

PLANNING AND ENVIRONMENT COURT OF QUEENSLAND

CITATION: *Grunske v Fraser Coast Regional Council (No. 2)* [2026] QPEC 16

PARTIES: **MARK AND JULIANNE GRUNSKÉ**
(appellants)

v

FRASER COAST REGIONAL COUNCIL
(respondent)

FILE NO/S: 129/25

DIVISION: Planning and Environment

PROCEEDING: Appeal against a decision of the Development Tribunal

DELIVERED ON: 5 May 2026

DELIVERED AT: Maroochydore

HEARING DATE: 26 March 2026

JUDGE: Cash DCJ

ORDERS: **1. The appeal is dismissed.**
2. The decision of the Development Tribunal of 3 November 2025 is confirmed.
3. I will hear the parties as to the costs of the appeal.

CATCHWORDS: PLANNING AND ENVIRONMENT – APPEAL AGAINST DECISION OF THE DEVELOPMENT TRIBUNAL – where the Council assessed that an adopted charge applied to a development and an infrastructure charges notice under ss 119 and 120 of the *Planning Act 2016* was issued to the owners – where the owners of the land appealed to the Development Tribunal – where the Development Tribunal confirmed the decision of the Council – whether the Development Tribunal erred in law in the application of the adopted charge – whether the Development Tribunal erred in law in concluding that the land was subject to the Council’s adopted charges – whether the Development Tribunal erred in concluding the development will create extra demand on trunk infrastructure

LEGISLATION: *Planning Act 2016* (Qld) ss 110, 112, 113, 114, 116, 119, 120, 129, 229, 230, 280, 370, schedule 1, schedule 2, Chapter 4
Planning and Environment Court Act 2016 (Qld) ss 10, 45, 47, 60

Planning (Social Impact and Community Benefit) and Other Legislation Amendment Act 2025 (Qld)
Planning Regulation 2017 (Qld) r 52, schedule 16
Fraser Coast Planning Scheme 2014
Fraser Coast Regional Council Infrastructure Charges Resolution 2025

CASES: *Brisbane City Council v Tina and Tony Ptd Ltd* [2022] QPEC 36
Southern Downs Regional Council v Homeworthy Inspection Services (as agents for Robert and Cheryl Newman) [2020] QPEC 61, [2021] QPELR 1085
Timor 34 Pty Ltd v Logan City Council [2024] QPEC 27; [2025] QPELR 1343
Toowoomba Regional Council v Wagner Investments Pty Ltd (2020) 5 QR 477; QCA 191
Trinity Park Investments Pty Ltd v Fabcot & Ors; Dexux Funds Management Limited v Fabcot Pty Ltd & Ors [2021] QCA 276

APPEARANCES: W Bolton as agent for the appellants
R Yuen instructed by Connor O'Meara for the respondent

- [1] The *Planning Act 2016* (Qld) ('PA') allows a local government to levy a charge for the provision of development infrastructure pertaining to a development approval. Broadly speaking, the purpose of the legislation is to permit the local government to recover from a developer the cost of providing the infrastructure necessary to ensure the land is suitable for development, such as water cycle management infrastructure, transport infrastructure, and parks and play areas. It is not necessary for the local government to assess the precise value of the infrastructure to be provided. They may, within the confines of the PA, adopt charges to be levied in relation to specified types of development in their local government area. If a development approval is given, and an adopted charge applies, the local government must give an 'infrastructure charges notice' ('ICN') setting out the charge, how it has been calculated, and when it must be paid.
- [2] The Grunskes applied to the Fraser Coast Regional Council for approval to subdivide land from one lot into five. The land is within the Council's local government area. It is in a low-density residential zone at Tuan, where the use of the land for a dwelling house is accepted development. The Council approved the Grunskes' application. At the same time, the Council assessed that an adopted charge applied to the proposed development. As such the Council was obliged to give an ICN, which was calculated to be \$54,720. The Grunskes were unhappy with the ICN and challenged it by an appeal to a Development Tribunal. The tribunal confirmed the decision of the Council to give the ICN.
- [3] The Grunskes commenced this proceeding to challenge the decision of the Development Tribunal. A proceeding of this kind – called an 'appeal' in the PA – may only be brought on the ground that there has been an error or mistake of law on the part of the tribunal or on the ground that there has been jurisdictional error.

