

Held at MAROOCHYDORE

Between: Mark And Julianne Grunske — Appellants
And: Fraser Coast Regional Council — Respondent

AFFIDAVIT

I Warren Bolton of 558 Mooloo Road Mooloo Queensland 4570, under affirmation say:

- 1. On 21 February 2025 I received by email a copy of an Infrastructure Charge Notice (ICN) 5138178 issued by Fraser Coast Regional Council on 21 February 2025 [Attachment A]
2. On 7 April 2025 Melissa Ween Coordinator Infrastructure Charges Fraser Coast Regional Council providing this advice in response to my earlier request of 18 March 2025.
Prior to the LGIP Council adopted the Priority Infrastructure Plan (PIP) with the first adopted version of the Fraser Coast Planning Scheme 2014. The State changed the framework under the Sustainable Planning Act 2009 from PIP to LGIP and made it mandatory for Council to have an adopted LGIP by 1 July 2017.
3. On 10 April 2025 I lodge as an attachment to an email to Fraser Coast Regional Council a formal Representation [Attachment B] seeking a review of ICN 5138178.
4. On 17 June 2025 Cassie Anderson, Senior Business Support Officer, Fraser Coast Regional Council forwarded by email to me Councils response to my Representation authorised by James Cockburn Executive Manager Development [Attachment C]
5. Original electronic copies of all Documents relevant to development Tribunal Appeal 25-021 and the Notice of Appeal P&E Court 129/25 can be downloaded from https://tuangld.com/dt/dt.html

Signed:

[Handwritten signature of Warren Bolton]

Deponent
Warren Bolton

Taken by:

[Handwritten signature of Timothy Frodsham] 20.2.2026

Justice of the Peace
Timothy Frodsham



AFFIDAVIT
Filed on behalf of Mark and Julianne Grunske

Name: Warren Bolton
Service Address 558 Mooloo Road
Mooloo 4570
Phone-.0429394904
Email me@warrenbolton.com

# ATTACHMENT A



PO Box 1943  
Hervey Bay Qld 4655

T 1300 79 49 29  
F (07) 4197 4455  
E [enquiry@frasercoast.qld.gov.au](mailto:enquiry@frasercoast.qld.gov.au)  
[www.frasercoast.qld.gov.au](http://www.frasercoast.qld.gov.au)

## Fraser Coast Regional Council Infrastructure Charges Incentives

Preliminary assessment has determined that in accordance with Council's Infrastructure Charges Incentives Policy March 2022, the development may be eligible for the following incentives.

Incentive	The maximum amounts of subsidy available for each category are as follows:
Incentive 1 – Residential Delayed Payment	Delayed payment of Reconfiguring a Lot Infrastructure charges until the sale of the lots created or 2 years whichever is earlier, subject to agreement to the terms and conditions.

Please refer to Council's website for specific details on the eligibility criteria for each incentive.

Relevant fact sheet/s are attached for your information. For further details please also refer to Council's website: <http://www.frasercoast.qld.gov.au/infrastructure-charges-incentives>.

Approved: .....

A handwritten signature in black ink, appearing to be "D. ...", written over the "Approved:" line.

**NOTICE DETAILS**

Issued To: M and J Grunske  
 Date of Notice: 21 February 2025  
 Approval Number: RAL21/0138  
 Docs Reference: 5138178

**DEVELOPMENT TO WHICH THE ADOPTED INFRASTRUCTURE CHARGE APPLIES**

The adopted infrastructure charge applies to the following development type: RAL-Reconfiguring a Lot

**LAND TO WHICH THE INFRASTRUCTURE CHARGE APPLIES**

Site Address: Wilkinson Road TUAN QLD 4650  
 Real Property Description: Lot 51 MCH 567

**AMOUNT OF THE ADOPTED INFRASTRUCTURE CHARGE**

The infrastructure charge has been calculated in accordance with an adopted infrastructure charges resolution under the *Planning Act 2016*. Please refer to <http://www.frasercoast.qld.gov.au/infrastructure-charges-incentives> for a copy of this document.

The amount of the adopted infrastructure charge is to be escalated in accordance with relevant legislation from the date of the notice to the date of payment.

---

<b>NET CHARGE</b>	<b>\$54,720.00</b>
-------------------	--------------------

---

**Residential Charge Calculation - Transport, Stormwater, Community Facilities & Parks**

	Qty	@	Rate	Charge Amount
Residential ROL with single detached dwelling entitlement	5	@	13,680.00	\$68,400.00
			<b>Total Charge</b>	<b>\$68,400.00</b>

**Charge Calculation - Credits**

	Qty	@	Rate	Credit Amount
Residential ROL with single detached dwelling entitlement	1	@	13,680.00	\$13,680.00
			<b>Total Credits</b>	<b>\$13,680.00</b>

**Charge Calculation - Offsets**

	Offset Amount	
Water, Sewer, Transport, Parks & Stormwater	\$0.00	
<b>Total Offsets</b>		<b>\$0.00</b>

---

Basis Of Credit: Credit existing lot, no water, no sewer.

