

In the Planning and Environment Court  
Held at: Maroochydore

Appeal No. D129 of 2025

Between: **MARK AND JULIANNE GRUNSKÉ** Appellants  
And: **FRASER COAST REGIONAL COUNCIL** Respondent

## WRITTEN OUTLINE OF THE RESPONDENT

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WRITTEN SUBMISSIONS  
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This appeal should be dismissed

1. This is an appeal by the Appellants against the decision of the Development Tribunal dated 3 November 2025.
2. The grounds of appeal against a decision of the Development Tribunal are limited to an error of law or jurisdictional error.<sup>1</sup>
3. The decision of the Development Tribunal dated 3 November 2025 was a result of an appeal to the Development Tribunal<sup>2</sup> against the infrastructure charges notice no.5138178 and dated 21 February 2025 (ICN) given by the Respondent (**Council**).
4. The grounds of appeal in this appeal are set out in the Notice of Appeal<sup>3</sup> as follows:
  - “1. *The Development Tribunal (Tribunal) failed, in making their decision (DTD) to consider – or to provide reasons for failing to consider, all the matter 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)<sup>1</sup> 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.<sup>2</sup>” [footnotes omitted]*
5. It is for the Appellants to demonstrate that this appeal should be upheld.<sup>4</sup>
6. At the time of preparing this Outline, the Appellants have not filed or served any written submissions pursuant to paragraph 3 of the Order of Cash KC DCJ dated 30 January 2026. Rather, the Appellants filed a document titled “Submission of Issues”<sup>5</sup> in which it states that:
 

*“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.”*
7. The Council’s position is that the grounds of appeal set out in the Notice of Appeal (which are repeated above) are the issues for determination by the Court and the Council has prepared its case on that basis. Accordingly, the Council objects to any

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<sup>1</sup> *Planning Act 2016 (PA)*, Schedule 1, Table 2, Item 1.

<sup>2</sup> Appeal no.25-021.

<sup>3</sup> Court Document No.1.

<sup>4</sup> *Planning and Environment Court Act 2016 (PECA)*, s.45(1)(d).

<sup>5</sup> Court Document No.8.

matters in Court Document No.8 which go beyond the grounds of appeal stated in the Notice of Appeal.

8. In summary, the Council submits that:
  - (a) in respect of Ground 1, it was not within the jurisdiction of the Development Tribunal to consider “*the matter set out on page 4 of the DTD under the heading Position 1*”. The matter under the heading “Position 1” was about an adopted charge and an appeal against an infrastructure charges notice cannot be about the adopted charge itself.<sup>6</sup> No error of law or jurisdictional error has been established;
  - (b) in respect of Ground 2, it is not a proper ground of appeal as it has no relevance to the decision of the Development Tribunal. Even if it was found to be a proper ground of appeal, no error of law or jurisdictional error has been established; and
  - (c) in respect of Ground 3, the Development Tribunal correctly construed and applied section 119 of the PA and the Council’s charges resolution. No error of law or jurisdictional error has been established.
9. For these reasons, and the reasons developed below, the Appellants have not established an error or mistake in law on the part of the Development Tribunal or jurisdictional error.
10. This appeal should be dismissed.

#### Brief background

11. On 21 February 2025, the Council gave a decision notice to approve the Appellants’ development application (RAL21/0138) for a development permit for reconfiguring a lot (1 lot into 5 lots)<sup>7</sup> and the related ICN.<sup>8</sup>
12. The *Fraser Coast Regional Council Adopted Infrastructure Charges Resolution March 2025 (Charges Resolution)* was in effect for the Council’s local government area when the ICN was given.<sup>9</sup>

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<sup>6</sup> PA, s.229(6)(a).

<sup>7</sup> Council’s Chief Executive Officer’s Certificate dated 29 January 2025 (**CEO Certificate**), para.2 and pp.1-24, Attachment 1.

<sup>8</sup> CEO Certificate, para.3 and pp.26-29, Attachment 2.