- [4] Having regard to the notice of appeal, and the way in which the argument for the Grunskes was framed by their agent Mr Bolton, it is difficult to discern what is the error of law or jurisdictional error which could justify setting aside the decision of the Development Tribunal. As discussed below, the grounds set out in the notice of appeal do not readily articulate any error of law by the Development Tribunal. But, during the hearing of the appeal, Mr Bolton appeared to accept that the asserted errors, and therefore the issues to be decided in the appeal, distil to the following.
1. Did the Development Tribunal err in law by treating the adopted charge as applying to the development the subject of the approval, contrary to section 112(3)(b) of the PA, and regulation 52(3)(b) and schedule 16 of the *Planning Regulation 2017* (Qld) ('PR')?
 2. Did the Development Tribunal err in law in concluding that the land the subject of the development application was within a 'rural township', as that term is used in the Council's schedule of adopted charges?
 3. Did the Development Tribunal err in law by concluding the development the subject of the approval will generate extra demand on trunk infrastructure and therefore section 120(1) of the PA was engaged?
- [5] To succeed, the Grunskes must show that the answer to at least one of these questions is 'Yes'. For the reasons below, the answer to each question is 'No'. It follows that the Grunskes have not established the decision of the tribunal was affected by an error or mistake of law, or by jurisdictional error. The appeal must be dismissed.

What is the nature of this 'appeal'?

- [6] There is no unfettered right to appeal against decisions that are made pursuant to the PA. Section 229 of the PA, with reference to Schedule 1 of the Act, creates rights of appeal in limited circumstances.
- [7] An ICN may be challenged by an appeal to a Development Tribunal, but only where the notice involved an error in relation to the application of the relevant adopted charge, an error in relation to the working out of extra demand for the purposes of section 120 of the PA, or errors in relation to offsets or refunds.¹ A decision of a Development Tribunal may be challenged by an appeal to the P&E Court, but only on the ground of 'an error or mistake of law on the part of the tribunal' or 'jurisdictional error'.²
- [8] The inquiry to be undertaken by the P&E Court on such an appeal is a narrow one. There is no occasion for a review of the merits of the decision of the Development Tribunal.³ As was observed by Judge Kefford in *Brisbane City Council v Tina and Tony Ptd Ltd*,⁴ the appeal is limited to an examination of the decision of the Development Tribunal for legal or jurisdictional error, with the P&E Court exercising original jurisdiction rather than appellate jurisdiction. Such an approach to the appeal in the present case is also, in my view, consistent with the legislative context. An appeal to a Development Tribunal about an ICN is limited to a consideration of the specific errors mentioned above. It is unlikely that parliament, in allowing for a further

¹ PA, Schedule 1, Table 1, Item 4. An ICN may also be challenged by an appeal to the P&E Court, but that is not what occurred in this case.

² PA, Schedule 1, Table 2, Item 1.

³ *Southern Downs Regional Council v Homeworthy Inspection Services (as agents for Robert and Cheryl Newman)* [2020] QPEC 61, [2021] QPELR 1085, [76]-[77].

⁴ [2022] QPEC 36, [5].

appeal to the P&E Court only on the grounds of an error or mistake of law, or jurisdictional error, intended for there to be a broader review of the ICN than that permitted in the Development Tribunal. This context suggests a legislative intent to narrowly confine the right to appeal against a decision of a Development Tribunal concerning an ICN.

- [9] In the context of the present appeal another important provision to note is section 229(6)(a) of the PA, which declares that ‘an appeal against an infrastructure charges notice must not be about ... the charge itself’.
- [10] Pursuant to section 45(1)(d) of the *Planning and Environment Court Act 2016* (Qld) (‘PECA’), it is for the Grunskes to establish that the appeal should be upheld. In deciding the appeal, the Court must act in accordance with section 47 of PECA to either confirm the decision, change it, or set it aside – in which case the P&E Court may make a decision replacing the original decision or remit it to the original decision maker.

What are the grounds of appeal?