Offset Information: Not applicable to this development.

**DUE DATE FOR PAYMENT**

RAL-Prior to Approval of Plan of Subdivision.

Approved: 

## 1. PAYMENT

This notice is due and payable by the due date in accordance with the permit type. Cheques and money orders should be made payable to Fraser Coast Regional Council and crossed "Not Negotiable". Change cannot be given on cheque payments. Alternatively contact Council for details to make a bank transfer directly from your account.

### PAYMENT OF THE ADOPTED INFRASTRUCTURE CHARGE

- The adopted Infrastructure Charge is payable in accordance with the Planning Act 2016.
- The due date for payment of the adopted Infrastructure Charge is: RAL-Prior to Approval of Plan of Subdivision
- The charge is to be paid to Fraser Coast Regional Council. Please contact the Planning and Growth Department on 1300 79 49 29 prior to making payment, to confirm amount payable.
- Compound annual interest at 8% calculated daily is to be applied on an overdue charge.

## 2. ADOPTED INFRASTRUCTURE CHARGES TAKEN TO BE A RATE

An adopted infrastructure charge levied by a local government is, for the purposes of recovery, taken to be a rate within the meaning of the *Local Government Act 2009*. This means:

- An adopted infrastructure charge may be recovered by court action for a debt;
- An adopted infrastructure charge may be recovered from the person for the time being owning the relevant land, regardless of who was the owner or other person upon whom the charges was imposed;
- Interest is payable on overdue amounts; and
- If charges are unpaid for 3 years, the land can be sold to recover the outstanding charges.

*Note: Any unpaid charges after due date for payment will be transferred to the property as an outstanding rate.*

## 3. INTEREST

Compound interest at the rate of **8% per annum calculated daily** is payable on all infrastructure charges outstanding after the due date shown on this charges notice. The compound interest rate will be adjusted to the amount adopted in the budget resolution, in accordance with the *Local Government Regulation 2012 s133*.

## 4. GOODS AND SERVICES TAX

The federal government has determined that rates and utility charges levied by local government will be GST free. Accordingly, no GST is included in this infrastructure charges notice.

## 5. ADOPTED INFRASTRUCTURE CHARGE IS SUBJECT TO PRICE VARIATION

The amount of the adopted infrastructure charge is subject to escalation in accordance with relevant legislation and/or Council Policy from the date of the notice until the date the payment is made.

PLEASE CONTACT COUNCIL'S PLANNING AND GROWTH DEPARTMENT BEFORE MAKING PAYMENT TO ENSURE THE AMOUNT PAYABLE LISTED ON THIS NOTICE IS STILL CURRENT, OR REQUIRES RE-CALCULATION IN ACCORDANCE WITH CURRENT LEGISLATION OR POLICY.

## 6. INFRASTRUCTURE CHARGES ENQUIRIES

Enquiries regarding this infrastructure charges notice should be directed to Council's Planning and Growth Department by telephoning 1300 79 49 29 during office hours, or via e-mail to: [development@frasercoast.qld.gov.au](mailto:development@frasercoast.qld.gov.au).

METHODS OF PAYMENT		
PAYMENT BY MAIL	PAYMENT AT COUNCIL OFFICES	PAYMENT BY BANK TRANSFER
Cheque; Bank Cheque; Postal Order  Confirm the current applicable Infrastructure Charge, then mail payment immediately to:  Planning and Growth Fraser Coast Regional Council PO Box 1943 HERVEY BAY QLD 4655	Cheque; Bank Cheque; Postal Order, Credit Card  Confirm the current applicable Infrastructure Charge, then present this notice to Fraser Coast Regional Council Customer Service immediately with an advice notice (email or letter) confirming the current applicable Infrastructure Charge.	Contact the Planning and Growth Team for bank details.  Confirm the current applicable Infrastructure Charge; then arrange immediate bank transfer.