<sup>9</sup> CEO Certificate, para.6 and pp.53-78, Attachment 5.

13. On or about 14 July 2025, the Appellants appealed to the Development Tribunal against the ICN.<sup>10</sup>
14. By decision notice dated 3 November 2025 (**Decision Notice**), the Development Tribunal decided to confirm the Council's decision to give the ICN.<sup>11</sup>
15. On 1 December 2025, the Appellants appealed to this Court against the decision of the Development Tribunal dated 3 November 2025.

#### Summary of the Development Tribunal's decision

16. The Decision Notice can be found in Attachment 3 of the CEO Certificate (at pages 30-40).
17. The Development Tribunal dealt with its jurisdiction at paragraphs 19 to 24 of its Decision Notice. It relevantly stated that:
  - “20. *As the Council has correctly submitted, the Tribunal has a limited jurisdiction. The Tribunal accepts, having had regard to the issues raised by the parties' contentions, that this appeal may only be about an error in the ICN relating to “the application of the relevant adopted charge” or “the working out of extra demand, for section 120”.*
  21. *The Tribunal also accepts that the appeal may not be about the adopted charge itself. To the extent the Appellants' submissions have been construed as challenging the adopted charge, the Tribunal has not considered those matters in determination of the appeal.” [underlining added]*
18. After having determined its jurisdiction to hear the appeal, the Development Tribunal observed the two pre-conditions of giving an infrastructure charges notice under section 119 of the PA and the requirements for a levied charge under section 120 of the PA.<sup>12</sup>
19. With respect to section 119 of the PA, the Development Tribunal noted that:
  - (a) it was common ground between the parties that a development approval (RAL21/0138) has been given to the Appellants; and
  - (b) it was uncontroversial that the Council has adopted charges for providing trunk infrastructure for development by the Charges Resolution, noting in particular paragraphs 1.6, 2.1, 3.1 and Schedule 1, Table A of the Charges Resolution.<sup>13</sup>

<sup>10</sup> CEO Certificate, para.4.

<sup>11</sup> CEO Certificate, para.4 and pp.30-40, Attachment 3.

<sup>12</sup> Decision Notice, para.25.

<sup>13</sup> Decision Notice, para.26-31.

20. The Development Tribunal then went on and stated that:
- “33. *Having considered those provisions of the Charges Resolution, and for reasons further developed below, the Tribunal is satisfied that an adopted charge applies in respect of the approved development. In that premise, the Tribunal finds the Council was empowered by section 119 of the Planning Act to give the ICN.*
34. *To the extent the Appellant challenges the adopted charge itself, such matters are outside this Tribunal’s jurisdiction. As the Planning and Environment Court has considered, the adopted charge is immutable.<sup>14</sup> The Tribunal accepts the Council’s submissions in that regard.”*
21. The Development Tribunal then turned to the matters relevant to the two grounds of appeal (as noted above), namely:
- (a) an error in the ICN relating to the working out of extra demand for section 120, under the heading “Extra demand”;<sup>15</sup> and
- (b) an error in the ICN relating to the application of the relevant adopted charge, under the heading “Rate of charge”.<sup>16</sup>
22. In relation to the first error, having considered the Queensland Court of Appeal’s decision in *Toowoomba Regional Council v Wagner Investments Pty Ltd & Anor* [2020] QCA 191, the Development Tribunal made the following findings:
- “37. *The Tribunal accepts the Council’s submissions that there is no requirement to calculate the levied charge by reference to actual additional demand generated by the development. Moreover, the Tribunal accepts that it is irrelevant that, in a technical sense, the mere reconfiguration does not give rise to additional demand. In that regard, the Tribunal refers to the Court of Appeal’s reasons at [115].*
38. *As section 120 of the Planning Act makes clear, in working out extra demand, the demand on trunk infrastructure generated by a “prescribed development” (defined to include “development that may be carried out on the premises without a development permit”) may also be included. In this case, upon reconfiguration of the subject land, the new lots may be used for a variety of uses as “accepted development” under the Council’s Planning Scheme.<sup>17</sup>*
39. *In that premise, the Tribunal is satisfied that there will be some demand on the relevant trunk infrastructure as a consequence of the approved development. The Tribunal finds that the first pre-condition is satisfied.*
40. *For the reasons developed above, and having regard to the nature of the approved development (an increase from 1 lot to 5 lots) the Tribunal is*

<sup>14</sup> *Allen-Co Holdings Pty Ltd v Gympie Regional Council* [2021] QPEC 64 at [4].