- [11] The grounds of appeal in the notice of appeal are set out below (with footnotes omitted).
1. The Development Tribunal (Tribunal) failed, in making their decision (DTD) to consider – or to provide reasons for failing to consider, all the matter [*sic*] raised by the Appellant in Appeal 25-021 (Appeal), specifically the matter set out on page 4 of the DTD under the heading **Position 1**.
 2. The Tribunal failed to give sufficient weight to the overarching responsibilities of Sections 3 and 5 of the Planning Act 2016 (PA16) when accepting that Fraser Coast Regional Council (Council) *Infrastructure Charges Resolution (January 2025)* (Resolution) omitted a definition of a crucial term used to determine infrastructure contributions.
 3. The Tribunal erred in finding that the law provided circumstances that supported Council’s power, under section 119 of the Planning Act, to issue the ICN.
- [12] There are several difficulties with the grounds as framed in the notice of appeal. One is the circumlocutious way in which the grounds are drafted. Another is the vagueness of the grounds. The result is that the grounds are at the same time verbose but without real meaning. The reader is left to discover for themselves what is ‘Position 1’ as it relates to the first ground, and the ‘crucial term’ forming the basis of ground two is left entirely unexplained.
- [13] A third and more concerning aspect of the grounds of appeal is the failure to clearly and distinctly identify the legal or jurisdictional error said to justify setting aside the decision of the Development Tribunal. For example, the first ground refers to both a failure to consider a matter and a failure to give reasons. A failure by the decision maker to consider a matter which they were obliged to consider may be an error of law amounting to jurisdictional error. A failure to give reasons may also amount to an error of law. But it is not clear from reading the first ground which of these errors is asserted. An understanding of the first ground is not assisted by the need to go to the decision itself to see what is meant by ‘Position 1’.
- [14] The second ground alleges a failure to give sufficient weight to statutory considerations. The weight to be given to relevant considerations is generally a matter for the decision maker, and a complaint that too little or too much attention has been

paid to a relevant factor will not usually be a ground for complaint. The second ground, as drafted, does not identify an error of law. The third ground is even more obscure and, as expressed, turns upon findings of fact and does not concern any alleged error of law.

- [15] It is a statutory requirement that a notice of appeal ‘succinctly states the grounds of the appeal’.⁵ The error or mistake in law said to have been made by the decision maker should be clearly and distinctly identified.⁶ It is not for the court to

wade through the documents to see if a question of law can somehow be found by the examination of written or oral arguments which in an undifferentiated way merely contend that a primary judge erred ‘in law’ in reaching a particular outcome.⁷

- [16] Despite the deficiencies in the notice of appeal, it was possible during the hearing of the appeal to discern the three issues identified above as being determinative of the appeal. This is not a process which is to be encouraged. Parties to proceedings in the P&E Court must be aware of, and comply with, their statutory obligations. It is no excuse that a party chooses to be represented by an agent who is not a lawyer. In some cases, a failure to properly articulate the legal or jurisdictional error said to justify setting aside a decision may result in the summary dismissal of the proceeding. In others it may engage the jurisdiction of the P&E Court to make a costs order.⁸ In all cases it hinders the ability of the court to exercise its jurisdiction justly, expeditiously, and without undue delay, expense or technicality.⁹

What is the legislative framework for giving an ICN?

- [17] Infrastructure is dealt with in Chapter 4 of the PA. Chapter 4 is divided into five parts, but it is only Part 2 that is directly relevant to this appeal. Part 2 ‘authorises local governments to ... adopt, by resolution, charges for development infrastructure and levy the charges.’¹⁰ ‘Development infrastructure’ is: -

- (a) land or works, or both land and works, for—
 - (i) water cycle management infrastructure, including infrastructure for water supply, sewerage, collecting water, treating water, stream managing, disposing of waters and flood mitigation, but not water cycle management infrastructure that is State infrastructure; or
 - (ii) transport infrastructure, including roads, vehicle lay-bys, traffic control devices, dedicated public transport corridors, public parking facilities predominantly serving a local area, cycleways, pathways and ferry terminals; or
 - (iii) public parks infrastructure, including playground equipment, playing fields, courts and picnic facilities; or
- (b) land, and works that ensure the land is suitable for development, for local community facilities, like—

⁵ PA, Section 230(1)(b).

⁶ *Trinity Park Investments Pty Ltd v Fabcot & Ors; Dexus Funds Management Limited v Fabcot Pty Ltd & Ors* [2021] QCA 276, [70], [66] and [84].

⁷ *Ibid*, [76].

⁸ PECA, Section 60.

⁹ PECA, Section 10.

¹⁰ PA, Section 110(1)(a)(i).

- (i) community halls or centres; or
- (ii) public recreation centres; or
- (iii) public libraries.

[18] ‘Development’ is also defined.¹¹ It means: -

- (a) carrying out—
 - (i) building work; or
 - (ii) plumbing or drainage work; or
 - (iii) operational work; or
- (b) reconfiguring a lot; or
- (c) making a material change of use of premises.

[19] This broad definition of ‘development’ is to be read with section 280 of the PA. The effect is that the ‘development’ which is relevant to an adopted charge, ICN or a levied charge is the development that is the subject of the development approval to which the adopted charge, ICN or a levied charge relates.

[20] Subject to some presently irrelevant exceptions, section 113 of the PA permits a local government to adopt, by resolution, charges for providing trunk infrastructure for development. Section 114 of the PA allows an adopted charge to be made for development if the charge is both prescribed by regulation for the development and is not more than the maximum amount allowed. Section 112 of the PA permits a regulation to prescribe the maximum amount for each prescribed charge for providing trunk infrastructure in relation to a development. The regulation may also prescribe: -

- (a) the charges breakup; and
- (b) development for which there may be an adopted charge under this chapter ...

