunk infrastructure will usually be infrastructure already identified in the LGIP but may also have been identified in subsequent planning or through the development approvals process.

Infrastructure charges revenue must only be released to fund infrastructure delivered by Council if that infrastructure is trunk infrastructure which meets the desired standards of service of Council. The following process is to be followed.



### *Is the infrastructure identified in the LGIP?*

Council collects infrastructure charges to fund the delivery of infrastructure identified in its LGIP. Accordingly, if an infrastructure item is identified within an LGIP then its delivery should be funded from infrastructure charges revenue.

Outcome	Decision
Infrastructure is identified in LGIP.	Where infrastructure charge reserves are sufficient, Council is to fund the delivery of the infrastructure through the infrastructure charge reserves.  The process for approving the use of infrastructure charges revenue to fund trunk infrastructure undertaken internally is provided in section 4.1.
Infrastructure not identified in LGIP.	Proceed to next question in decision tree.

### *Does the infrastructure serve a trunk function?*

Council must decide whether the infrastructure is trunk infrastructure. To assist with this decision, the trunk infrastructure criteria stated in Whitsunday Shire Council's Infrastructure Charges Resolution should be considered.

Outcome	Decision
Infrastructure does not serve a trunk function (non-trunk infrastructure).	The infrastructure cannot be funded through infrastructure charge reserves.
Infrastructure serves a trunk function (trunk infrastructure).	Proceed to next question in decision tree.

### *Is the trunk infrastructure required to service growth or improve standards of service?*

If the infrastructure is trunk infrastructure but is not identified in the LGIP, Council should ask whether the trunk infrastructure is required to service growth or meet standards of service. In this regard, infrastructure charges may only be used to fund the delivery of trunk infrastructure required to service growth or to meet standards of service. Replacement or maintenance of existing infrastructure is not able to be funded through infrastructure charges.

Outcome	Decision
The trunk infrastructure is not required to service growth or to meet standards of service.	The infrastructure cannot be funded through infrastructure charge reserves.
The trunk infrastructure is required to service growth or to meet standards of service.	Proceed to next question in decision tree.



### *Does the infrastructure replace an item identified in the LGIP?*

If the infrastructure is determined to be trunk infrastructure, is required to service growth or to meet the DSS but is not identified in the LGIP, Council must ask whether the infrastructure replaces infrastructure identified in the LGIP. Because planning within the LGIP is typically undertaken at a master planning level, it is often the case that the infrastructure planning will be refined and changed over time. Accordingly, where trunk infrastructure is proposed that replaces an item identified in the LGIP, expenditure on this item of infrastructure should be funded through infrastructure charge reserves.

Outcome	Decision
Infrastructure replaces an item identified in the LGIP.	Where infrastructure charge reserves are sufficient, Council may fund the delivery of the infrastructure through the infrastructure charge reserves.  The process for approving the use of infrastructure charges revenue to fund trunk infrastructure undertaken internally is provided in section 4.1.
Infrastructure does not replace an item identified in the LGIP.	Proceed to next question in decision tree.

### *Do the infrastructure charge reserves contain sufficient surplus to fund the delivery of the infrastructure?*

Where infrastructure is trunk infrastructure that is required to service growth or to meet the DSS but was not anticipated at the time the LGIP was prepared, it may be funded from infrastructure charges revenue if there are sufficient funds in infrastructure charge reserves to fund its delivery. Where this is not the case, alternative funding sources will need to be identified.

Outcome	Decision
Infrastructure charge reserves contain sufficient surplus to fund the delivery of the infrastructure.	Fund the delivery of the infrastructure through the infrastructure charge reserves.  The process for approving the use of infrastructure charges revenue to fund trunk infrastructure undertaken internally is provided in section 4.1.
Infrastructure charge reserves do not contain sufficient surplus to fund the delivery of the infrastructure.	Project delivery cannot be funded through infrastructure charge reserves.

### 4.1 Process for releasing funds from infrastructure charge reserves

If Council has determined that trunk infrastructure (the works) to be delivered by Council through its internal process can be funded by infrastructure charges revenue, it must use the following process to apply these funds.

