

Held at MAROOCHYDORE

Between: Mark And Julianne Grunske — *Appellants*

And: Fraser Coast Regional Council — *Respondent*

SUBMISSION OF ISSUES

IDENTIFICATION OF ISSUES

1. Introductory Framing

Consistent with the convention that an appellant is required to identify the issues to be determined in an appeal, but not required to disclose their argument prior to the hearing, the appellants identify the following issues for resolution by the Court.

The issues arise within the statutory framework governing *adopted charges* under Chapter 4, Part 4 of the *Planning Act 2016* (PA16) and Schedule 16 of the *Planning Regulation 2017* (PR17).

2. Issues

The issues in this appeal are those set out in the *Grounds of Appeal* in *Notice of Appeal 129/25*, and ventilated on pages 3 and 4 of the Development Tribunal Decision for **Appeal 25-021** as a consequence of a hearing held on 19 August 2025 and reiterated here for clarity and convention.

1. Whether the Development Tribunal failed, in making its decision, to consider — or to provide reasons for not considering — all matters raised by the appellants in Appeal 25-021.

2. Whether the Development Tribunal correctly interpreted and applied the law to the matters raised in Appeal 25-021, particularly:

- (a) Whether RAL21-0138 is a development prescribed under s 112 PA16 and s 52 PR17 to which the respondent's Infrastructure Charges Resolution (January 2025) (the Charges Resolution) could lawfully apply.
- (b) Whether a development type for reconfiguring a lot (RAL) is capable, of itself, of generating demand on infrastructure.

SUBMISSION OF ISSUES

Filed on behalf of:- Mark and Julianne Grunske

Court Order – 30/1/2026

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- (c) Whether the Fraser Coast Regional Council's Charges Resolution complies with the legislative requirements necessary to authorise the issuing of an Infrastructure Charges Notice for a development involving only reconfiguring a lot.
- (d) Whether a planning scheme zone constitutes a "use" for the purposes of Schedule 16 of PR17.
- (e) Whether a 'locality' constitutes a "use" for the purposes of Schedule 16 of PR17.
- (f) Whether PA16 provides legislative authority:
 - (i.) to determine that a development for reconfiguring a lot, of itself, is sufficient to authorise the issuing of an ICN; and
 - (ii.) to assume future 'use' of lots created by a reconfiguring a lot development as sufficient to establish extra demand for the purposes of s 120(1).
- (g) Whether an assessment manager was required to establish, by investigation, that RAL21-0138 would of itself generate additional demand on relevant trunk infrastructure within its Priority Infrastructure Area (PIA) before levying an adopted infrastructure charge.
- (h) Whether a "development type" can constitute a lawful defined "use" under Schedule 16 of PR17
- (i) Whether a 'locality' can constitute a lawful defined "use" under Schedule 16 of PR17
- (j) Whether the Tribunal was required to give weight to ss 3 and 5 of PA16 when determining that a Charges Resolution containing an undefined term and *ambiguity* was lawfully compliant.
- (k) Whether the application of Table 5.5.1 of Part 5 of the Fraser Coast Planning Scheme 2014 is relevant to determining the adopted charge provisions of PA16 for RAL21-0138.

RELEVANT LEGISLATIVE FRAMEWORK

The following provisions form the statutory context within which the issues arise.

3. Planning Act 2016 (PA16)

- (a) Section **110(1)(c)** — head of power for regulations governing adopted charges.
- (b) Section **112(3)(b)** — regulation may prescribe development for which an adopted charge may apply.
- (c) Section **113(1)-(2)** — councils' resolutions for adopting charges and levy of the charge.

- (d) Section **114(1)(a)** — adopted charges for developments prescribed by regulation.
- (e) Section **119(12)** — power to issue an infrastructure charges notice subject to satisfying the lawful requirements of the Chapter.
- (f) Sections **3 and 5** — requiring that functions under PA16 be performed in a manner that is *efficient, transparent, accountable*, and advances the *Purpose* of the Act

4. Planning Regulation 2017 (PR17)

- (a) **Schedule 16** — prescribed uses and maximum adopted charges
- (b) **s 52(3)(a)** — prerequisite conditions for determining whether development satisfies s 112(3)(b) of PA16

5. Acts Interpretation Act 1954

s 14B — use of extrinsic material to assist in interpretation

6. Fraser Coast Regional Council Charges Resolution (January 2025)

- (a) **s 1.6** — types of development, purpose of adopted charges, and areas of application
- (b) **s 6** — definitions for the purposes of the Charges Resolution
- (c) **Schedule 1 (Table A)** — adopted charge rates for reconfiguring a lot, including identification of a “use category” and monetary rate per lot

7. Fraser Coast Planning Scheme 2014

Part 5, Table 5.5.1 — categories of development and assessment for material change of use in the Low-density residential zone

8. Matters the Court May Need to Consider in Resolving the Issues

- A. Whether PA16 supported Council’s power to issue the disputed Infrastructure Charges Notice.
- B. Whether the inclusion of the undefined term “*Rural townships*” in the Charges Resolution that created *ambiguity*, rendered the document inconsistent with the requirements of PA16.
- C. Whether the absence of clarity in a Charges Resolution denies *procedural fairness* by preventing a developer or landowner from determining, prior to lodging an application, whether an *adopted charge* would apply.
- D. Whether *procedural fairness* is required by s 3 of PA16.

- E. Whether the assessment manager gave proper consideration to the appellants' *Representation* concerning the ability of Tuan to satisfy LGIP requirements for designation as a PIA.
 - F. Whether the Tribunal ought to have considered the content of the appellants' *Representation* of 9 April 2025 when assessing for compliance with legislative requirements.
 - G. Whether an LGIP, incorporated into a planning scheme, constitutes a local categorising instrument under PA16.
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9. Extraneous Material

The appellants intend to refer to limited extraneous material solely to assist the Court in understanding the legislative context and the practical difficulties experienced by the respondent in applying the statutory framework.

This includes the appellants' representation provided to the respondent following the issue of ICN25, and subsequently to the Tribunal. The representation is not relied upon to expand or alter the issues identified for decision. Its purpose is contextual only.

A second item is historical material of the kind referred to by D R Gore QC in *QCA 191 (2020)*, so as to illustrate how the evolution of the development assessment system can contribute to contemporary administrative difficulties.

This material is likewise contextual and not relied upon for determination of any issue.

Proposal For Hearing

For the benefit and to assist the Court, the appellants propose the appeal be conducted using a logical sequence in presentation and disposal of the issues. (Cascading Issues)

Each issue is dispositive.

If the Court resolves Issue 1 in the appellants' favour, it would not be necessary to proceed to the next Issues. If Issue 1 is not accepted, Issue 2 can independently dispose of the matter, and so on.

This structure is intended solely to assist the efficiency in the proceeding by reducing time and effort of the court. It does not limit the Court's discretion to address all or any issue in any order considers appropriate.

The appellant request consideration of this proposal at the next review set for **27 February 2026**