[21] ‘Charges breakup’ is a defined term pursuant to the PA. It is concerned with the apportionment of an adopted charge between a local government and a distributor-retailer such as Unitywater or Queensland Urban Utilities. Paragraph (b) is concerned with prescribing the types of development which may be subject to an adopted charge. This is done through regulation 52 and Schedule 16 of the PR. Regulation 52(3)(a) relevantly provides: -

if development is a material change of use, reconfiguring a lot or building work and is for a use stated in schedule 16, column 1—a local government may have an adopted charge for trunk infrastructure for the development under chapter 4 of the Act.

[22] Unsurprisingly, the uses set out in column 1 of Schedule 16 are manifold. Those relevant to the present appeal are the four categories of use under the heading ‘Residential uses’. These are listed as ‘ Dwelling house’, ‘Dual occupancy’, ‘Caretaker’s accommodation’, and ‘Multiple dwelling’.

[23] Chapter 4, Division 2, Subdivision 3 deals with the levying of adopted charges. Sections 119 and 120 of the PA work together to define the circumstances in which a local government must give an ICN. The starting point is that if a local government gives a development approval, and an adopted charge applies to providing trunk infrastructure for the development, the local government must give an ICN. However,

¹¹ PA, Schedule 2.

this starting point is subject to section 120 which presently states that a ‘levied charge under an infrastructure charges notice for a development approval may be for extra demand placed on trunk infrastructure that will be generated by the development the subject of the approval (the *approved development*)’.

- [24] ‘Trunk infrastructure’ includes ‘development infrastructure’ which has been identified in a local government infrastructure plan as trunk infrastructure.¹²
- [25] Section 120 was recently amended, with the current provision taking effect on 30 June 2025.¹³ This was after the ICN was given to the Grunskes on 25 February 2025, but before the hearing in the Development Tribunal on 19 August 2025 and the decision of the tribunal on 3 November 2025. Prior to 30 June 2025, section 120 was titled ‘Limitation of levied charge’ and provided in subsection (1) that ‘[a] levied charge may be only for extra demand placed on trunk infrastructure that the development will generate.’
- [26] The most important aspect of the amendment was to delete the word ‘only’, removing what might otherwise be considered a limitation on the ability to levy a charge.¹⁴ Section 120 now describes the circumstances in which a charge may be levied by an ICN, as opposed to the superseded version which set out when a charge could not be levied. In determining this appeal, it is the current version of the section which is to be applied. That is because of section 370 of the PA, which has the effect that the validity or lawfulness of an ICN is to be determined as if the ‘new section 120 [had] been in force when the notice was given.’
- [27] Section 120(2) then provides: -
- (2) In working out extra demand, the demand on trunk infrastructure generated by a prescribed development or use may also be included if—
 - (a) an infrastructure requirement given or imposed in relation to the prescribed development or use has not been complied with; or
 - (b) the prescribed development or use has not been carried out on the premises and either of the following apply—
 - (i) the approved development is for or relates to the prescribed development or use and the demand on trunk infrastructure generated by the prescribed development or use has not been included in working out extra demand for another infrastructure requirement;

Example of approved development that is for or relates to a prescribed development or use—

The approved development is building work for a multiple dwelling. A material change of use of the premises for the multiple dwelling is accepted development. The building work is for the material change of use, and the use of the premises for the multiple dwelling.
 - (ii) an infrastructure requirement applying to the premises on which the prescribed development or use will be carried out was given or

¹² PA, Schedule 2.

¹³ *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Act 2025* (Qld).

¹⁴ Cf., *OPD Developers Pty Ltd & Anor v Logan City Council* [2025] QPEC 8.

imposed on the basis of development or a use of a lower scale or intensity being carried out on the premises.