1. Funding approval for the works must be given by the Manager Strategic Planning prior to delivery of the works commencing.
2. Throughout the construction phase of the trunk infrastructure project the project manager must ensure all relevant DSS and Council's Development Manual obligations are complied with to the satisfaction of both the Asset Owner and the Development Assessment Manager.
3. Once the works are completed, the project owner must provide written confirmation to the Manager Strategic Planning that the completed works meet Council's DSS. If the works do not meet Council's DSS, the project owner is to provide a written explanation as to why they have not been met and any implications for Council by not having met the DSS.
4. If the Manager Strategic Planning has received written confirmation that the completed works meet the DSS, the Manager Strategic Planning must support the release of the infrastructure charges funds to reimburse the asset provider.
5. If the Manager Strategic Planning has received written confirmation that the completed works do not meet the DSS, the Manager Strategic Planning may:
  - a. support the release the infrastructure charges funds, if the implications to Council of the works not meeting the DSS are considered minor, by way of a signed and dated memo to Council's Chief Financial Officer (CFO); or
  - b. recommend refusal of the reimbursement and release the infrastructure charges funds, if the implications of the works not meeting the DSS are that the works are unable to perform their trunk function, by way of a signed and dated statement of reasons to asset provider.
6. If the Manager Strategic Planning has recommended refusal of the release of infrastructure charges funds to fund the works, the works must be funded by Council from an alternative revenue source.
7. For the avoidance of doubt, the asset provider must, by Council resolution, seek approval to depart from the DSS or seek approval to fund the works from an alternate funding source, and must include the Manager Strategic Planning's statement of reasons for not supporting the reimbursement request.

### 5.0 Post development approval processes related to infrastructure charges

Council administers two post development approval processes under the Act that are related to infrastructure charges and which have financial implications for Council. These approval processes are:

- A request to recalculate the establishment cost of trunk infrastructure pursuant to section 137 of the Act; and
- An application to convert non-trunk infrastructure to trunk infrastructure pursuant to section 139 of the Act.

Advice concerning the administration of these processes is provided below.

### 5.1 Recalculation of establishment cost of trunk infrastructure

Where Council has imposed a condition on a development approval to provide necessary trunk infrastructure under section 128 of the Act, it must also give the applicant an infrastructure charges notice that includes information about an offset or refund relating to the establishment cost of the trunk infrastructure.

If the applicant does not agree with the amount of the establishment cost stated in the infrastructure charges notice and has not paid the levied charge under the notice, the applicant may by written notice request that Council recalculate the establishment cost of the trunk infrastructure.

Having received the written notice, Council must recalculate the establishment cost of the trunk infrastructure using the method for working out the cost of infrastructure included in its Infrastructure Charges Resolution.

Within Council's infrastructure charges resolution, the relevant sections for recalculating the establishment cost of a trunk infrastructure contribution are as follows:

- For a trunk infrastructure contribution that is works – refer to Section 9.5 of the infrastructure charges resolution; or
- For a trunk infrastructure contribution that is land – refer to section 9.6 of the infrastructure charges resolution.

### 5.2 Application to convert non-trunk infrastructure to trunk infrastructure

The categorisation of infrastructure as either trunk infrastructure or non-trunk infrastructure can be difficult and sometimes trunk infrastructure may be incorrectly conditioned to be provided as non-trunk infrastructure. For this reason, the Act provides a process for applicants to apply to convert non-trunk infrastructure into trunk infrastructure.

The Act requires Council to include criteria in its infrastructure charges resolution for deciding a conversion application. The Act also requires the criteria to be consistent with parameters for the criteria provided for under a guideline made by the Minister.

Council has included criteria for deciding a conversion application in section 10 of its infrastructure charges resolution.

It is important that Council staff administering an application to convert non-trunk infrastructure to trunk infrastructure recognise that if the application is successful, Council must fund the trunk infrastructure. Council may however achieve the delivery of the infrastructure in two ways:

- If Council wants to have the developer deliver the infrastructure, it may amend the development approval by imposing a necessary trunk infrastructure condition. Council will fund the delivery of the infrastructure by providing offsets against infrastructure charges; and
- If Council chooses to provide the trunk infrastructure itself, it must release infrastructure charges revenue through its own internal process.

Accordingly, the process detailed within sections 3.0 and 4.0 of the ICAP should be considered following a decision to convert non-trunk infrastructure to trunk infrastructure.

## APPENDIX 1 – DETERMINING EXTRA TRUNK INFRASTRUCTURE COSTS

### Extra trunk infrastructure costs

Section 130 of the Act allows Council, in certain circumstances, to impose an extra payment condition on development if the development will impose extra trunk infrastructure costs on Council. In deciding whether the development imposes extra trunk infrastructure costs, Council must take into account:

- levied charges for the development; and
- trunk infrastructure provided, or to be provided, by the applicant.

The circumstances in which Council may consider imposing an extra payment condition are as follows:

- the development will generate infrastructure demand of more than that required to service the type or scale of future development assumed in the LGIP; or
- the development requires trunk infrastructure to be provided earlier than when identified in the LGIP; or
- the development is for premises located completely or partly outside the PIA.