<sup>15</sup> Decision Notice, para.35-41.

<sup>16</sup> Decision Notice, para.42-47.

<sup>17</sup> See *Fraser Coast Planning Scheme, Part 5 Tables of Assessment, Table 5.5.1 Low Density Residential zone.*

also satisfied that the approved development will place some extra demand on the relevant trunk infrastructure. The Tribunal finds that the second pre-condition is satisfied.” [underlining added]

23. As to the second error, the Development Tribunal first set out the Appellants’ contention as follows:

“42. *As noted above, the Appellants contend that the locality descriptions in Column 1 of Schedule 1, Table A are imprecise, having the effect that the application of the Charges Resolution is unworkable. In this regard, the Appellants’ challenge is to the Council’s treatment of the subject land as being within the “Rural townships” described in row 2 of Table A. The Tribunal has considered the Appellants’ detailed and lengthy submissions on this point in full.<sup>18</sup>*”

24. Having acknowledged that the term “Rural townships” was not defined in the Charges Resolution and accepted that the absence of a definition would introduce some ambiguity as to the application of Schedule 1, Table A, the Development Tribunal was satisfied that the subject land should be treated as being in a “Rural township” for the purposes of Schedule 1, Table A by finding that:

“44. *... the Charges Resolution makes clear that it applies to all the Council’s local government area, and that it adopts charges for development that is reconfiguring a lot. The Tribunal also accepts the Council’s submission that there is no indication anywhere in the Charges Resolution that it is intended to exclude any part of the local government area from the application of the adopted charges. In that premise, the Tribunal is satisfied that the Charges Resolution applied to the approved development on the subject land.*

45. *It has not been argued by either party that the subject land falls within the localities described in row 1 of Table A. Similarly, it has not been argued by either party that the subject land falls within Maryborough, Howard, Tornanlea or Tiaro, as listed in row 2 of Table A. In circumstances where the Charges Resolution applies to the whole of the local government area and where the subject land is not contained in the localities otherwise described in Table A, the Tribunal is satisfied that “Rural townships” acts as a catchall to capture the other areas in the Council’s local government area.*

...

47. *For completeness, the Tribunal observes that paragraph 3.6 of the Charges Resolution refers to the Poona and Maaroom townships. That paragraph contemplates some discounting to the adopted charge for certain development in those townships. Plainly, the Charges Resolution applies to Poona and Maaroom. However, those townships are not otherwise referred to in the Charges Resolution, particularly in Schedule 1. That the Charges Resolution applies to development in those*

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<sup>18</sup> In particular, Appellants’ final written submissions dated 25 August 2025, pages 4 to 7.

*townships, notwithstanding that they are not referred to Schedule 1, supports the Tribunal's above reasoning."*

25. In those circumstances, it was found that the Appellants have not satisfied the Development Tribunal that the appeal should be allowed. The decision of the Council to give the ICN was therefore confirmed.<sup>19</sup>

### Law

26. In this case, an appeal against a decision of the Development Tribunal can only be made on the ground of:

- (a) an error or mistake in law on the part of the Development Tribunal; or
- (b) jurisdictional error.<sup>20</sup>

27. As to the nature of this appeal, as was observed by Kefford DCJ in *Brisbane City Council v Tina and Tony Pty Ltd* [2022] QPEC 36 at [5]:

*"[5] Consistent with my observations in Southern Downs Regional Council v Homeworthy Inspection Services (as agent for Robert and Cheryl Newman),<sup>1</sup> this provision confers judicial power to examine the decision of the Development Tribunal for legal or jurisdictional error. While the right of review is described as an appeal, the Court is exercising original jurisdiction, rather than appellate jurisdiction, as the power conferred relates to the review of a decision that does not involve the exercise of a judicial power."<sup>2</sup> [footnotes omitted]*

28. The Appellants have the onus to establish that this appeal should be upheld.<sup>21</sup>
29. Section 47 of the PECA sets out the powers of the Court in deciding this appeal. Pursuant to section 47, the Court may:
- (a) confirm or change the decision appealed against; or
  - (b) set aside the decision appealed against and make a decision replacing it or return the matter to the entity that made the decision with directions as the Court considers appropriate.
30. As relevantly observed by Kefford DCJ in *Southern Downs Regional Council v Homeworthy Inspection Services (as agents for Robert and Cheryl Newman)* (2021) QPELR 1085 at [73] and [74]:

*"[73] In determining an appeal from the Development Tribunal, s 47 of the Planning and Environment Court Act 2016 provides the Court with*

<sup>19</sup> Decision Notice, para.52-53.

<sup>20</sup> PA, Schedule 1, Table 2, Item 1.

<sup>21</sup> PECA, s.45(1)(d).

*broad power. For example, in exercise of its jurisdiction in an appeal from the Development Tribunal, the Court may make a decision replacing that of the Development Tribunal where only one conclusion is open on the correct application of the law to the facts found by the Development Tribunal. Such a case arises when no other conclusion could reasonably be entertained. In that event, the Court can make the order that the Development Tribunal should have made.*<sup>32</sup>

[74] *That said, in exercising its powers under s 47 of the Planning and Environment Court Act 2016, the Court must be careful not to exceed the express limitation on jurisdiction found in s 229 and Sch 1, table 1, item 1(4) and Sch 1, table 2, item 1 of the Planning Act 2016. As was observed by French CJ, Gummow and Bell JJ in Osland:*<sup>33</sup>

*“... Absent such restraint, a question of law would open the door to an appeal by way of rehearing. Where there is a factual matter that has to be determined as a consequence of the appeal, it may be that it is able conveniently to be determined by the Court of Appeal upon uncontested evidence or primary facts already found by the Tribunal. When the outstanding issue involves the formation of an opinion which is, as in this case, based upon considerations of public interest, then it should in the ordinary case be remitted to the body established for the purpose of making that essentially factual, evaluative and ministerial judgment.”* [footnotes omitted]

### Appeal Ground 1

31. The first ground of appeal is stated in the Notice of Appeal as follows:

*“The Development Tribunal (Tribunal) failed, in making their decision (DTD) to consider – or to provide reasons for failing to consider, all the matter 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.”*

32. Page 4 of the Decision Notice under the heading “Position 1” states:

*“Position 1. If a development does not generate a USE, prescribed in Column 1 of Schedule 16, it is not a development prescribed under Section 112 of PA16 as being a development to which an adopted charge can be levied by a local authority, even if the development is responsible for generating extra demand on trunk infrastructure.”*

33. In the Council’s submission, this ground of appeal does not reveal an error of law on the part of the Development Tribunal or jurisdictional error.

34. That is because the matter set out above was concerned with an adopted charge (which an appeal against an infrastructure charges notice **cannot** be about<sup>22</sup>) for the reasons which follow. Consequently, it was not within the jurisdiction of the Development Tribunal to consider the matter set out under the heading “Position 1”.

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<sup>22</sup> PA, s.229(6)(a).