- [28] A ‘prescribed development or use’ is defined in section 120(3) as, among other things, ‘development that may be carried out on the premises without a development permit’. An example of such development set out in the legislation is accepted development.
- [29] One way in which section 120 can operate is as follows. A charge may be levied under an ICN where the development the subject of the approval – the approved development – will generate extra demand on trunk infrastructure. In working out if the ‘approved development’ will create extra demand, the demand which will result from a ‘prescribed development or use’ – such as some kind of accepted development – may also be included. This is the case even if the ‘prescribed development or use’ has not been carried out, so long as the ‘approved development *is for or relates to* the prescribed development or use’ (emphasis added), and the additional demand created by the ‘prescribed development or use’ has not already been included for a different infrastructure requirement.
- [30] It is also relevant to note that the scheme contained in Chapter 4 of the PA does not depend upon an assessment of the actual impost on trunk infrastructure which will be created by a development. The scheme of capped charges represents a policy choice, the result of which is the ‘absence of a nexus between actual extra demand and a levied charge’.¹⁵ It is not necessary for the charge which a local government resolves to adopt, and which is levied upon the giving of a development approval, to reflect the actual cost of providing infrastructure – it is enough that the amount of the charge is no more than the ‘maximum adopted charge’ worked out in accordance with section 112 of the PA and any relevant regulation.

What was the development approval and ICN that was given in this case?

- [31] The premises with which this proceeding is concerned is located on Wilkinson Road at Tuan. It is a large lot of some 32,548 m². The premises are subject to the *Fraser Coast Planning Scheme 2014*, in consequence of which they are within the ‘Low Density Residential Zone’ and included in a priority infrastructure area. As the premises are in the Low Density Residential Zone, the use of the land for a dwelling house constitutes accepted development and such a use may be carried out without the need for assessment. The development approval sought by the Grunskes was to reconfigure the premises from one lot into five. Each of the four new lots is to be about 2,000m² and they are to abut Wilkinson Road. Each of the new lots could be used, as of right, for a dwelling house. The application was approved and on 21 February 2025 the Council gave a decision notice to that effect.
- [32] In January 2025 the Council had adopted the *Fraser Coast Regional Council Infrastructure Charges Resolution 2025*. Several aspects of the resolution are of relevance to the present proceeding and should be noted.
- [33] First, the resolution was expressed as being made under section 113 of the PA.
- [34] Secondly, resolution was to apply to ‘all of Council’s local government area’.
- [35] Thirdly, the resolution adopted charges ‘for providing trunk infrastructure for development’ that is reconfiguring a lot, a material change of use or building work.

¹⁵ *Timor 34 Pty Ltd v Logan City Council* [2024] QPEC 27; [2025] QPELR 1343, [72].

- [36] Fourthly, a means of calculating a charge to be levied was provided, with provision to ensure no amount exceeded the maximum charge under the PR and to allow for offsets and refunds where appropriate.
- [37] Finally, Table A in Schedule 1 to the resolution set out ‘the Adopted Charge rate for development that is reconfiguring a lot’. Table A is reproduced below as it appears in the resolution. As may be readily seen, there are some apparent errors in the preparation of the table.

Table A – Reconfigure a Base Charge Rate

Column 1 Use Category	Column 2 Reconfigure a Lot Use	Column 3 (U) Charge Category	Column 3 (AC) Adopted Charge
Hervey Bay (inc. Burrum Heads, Toogoom, Booral and River Heads) – All Zones	New lot with development entitlement	\$ per lot	\$32,000
Maryborough, Howard, Torbanlea, Tiaro and Rural townships – All zones	New lot with development entitlement	\$ per lot	\$19,000

- [38] The first apparent error is that the third and fourth columns from the left are both labelled ‘Column 3’. However, reference to the method of calculating a charge in section 3 of the resolution reveals that while ‘Column 3 (U)’ is correctly labelled, ‘Column 3(AC)’ should be ‘Column 4 (AC)’. That is apparent because the calculation method defines ‘AC’ as ‘the Adopted Charge Rate for the development in accordance with **Schedule 1, column 4**’ (where the words in bold are as they appear in the original document). In a similar vein ‘U’ is defined as ‘the unit of measure’ as identified in **Schedule 1, column 3**.
- [39] The second apparent error is in the labelling of Column 1 with ‘Use Category’ where the contents of the column describe geographical locations within the Council’s local government area. Whether or not this should be regarded as an error, and if so whether that error has significance, is discussed further below.
- [40] It is necessary to mention Table B of the resolution to better understand the context and meaning of Table A. Table B sets charges in relation to development that is either a material change of use or building work. It deals with a wide variety of potential uses, including residential, commercial, educational, entertainment, and short and long-term accommodation. The breadth of the Tables shows the intention of the Council to ‘cover the field’, and to adopt charges to be levied in a range of different circumstances where the need to provide infrastructure will be affected by development. Predictably, the charge to be levied varies extensively according to the circumstances.
- [41] The detail in Table B stands in contrast to Table A. Table B represents a more fine-grained approach to charging for additional infrastructure demand arising from a material change of use or building work. Table A represents a much broader approach taken in relation to reconfiguring a lot. For this type of development there is no distinction drawn between the various uses which the development may be for. The

same adopted charge will apply whether the use is for a dwelling house, multiple dwelling or some other use for which a charge is permitted. Such an approach makes sense. A ‘base’ charge for trunk infrastructure may be levied when the reconfiguration of a lot is approved. If there is subsequent approval for further development, whether a material change of use or building work, which will create additional demand, a further charge (subject to the capped limit and with appropriate offsets or credits) may be levied.