Approved: 

**CHAPTER 4 Infrastructure**
**Part 2 Provisions for local governments**
**Division 2 Charges for trunk infrastructure**
**Subdivision 5 Changing charges during relevant appeal period**
**124 Application of this subdivision**

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

**125 Representations about infrastructure charges notice**

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

**126 Suspending relevant appeal period**

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

### **Schedule 1 Appeals**

#### **Section 229**

**1. Appeal rights and parties to appeals**

- (1) Table 1 states the matters that may be appealed to—
  - (a) the P&E court; or
  - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
  - (a) the refusal, or deemed refusal of a development application, for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (c) if a development permit was applied for—the decision to give a preliminary approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
    - (ii) the building is, or is proposed to be, not more than 3 storeys; and
    - (iii) the proposed development is for not more than 60 sole-occupancy units; or
  - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
  - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
  - (g) a matter under this Act, to the extent the matter relates to—
    - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
    - (ii) the Plumbing and Drainage Act, part 4 or 5; or
  - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
  - (i) a decision to give an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (k) a matter that, under another Act, may be appealed to the tribunal; or

# WARREN BOLTON

558 Mooloo Road  
MOOLOO Q.4570  
AUSTRALIA

Mobile:- 04 293949 04  
E-mail:- me@warrenbolton.com



Wednesday, 9 April 2025

## ATTACHMENT B

CEO  
Fraser Coast Regional Council  
[enquiry@frasercoast.qld.gov.au](mailto:enquiry@frasercoast.qld.gov.au)

### Representation ICN5138178

#### Planning assumptions

My understanding is that a *Local Government Infrastructure Plan* (LGIP) is a mechanism to ensure that a local government makes provision to fund the **growth**, placed on certain infrastructure, by increasing population, driving the necessity for development which can cater for that increase.

A LGIP although considered an integral component of a local planning scheme, it is not mandatory.<sup>1</sup>

When desired, a LGIP must be prepared in accordance with the Minister's Guidelines and Rules (MGR) and incorporate, the following key functions:

1. **Identify** the potential for future population growth over a defined period; then
2. **Locate** and **document**, the existing local infrastructure networks expected to be impacted by this growth; then
3. **Access**
  - (a) the affordable aspirational standard expected by this future expanding population (DSS); and
  - (b) the type and capacity of that infrastructure's, to cater for this projected DSS and growth; and
4. Where it is identified that the existing capacity of that infrastructure's **is not adequate** to deliver; then
  - a. **Plan** to
    - i. upgraded or
    - ii. provide new infrastructure

to satisfy the needs of that expanded population.<sup>2</sup>

---

<sup>1</sup> PA16 S111

<sup>2</sup> [Ref=R1](#) (p7)

Planning **assumptions** (*assumptions*) must form the basis for the process.<sup>3</sup>

Developing these *assumptions* requires an **understand** of the future for the:

- location,
- type,
- scale and
- timing

of development that will be required by this anticipated population growth.

These *assumptions* **must** be based on relevant **data**.

A local government must be able to explain variations between *assumptions*, represented by *projection areas* and their *Trunk infrastructure* networks, at a level of disaggregation.<sup>4</sup>

However, *Growth projections* and *assumptions* must ultimately be limited to a **locality** by the realistic physical capacity available to accommodate growth (*ultimate development*.)<sup>5</sup>

## PIA

A *priority infrastructure area* (PIA) is an **urban area**, identified by a local government, and prioritised for the provision of *trunk infrastructure* to accommodate development, over a defined time line, that is driven by growth.

When determining a PIA, the local government should use an **iterative** process<sup>6</sup>

## Implications for RAL21-0138 (DA21)

What are the implications of these requirements for their application to Tuan and DA21

**Tuan** falls within a PIA

Councils should be able to produce, relative to **Tuan's** PIA, the:

1. Prepared planning assumptions; and
2. Projected infrastructure demand for each network;
3. Including
  - (a) What spare capacity, if any, is existing within the *trunk infrastructure* networks;
  - (b) the cost effectiveness and efficiency for delivering future *trunk infrastructure* for which *trunk infrastructure* charges have been levied; and

---

<sup>3</sup> R1 (p8)

<sup>4</sup> R1 (p10)

<sup>5</sup> R1 (p9)

<sup>6</sup> R1 (p16)

- (i.) required to service the projected infrastructure demand at Tuan; and
  - (ii.) The detail the determined desired standard of service (DSS) ; and
4. A statement about Council capacity to be able to fund and supply adequate *trunk infrastructure* to service future development within Tuan and having regard to Fraser Coast Regional Councils financial sustainability.

I was unable to locate amongst the data provided in **Part 4** of Fraser Coast Regional Council's (FCRC) Planning Scheme (Scheme) any reference to Tuan

### Development assessment

Generally, new developments are likely to result in additional demand being placed on the existing trunk infrastructure servicing an area.

