

Policy Type	Corporate
Function	Development and Building Controls
Policy Owner	Manager Planning and Development
Policy Contact	Manager Planning and Development
Effective Date	8 April 2025

## Purpose

Council is wanting to exercise its discretion to provide financial assistance to eligible development through the application of reduced infrastructure charges where an existing but unlawful use is regularised by a development permit, commencing on 27 November 2024.

Council adopts and levies infrastructure charges for development through the regime established by the *Planning Act 2016 (Qld)* (Planning Act). Infrastructure charges are levied by giving an Infrastructure Charges Notice (ICN). The Planning Act imposes a positive obligation on Council to issue an ICN to an applicant if a development approval has been given and an adopted charge applies to providing trunk infrastructure for the development, i.e. Council "must" under the Planning Act, give an ICN. Council has adopted charges for providing trunk infrastructure for the purposes of the Planning Act by making the Infrastructure Charges Resolution No. 2 2018 (Charges Resolution).

## Scope

This policy outlines the Council's consideration of the infrastructure charging regime and subsidies available for the circumstances this policy applies to and establishes the criteria for eligibility.

The policy will ensure consistency in application and provide certainty to applicants.

Development that is ineligible for any subsidies will be subject to Council's Adopted Infrastructure Charges Resolution, pursuant to the *Planning Act 2016*.

## Policy Statement

### Applicability

This policy is applicable to a material change of use of premises where the change of use was assessable development:

- prior to 13 July 2018 (when the LGIP took effect); and
  - the site does not have existing lawful use rights established for the previous/current use,
- and the applicant is seeking to have discounts applied for the existing use calculated and applied in the ICN for the development permit.

Any decision to grant a discount under this policy will be made via Council resolution at its absolute discretion at a full Council meeting.

## Eligibility

All of the following criteria must be met to be eligible:

- a) a properly made application is received by Council to regularise: -
  - i. the whole of the existing use on the development site; or
  - ii. the whole of the existing use together with changes or an increase in scale or intensity to the existing use on the development site; and
- b) the existing use of the development site sought to be regularised: -
  - i. commenced prior to 13 July 2018; and
  - ii. does not have the benefit of existing use rights.

*Note: This policy does not apply to the exclusions identified below.*

## Infrastructure Charges Reduction Support

Where the eligibility requirements of this policy are met, Council when deciding on the level of support to be offered to an existing unlawful development may consider the following:

- i. The existing use and its development footprint at the time of Council's consideration of the request.
- ii. What trunk infrastructure was in place on 12 July 2018 (being the day before the LGIP commenced).
- iii. What trunk infrastructure has been in place from 13 July 2018 (being the day the LGIP came into effect) to the time of Council's consideration of the request.

*Note: (a) A maximum 50% discount may be applied at Council's absolute discretion to the total amount of infrastructure charges calculated for the existing development footprint present on site between the 1 January 2018 to 31 March 2025 timeframe, with no discount to apply to any actual or proposed increases to the development footprint from 1 April 2025 to the time of Council's consideration of the request.*

*(b) Infrastructure Charges waivers are capped at \$250,000 per eligible development site.*

*(c) The levied charge, including any reduced levied charge, will be subject to automatic increase in accordance with the provisions of the Planning Act, the relevant charges resolution, the relevant infrastructure charges notice and any other relevant policy of Council.*

## How to apply

An entity must make a written request to Council under this policy in a form approved by Council and must demonstrate:

- a) all of the applicable eligibility criteria have been satisfied;
- b) the development has not (and will not) received a benefit under another development incentive of Council; and
- c) the request is made by the eligible entity or an entity who is not the eligible entity if that entity has the written consent of the eligible entity.

## Exclusions

This policy does not apply to:

1. New development on vacant land that has never been used for a development that is assessable development under the Planning Scheme and the development site does not contain any existing buildings or structures that comprise defined gross floor area (GFA) and/or other trunk infrastructure that is defined as being recognised for credit under Council's current LGIP.
2. An ICN for a development approval where infrastructure charges levied by Council have been paid.
3. Government-funded projects.

## Risk Management

This policy will be reviewed for applicability, effectiveness, and consistency with relevant legislation, Council resolutions, and other Council documents. Timing of reviews is included at the conclusion of this document under the heading "Document History and Version Control".

## Legislation

*Local Government Act 2009*

*Planning Act 2016*

*2022 Burdekin Shire Council Planning Scheme*

## Definitions and Abbreviations

In this policy a term that is not defined below has the meaning given in *2022 Burdekin Shire Council Planning Scheme* and/or applicable legislation:

<b>Act</b>	means the Planning Act 2016.
<b>Charges resolution</b>	means the Burdekin Shire Council Infrastructure Charges Resolution No. 2 2018, a previous or subsequent charges resolution made by Council under the Planning Act as the context requires.
<b>Commencement date</b>	means 27 November 2024.
<b>Development demand</b>	has the meaning given in the Charges Resolution.
<b>Eligible entity</b>	means an entity who will have the obligation to pay the levied charge for the development.
<b>Development Permit</b>	means a decision notice for a development application that authorises the carrying out of the assessable development to the extent stated in the decision notice and for which infrastructure charges are payable.

**Government-funded project** means a project funded wholly or partly by the State or Commonwealth, or where the development has (or will) receive a benefit under another development incentive of Council.

**Planning Scheme** means 2022 Burdekin Shire Council Planning Scheme

## Related Documents

Reference Number	Document Title
BLD-FRM-0020	Infrastructure Charges Reduction Application Form

## Document History and Version Control

<b>Title of Document</b>	Infrastructure Charges Reduction Application for Existing Unlawful Development Policy
<b>Document Reference Number</b>	BLD-POL-0004 Rev 1
<b>Review Schedule</b>	12 months
<b>Council Meeting Date</b>	8 April 2025
<b>Council Resolution Number</b>	1869573