- [42] It can be inferred from the giving of the ICN that Council decided that an adopted charge applied to providing infrastructure for the development it had approved. On that basis, the two conditions of section 119(1) of the PA were satisfied and, subject to section 120, the Council had to give the Grunskes an ICN. It may also be inferred that the Council considered section 120 was also satisfied, in that the development would generate extra demand on trunk infrastructure. The ICN was given at the same time as the decision notice. It was calculated by applying the base amount applicable to premises in ‘Maryborough, Howard, Torbanlea, Tiaro and Rural townships – All zones’ (\$19,000 per lot), then reducing that amount by 28% to reflect the fact that water supply and sewerage trunk infrastructure is not provided to the premises.¹⁶ A further credit was allowed for the existing dwelling on the premises such that the amount of the charge was for the four new lots at \$13,680 for each lot, that is \$54,720.

What was the decision of the Development Tribunal?

- [43] It is to be remembered that the only basis upon which an ICN may be challenged in a Development Tribunal is that there was an error in relation to the application of the relevant adopted charge, an error in relation to the working out of extra demand for the purposes of section 120 of the PA, or errors in relation to offsets or refunds. It is also important to recall that ‘an appeal against an infrastructure charges notice must not be about ... the charge itself’.
- [44] The Grunskes were represented by Mr Bolton in the Development Tribunal. Three sets of submission were filed on behalf of the Grunskes. These were described by the tribunal as ‘lengthy and detailed’. There was no suggestion of error in relation to offsets or refunds. It followed that the tribunal could only interfere with the decision to give an ICN if there was an error concerning ‘the application of a relevant adopted charge’ or in ‘the working out of extra demand’ for section 120 of the PA.
- [45] The asserted errors in this regard seem to have been no easier to discern before the Development Tribunal than they are in this proceeding. The arguments addressed by the Development Tribunal were as follows.
- [46] First, it was asserted by the Grunskes that no charge for reconfiguring a lot could be adopted by the Council because merely reconfiguring a lot does not deliver ‘a USE as defined within the parameters of those prescribed in Schedule 16 Column 1’ of the PR. This argument was rejected by the Development Tribunal as being a prohibited challenge to the ‘adopted charge itself’, contrary to section 229(6)(a) of the PA. Whether or not the decision of the Development Tribunal in this regard amounts to an error of law is to be considered in the context of the first question to be decided in this appeal.¹⁷
- [47] Secondly, it was asserted by the Grunskes that the geographical locations set out in Table A, Column 1, in particular the imprecise term ‘Rural townships’, rendered the

¹⁶ PA, section 116 and section 129.

¹⁷ See paragraph [4] above.

Council's charge resolution 'unworkable and therefore defective as a document to achieve compliance with the statutory provision[s]'. This was approached as an asserted error in the 'application of a relevant adopted charge' on the basis that the premises at Tuan were not captured by the terms used in Column 1. The Development Tribunal rejected this argument as the adopted charges were expressed as applying to the whole of the Council's local government area and the term 'Rural townships' acted as a 'catchall' to include all areas not specifically identified. This issue is to be considered in the context of the second question to be decided in this appeal.

- [48] Thirdly, it was asserted that the Council erred in deciding the development would create extra demand on trunk infrastructure. This argument was captured in the submissions on behalf of the Grunskes that

[i]n order to levy an infrastructure charge for a particular development, the assessment manager must establish that the development will generate extra demand upon trunk infrastructure. ... A development for Reconfiguring a lot does not itself generate a demand on infrastructure.

- [49] The Development Tribunal rejected this argument as it related to the particular development the subject of the approval. The reasoning of the tribunal relied upon section 120(2)(b) of the PA in having regard to the extra demand generated by 'prescribed development', that being the accepted development which may be carried out on the premises without the need for any further assessment or approval. The Development Tribunal concluded that the subdivision of one lot into five, where each lot has an entitlement to be used as a dwelling house, would place extra demand on trunk infrastructure. This issue is to be considered in the context of the third question to be decided in this appeal.
- [50] The Development Tribunal confirmed the calculation of the charge amount of \$54,720 and confirmed the decision of the Council to give the ICN.

Did the Development Tribunal err in law in the application of the adopted charge?