Advice about imposing an extra payment condition in these circumstances is provided as follows:

***(i) The development will generate infrastructure demand of more than that required to service the type or scale of future development assumed in the LGIP (inside the PIA)***

Where a proposed development is inconsistent with the LGIP assumptions about the type or scale of development assumed for that area, the development may generate infrastructure demand which exceeds the capacity of the existing and planned trunk infrastructure.

For example, if an application proposes development of 140 dwellings per hectare in an area that was planned to accommodate a dwelling density of 25 dwellings per hectare, there will be more demand for infrastructure than Council's LGIP had planned to service.

In situations such as these, Council should consider how much extra demand is being created and decide whether this will result in a need for extra trunk infrastructure. This information should be provided by the applicant when the application is made.

If extra trunk infrastructure is needed, Council must then consider whether an extra payment is required after taking into account the charges to be levied for the development.

***(ii) The development requires trunk infrastructure to be provided earlier than when identified in the LGIP (inside the PIA)***

Where a proposed development is inconsistent with the LGIP assumptions about the timing of development assumed for the area, the development may require trunk infrastructure to be provided earlier than when identified in the LGIP.

For example, an application may propose to develop an area in 2018 that the LGIP did not anticipate developing until 2026. This will mean that trunk infrastructure identified in the LGIP to service the area would need to be provided in 2018 instead of 2026 as per the timing within the LGIP.

In situations such as these, Council should consider whether providing the trunk infrastructure earlier than identified in the LGIP can be achieved within its budget constraints.

If Council decides that the infrastructure can be provided earlier than identified in the LGIP without adverse impact on Council's budget, Council must not impose an extra payment condition and should provide the extra trunk infrastructure through its internal processes. If Council prefers that the applicant provide the trunk infrastructure, it may enter into an agreement with the applicant to achieve this outcome on agreed terms.

If Council decides that its current budget constraints do not allow it to fund the provision of the trunk infrastructure earlier than identified in the LGIP, it may impose an extra payment condition for the extra establishment cost that it incurs.

Alternatively, if the applicant elects to provide the extra trunk infrastructure, Council may enter into an infrastructure agreement with the applicant on agreed terms.

### *(iii) The development is for premises located completely or partly outside the PIA*

Where a proposed development is located completely or partly outside the PIA, the development will be inconsistent with Council's assumptions in its LGIP about the type, scale, timing and location of development. As a consequence, the development may

- require extra trunk infrastructure inside or outside the PIA; and/or
- require trunk infrastructure to be provided earlier than when identified in the LGIP.

Where development is proposed outside the PIA, Council should determine how much extra demand is being created and decide whether this will result in a need for extra trunk infrastructure within or outside the PIA. It should also decide whether trunk infrastructure identified in the LGIP is required to be provided earlier than planned. This information should be provided by the applicant at the time of application.

If no extra trunk infrastructure is necessary to service the development, Council may not impose an extra payment condition for trunk infrastructure.

If extra trunk infrastructure is made necessary by the development or required to be provided earlier than when identified in the LGIP, Council must consider whether the development would impose extra trunk infrastructure costs on Council after taking into account the infrastructure charges to be levied on the development.

If after taking account of the levied charges, Council decides that the development does not impose extra trunk infrastructure costs, it may not impose an extra payment condition on the approval. Council is required to provide the extra trunk infrastructure. If Council prefers that the applicant provide the extra trunk infrastructure, it may enter into an agreement with the applicant to achieve this on agreed terms.

If after taking account of the levied charges, Council decides that the development does impose extra trunk infrastructure costs, Council may impose an extra payment condition for the extra trunk infrastructure. Alternatively, if the applicant elects to provide the extra trunk infrastructure, Council may enter into an infrastructure agreement with the applicant to achieve this on agreed terms.

## Definitions

**CEO** refers to the Chief Executive Officer of the Whitsunday Regional Council appointed in accordance with the *Local Government Act 2009*.

**Council** refers to the Whitsunday Regional Council

**Employee** refers to any employee, contractor, volunteer etc. of the Council



# Infrastructure Charges Administration Policy

## Planning & Development

### Relating Documents

The Planning Act 2016

Local Government Infrastructure Plan (being Part 4 and Section 3 of the Whitsunday Regional Council Planning Scheme)

Development Manual (being Section 6.8 of the Whitsunday Regional Council Planning Scheme)

### Effective Date

The Infrastructure Charges Administration Policy will have effect on and from 29 June 2018.

### Review Date

The Infrastructure Charges Administration Policy will be reviewed on or before 29 June 2021.