When this is the case, it is reasonable for a local government to levy infrastructure charges in order to cover costs associated with future expenditure on trunk infrastructure that is necessary to support the increased demand in that locality.<sup>7</sup>

However, during the development assessment process, a local government is **required** to determine whether the development **places additional demand** on *trunk infrastructure* by undertaking a *demand assessment* of the development to determine if an infrastructure charge is applicable and if required, **to what reasonable extent**.

Those Infrastructure charges **can only** be imposed for the **determined demand** generated by that development<sup>8</sup>

### So, what demands does DA21 generate

**Part 4** of FCRC's Scheme deals with Council's LGIP.

Part 4 advises that the **purpose** of the *priority infrastructure plan* (Which I believe is probably the name the document had under the superseded *Sustainable Planning Act 2009*) is to provide, amongst other things:

- transparency regarding a local government's intentions for the provision of trunk infrastructure; and
- the bases for the imposition of conditions regarding infrastructure on a development approval.<sup>9</sup>

Section 4.2 provides that starting date for the scope of application of the LGIP is from 2011 and closing date 2031, with just over 10-year remaining. and

---

<sup>7</sup> R1 (p33)

<sup>8</sup> R1 (p38)

<sup>9</sup> R4 (p4-1)

Section 4.3 advises that a PIA identifies an area, where the provision of *trunk infrastructure* to service the existing and assumed future urban development up to 2031 has been **prioritised**.

4.5.2 **Schedule of Works** contains details of the existing and **future** trunk infrastructure networks. These can be electronic down loaded in Excel format from <http://www.frasercoast.qld.gov.au/> **(Except you can't – locate them that is.)**

**Schedule 3** of the scheme identifies in Section 4.5 that *trunk infrastructure* as:

- A. water supply;
- B. sewerage;
- C. stormwater;
- D. transport; and
- E. parks and land for community facilities, networks.

*FRASER COAST REGIONAL COUNCIL Infrastructure Charges Resolution dated January 2025* in section 2.3 provides that:

The adopted charges for a development, for *trunk infrastructure* networks as cited in the LGIP, and confirmed them as above and prescribes a notional proportional breakup of the charge as follows:

- water supply– 7%
- sewerage – 21%
- stormwater – 7.5%
- transport – 53%
- parks and land for community facilities – 11.5%

ICN 5138178 levied a charge of \$54,720. This amount appears to match perfectly the application of this information.

-i.e.

Water	\$0
Sewerage	\$0
Stormwater	\$1,425
Transport	\$10,070

Parks and Land for Community Facilities	\$2,185
Sub Total per new lot	\$13,680
<b>TOTAL</b>	<b>\$54,720</b>

But then reveals that '*no part of the adopted charge is earmarked to any particular network*'

If this information is accurate, it means that not only can a charge, be levied in relation to the provisioning of infrastructure, say **transport** and having being proportionally calculated in the overall *Infrastructure Charge Notice* (ICN) and then collected from the developer for that purpose, it then can in actual fact, be spent **anywhere**, on any *trunk infrastructure*, say 'parks or community' facilities.

This raises a very serious issue about the predicated requirement for *infrastructure charging*.

Infrastructure charges under ICN 5138178 are levied to meet the costs of the *trunk infrastructure*, identified within DA21, that needs provisioning or upgrading. If those funds can then be redirected to some other infrastructure network expenditure. where does this leave the justification for raising those funds, in the first place, and what are the consequences for not providing the deemed required infrastructure - to the consequences of that development.

### Population Growth

The LGIP is predicated on one overarching premise-**population growth**.

Population growth is the MAJOR demand driver while the other is for increase in standards of services.

### Tuan

While difficult to locate accurate historical information on the **establishment** of **Tuan**, it would be reasonable to assume it did so in the last quarter of the 19th Century, particularly as a consequence of the discovery of gold in Gympie in **1867**

I think there would be little challenge to the assumption that it started as a fishermen camp for those plying their trade in the Great Sandy Strait, providing much-needed sea foods to the burgeoning population areas around Maryborough and Gympie.

We do know that the first deed of grant for freehold land in this location was issued in 1889 and the survey plan that established **lot 51 on MCH 567** was registered in **1908**

We also know that in the 2016 census, the locality of Tuan had a population of **153** people and in the 2021 census, the population was **140** people.