- [51] As has been noted above, the effect of sections 112 and 114 of the PA are to limit the capacity for a local government to resolve to adopt a charge for development. A charge may only be adopted for development which has been prescribed by regulation pursuant to section 112(3)(b). The relevant regulations are regulation 52(3)(a) and Schedule 16 of the PR. These work together to allow a charge to be adopted where the type of development is 'material change of use', 'reconfiguring a lot', or 'building work' and the development is '*for* a use stated in schedule 16, column 1' (my emphasis). The uses in column 1 include use as a 'dwelling house'. Therefore, a local government may resolve to adopt a charge pursuant to Chapter 4 of the PA in relation to a development which is reconfiguring a lot and is 'for' the use of a dwelling house.
- [52] 'For' is a common preposition. Definitions of 'for' in the Macquarie Dictionary include 'with the object or purpose of', 'appropriate or adapted to', and 'with regard or respect to'. Phrases of this kind sufficiently describe the connection which must exist between a 'development' and a 'use' before a local government may have an adopted charge for trunk infrastructure pursuant to regulation 52 of the PR. Applying these ordinary definitions, a local government may adopt a charge for infrastructure where the development has the object or purpose of use of the premises as a dwelling house, or is appropriate or adapted to, or is with regard or respect to use as a dwelling house. That is what the Fraser Coast Regional Council did when they adopted the *Fraser Coast Regional Council Infrastructure Charges Resolution 2025*.

- [53] The essence of the argument for the Grunskes ignores the language of regulation 52. Mr Bolton argued that ‘the implication of [the] legislation is that, for there to be an adopted charge ... the development [being reconfiguring a lot] must be a development for which there is a USE listed in Column 1 of Schedule 16.’ That is, the use listed in Schedule 16 must be one which is directly generated because of, or at least authorised by, the development. Mr Bolton’s argument reaches its apogee with the submission that merely reconfiguring a lot does not itself generate or authorise any use, therefore the requirements of the PR are not met and therefore there can be no adopted charge levied in relation to development which is no more than reconfiguring a lot.
- [54] I do not accept that submission. It misconstrues the words of regulation 52(3)(a), which only require that the development be ‘for’ a use stated in Schedule 16, column 1. As explained above, to be ‘for’ one of the prescribed uses does not require that the use be specifically authorised or directly generated by the development the subject of the approval.
- [55] The question for the Council was whether there was a charge, properly adopted in accordance with Chapter 4 of the PA, which applied to providing infrastructure for the development the subject of the approval. For the reasons set out above, it was open to the Council to adopt the charge for reconfiguring a lot found in the *Fraser Coast Regional Council Infrastructure Charges Resolution 2025*.¹⁸ It was a charge which applied to providing trunk infrastructure for this development because the development was ‘for’ the use of the premises as a dwelling house in the sense of having that object or purpose, or being appropriate or adapted to such a use. It does not matter that the development the subject of the approval may not immediately or directly ‘generate a USE prescribed in Column 1 of Schedule 16’, to take the words of Mr Bolton.
- [56] The development proposed by the Grunskes was to create four additional, smaller lots facing the road, set out in a manner conducive to building a dwelling on each, and upon which use as a dwelling house constituted accepted development. In such circumstances it would be irrational to conclude that the development, being the reconfiguration of a lot, was not for the use of a dwelling house. The development the subject of this approval was development in respect of which a charge could be, and was adopted pursuant to section 112 and 114 of the PA with regulation 52 and Schedule 16 of the PR.
- [57] The Development Tribunal did not err in concluding that the adopted charge applied to the development the subject of the approval. The first question must be answered ‘No’. In these circumstances, it is unnecessary to consider whether the Grunskes’ argument on this first question amounted to an impermissible challenge to ‘the charge itself’.¹⁹

Did the Development Tribunal err in law in concluding that the land was subject to the Council’s adopted charges?

- [58] This ground concerns the Grunskes’ argument that because the land is in Tuan, and Tuan is not mentioned in the *Fraser Coast Regional Council Infrastructure Charges Resolution 2025*, the land is not subject to the adopted charges. Part of this argument

¹⁸ There was no suggestion of any irregularity in the resolution of the Council to adopt the charge, the Grunskes argument focussed solely on the adopted charge being one which was not permitted by the PA and PR.

¹⁹ PA, section 229(6)(a).

involves the allegation that the charge resolution is ‘unworkable’. This ground may be dealt with briefly.

- [59] Section 114(2) of the PA permits a local government to set different adopted charges for development in different parts of the local government area. To an extent, that is what the Council did with the adoption of the *Fraser Coast Regional Council Infrastructure Charges Resolution 2025*, which fixed different adopted charges for different parts of the local government area. To achieve this result, the resolution identified some – but not all – localities in the local government area. But there is nothing to indicate that the adopted charges apply only in the locations which are named, and considering the resolution as a whole indicates no such limitation can be read into the document.
- [60] There are two obvious reasons why this is so. First, the resolution is expressed as applying ‘to all of Council’s local government area’. This plain indication leaves no room for thinking some parts of the local government area are not subject to adopted charges. Secondly, the expression ‘rural townships’ is used repeatedly in the tables of charges. These words should not be ignored and can only be understood as a reference to those parts of the local government area which are otherwise not designated in the resolution. It is unsurprising that the resolution does not list every single place within the local government area, instead focussing upon the larger or better-known areas. The phrase ‘rural townships’ then acts as a ‘catchall’, as was found by the Development Tribunal. The drafting employed in the resolution may not be perfect, but it is effective to include the whole of the local government area while also specifically designating some areas as being the subject of adopted charges.
- [61] The arguments of the Grunskes to the contrary are unpersuasive. Once the resolution is understood in the manner explained above, there is no ambiguity or inconsistency, and the resolution is not unworkable. There is undoubtedly some confusion introduced by the use of the column heading ‘Use Category’ where the contents of the column describe places, but this does not change the effect of the resolution. If this column heading is an error, it is an error of no consequence.
- [62] The Development Tribunal was correct to conclude an adopted charge applied to development of this land at Tuan. The second question must also be answered ‘No’.

Did the Development Tribunal err in law in concluding the development will create extra demand on trunk infrastructure?

- [63] The Grunskes’ argument in this regard is simple: merely changing the boundaries of a lot does not itself create extra demand on trunk infrastructure, therefore section 120 of the PA has not been satisfied and a charge can not be levied. I do not accept this argument. Even if it is accepted that reconfiguring a lot does not create demand on trunk infrastructure (an assumption which may not always be correct) the Grunskes’ argument fails to grapple with the terms of section 120.
- [64] Section 120 does not limit the consideration of extra demand to that which will be directly or immediately caused by the development. As noted above, section 120(2)(b) permits demand generated by ‘prescribed development’ to be included, even if that development is as yet unrealised. This may occur where the approved development ‘is for or relates to’ the prescribed development. The approved development in this case was the subdivision of the premises. The plans which were submitted show the intention to create four additional lots of about 2000m² each, facing onto Wilkinson Road, with a ‘handle’ between the lots to allow continued access to the balance of the

original premises. The irresistible inference is that each of the new lots is to be developed for use as a dwelling house. In this way the approved development 'is for or relates to' use of the new premises for dwelling houses. This constitutes 'accepted development' according to the planning scheme and may be carried out without a permit.

[65] 'Prescribed development' includes 'development which may be carried out on the premises without a development permit'. In this case there was prescribed development which could be including when considering if the approved development generated extra demand on trunk infrastructure. It does not matter that the prescribed development has not yet occurred. If the criteria in section 120(2)(b) are satisfied, as they were in this case, it may be included when working out extra demand. The Development Tribunal concluded, as a matter of fact, that the prescribed development, being the use of four new premises for dwelling house, would place 'some extra demand on the relevant trunk infrastructure'. This conclusion was undoubtedly correct, and in any event such a finding of fact cannot be challenged in this proceeding.

[66] The Grunskes' argument must be rejected because it does not matter that the reconfiguration itself may not create extra demand on trunk infrastructure. The inclusion of the extra demand which will result from the prescribed development justified the conclusion of the Development Tribunal that the approved development will place extra demand on trunk infrastructure. The reconfiguring of a lot was merely a 'trigger point' which required consideration of section 119 and 120 of the PA.²⁰ These provisions were correctly considered and applied by the Development Tribunal.

[67] The third question must also be answered 'No'.

Conclusion and orders

[68] For these reasons, the Grunskes have not established that the appeal should be upheld. It follows that the decision of the Development Tribunal must be confirmed.

[69] The Council wishes to make submissions about the costs of the appeal. It is preferable for this issue to be decided expeditiously and in a manner which minimises any further cost to the parties. If possible, I will hear the parties about the costs of the appeal when I deliver these reasons. If that is not possible, I will make directions for the determination of this issue.

[70] The orders will be:

1. The appeal is dismissed.
2. The decision of the Development Tribunal of 3 November 2025 is confirmed.
3. I will hear the parties as to the costs of the appeal.

²⁰ *Toowoomba Regional Council v Wagner Investments Pty Ltd* (2020) 5 QR 477; QCA 191, [115].