A **decline** of 13 people or **8.3%**

In the same period FCRC population increased from 103,291 to 111,037. An **increase** of 7,764 people or 7.5 % and

Queensland went from 4,703,193 people to 5,156,138 million. An **increase** of 452,945 people or 9.7%

We know there is approximately 154 parcels of land in Tuan ranging in size from 754 m<sup>2</sup> up to 4.01 ha. Of those 154 properties, **113** (73%) have structures erected on them. – Giving, in 2021, a occupancy density of **1.23 person** per structure. [FCRC ABS 2021= **2.3 persons** per unit of residential accommodation]

Occupying an estimated area of approximately **80ha** Tuan has has a spatial density of average property size = 5200m<sup>2</sup> – average population density of 1.75 pr/ha (**Schedule-3** [FCRC-ranging from 4.5 to 12 p/ha])

Tuan sits nestled between the 38,000ha of forestry reserve and the vast reaches of the Great Sandy Strait and located 25 kilometres and a 19-minute drive to the nearest service town.

Boasting, no shop or tourist accommodation facilities or employment opportunities, Tuan's only attraction remains the attention of persons interested in boating and fishing or living in a quite beach house location.

Only Council would know how many new dwellings have been constructed in Tuan since the 2021 Census. But if no new dwellings have been constructed in that period, then this subject development, (DA21) will be adding a population growth of estimated maximum 10 persons. This would still not return the population of people living in Tuan in 2016.

On that single factor alone, there is no real argument for this development (DA21) placing infrastructure pressure on the existing **Trunk Infrastructure** servicing the village of Tuan, or their population.

**Tuan is not a locality that presents as growth area within the FCRC boundaries.**

## **Conclusion**

Nobody would challenge that population growth brings demands particularly for housing and new housing brings demands for developments to provide not just spatial integrity for that population but the services required by the community

But not every development will pose such a demand.

The system where a universal charger is universally applied is, if nothing else, unethical and possibly unreasonable and breeds lack of respect for the institutions that deliver such outcome.

All that my client is requesting that you reconsider the infrastructure charges levied on the development in the light of what infrastructure services they really demand and what increase in infrastructure services is really required.

My client is not opposed to making a contribution to infrastructures that will benefits the local community but such contribution has to be **reasonably** proportional to any impacts the development will impose.

Therefore, in light of the material presented, we request a meeting to discuss/mediate in this regard, the quantum of the ICN.

Warren Bolton

Thursday, 10 April 2025

### References [R]

1.	GUIDANCE FOR THE MINISTERS GUIDELINES AND RULES, Guidance For Plan-Making - Queensland Treasury Planning Group. Invested in planning for the future - October 2020
2.	LOCAL INFRASTRUCTURE PLANNING- Guidance for local governments and applicants- August 2023
3.	MINISTER'S GUIDELINES AND RULES-Under the Planning Act 2016-Version 3.0- 22 July 2024
4.	Part 4 - Planning Scheme

# ATTACHMENT C

11 June 2025

Warren Bolton  
558 Mooloo Road  
MOOLOO QLD 4570



PO Box 1943  
Hervey Bay Qld 4655

T 1300 79 49 29  
F (07) 4197 4455  
E enquiry@frasercoast.qld.gov.au

[www.frasercoast.qld.gov.au](http://www.frasercoast.qld.gov.au)

Dear Mr Bolton

## Decision Notice for Infrastructure Charges Notice Representations *Planning Act 2016*

I refer to your Infrastructure Charges Notice representations received on 10 April 2025 for the following approval.

### APPLICATION DETAILS

Application No: RAL21/0138  
Proposal: Reconfiguring A Lot - One (1) Lot into Five (5) Lots  
Street Address: WILKINSON ROAD TUAN QLD 4650  
Real Property Description: Lot 51 MCH 567

### DECISION DETAILS

In relation to the representations, Council decided to:

Disagree to all representations submitted in relation to Infrastructure Charges Notice issued with Application No. RAL21/0138, situated at WILKINSON ROAD TUAN QLD 4650.

Council does not support the position that infrastructure charges are unfair, disproportionate, or unjustified. The LGIP and Adopted Infrastructure Charges Resolution provide a robust, transparent, and equitable means of funding essential infrastructure. Council is committed to maintaining this framework to ensure ongoing provision and upgrading of infrastructure that benefits both new developments and existing residents in the region.

Council affirms its commitment to the statutory and strategic application of the LGIP, ensuring infrastructure provision aligns with legislative requirements, sound planning principles, and community needs.

In accordance with this decision, the original Infrastructure Charge Notice issued on 21 February 2025 is binding. If you have any further queries in relation to the above, please contact Melissa Ween on the number below.

Yours faithfully

A handwritten signature in black ink, appearing to read "James Zockburn", written over a light blue circular stamp.

James Zockburn  
EXECUTIVE MANAGER DEVELOPMENT

Contact: Melissa Ween  
Phone: 07 4197 4610  
Docs Reference: 52222703

A handwritten signature in black ink, appearing to read "Melissa Ween", located in the bottom right corner of the page.