35. **First**, section 112 of the PA (and Schedule 16 of the *Planning Regulation 2017*) is about prescribing “*a maximum adopted charge*” for trunk infrastructure and other matters related to an adopted charge. Consistent with the heading to subdivision 1<sup>23</sup> under which section 112 sits, it is about adopting charges.
36. That is reinforced by section 113 (which also sits under subdivision 1). Section 113 confers a local government with the power to adopt charges by resolution for providing trunk infrastructure for development.
37. **Secondly**, paragraphs 5 and 6 of the Notice of Appeal confirm that the matter set out in Position 1 was about an adopted charge.
38. Paragraph 5 states that “*Position 1 challenged the lawful authority, of the Resolution to authorise the issue of the ICN in respect of Development Approval RAL21/0138*”. Paragraph 6 states that “... *The Tribunal ... failed to address the broader questions of lawful authority raised under Position 1*”.<sup>24</sup>
39. Clearly, the Appellants sought to (impermissibly) challenge the adopted charge under the Charges Resolution or the Charges Resolution itself.
40. Neither of those matters were able to be appealed against in the appeal to the Development Tribunal and the Development Tribunal had no jurisdiction to consider those matters.
41. That explains why the Development Tribunal said in the Decision Notice:
- (a) at paragraph 21, “[t]o the extent the Appellants’ submissions have been construed as challenging the adopted charge, the Tribunal has not considered those matters in determination of the appeal”; and
- (b) at paragraph 34, “[t]o the extent the Appellant challenges the adopted charge itself, such matters are outside this Tribunal’s jurisdiction”.
42. The Appellants cannot establish an error or mistake in law on the part of the Development Tribunal or jurisdictional error under this ground. This ground of appeal must fail.

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<sup>23</sup> A heading to a subdivision of an Act is part of the Act: *Acts Interpretation Act 1954* (AIA), s.14(1).

<sup>24</sup> underlining added.

## Appeal Ground 2

43. The second ground of appeal is stated in the Notice of Appeal as follows:

*“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)<sup>1</sup> omitted a definition of a crucial term used to determine infrastructure contributions.”* [footnote omitted]

44. At the outset, the Council notes that this ground of appeal does not clearly state what the Appellants advance as the error of law or jurisdictional error. It refers to “*a crucial term*” but does not specify what that term is. Further, it fails to properly articulate the relevance of the “*overarching responsibilities of Sections 3 and 5 of the Planning Act 2016*” in the context of the appeal to the Development Tribunal.

45. Nonetheless, for the purposes of this Outline, the Council would assume that the “*crucial term*” to which this ground of appeal relates is a reference to the term “*Rural townships*” in Schedule 1, Table A of the Charges Resolution.

46. The Council’s primary submission in respect of this ground is that it is misguided and is not a proper ground of appeal. That is because it has no relevance to the decision of the Development Tribunal which was about the ICN, and whether the ICN involved an error relating to the application of the relevant adopted charge or the working out of extra demand for section 120.

47. Based on the Notice of Appeal, the Appellants’ contentions in respect of sections 3 and 5 of the PA seem to relate to the Charges Resolution itself.<sup>25</sup> Again, the appeal to the Development Tribunal was not about the lawfulness of the Charges Resolution.

48. Further, even if it was found that this ground is a proper ground of appeal, the Appellants have not established an error or mistake in law on the part of the Development Tribunal or jurisdictional error for the following reasons:

- (a) **first**, the Appellants have not demonstrated that the Development Tribunal had failed to give sufficient weight to the “*overarching responsibilities of Sections 3 and 5 of the Planning Act 2016*”;
- (b) **secondly**, even if the Development Tribunal was found to have failed to give sufficient weight to those responsibilities, the Appellants have not demonstrated that there is a realistic possibility that a different decision about the giving of the

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<sup>25</sup> see, for example, Notice of Appeal, para.32 and 33.

ICN could have been made had the Development Tribunal given sufficient weight to those responsibilities;<sup>26</sup> and

- (c) **thirdly**, the Development Tribunal made a finding of fact that the term “*Rural townships*” was not defined in the Charges Resolution.<sup>27</sup> Irrespective of the relevance of the responsibilities and the extent of weight the Development Tribunal ought to have given to them, that finding would remain one of fact, not law.

49. This ground of appeal must fail.

### Appeal Ground 3

50. The third ground of appeal is stated in the Notice of Appeal as follows:

*“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.”*<sup>28</sup> [footnote omitted]

51. While this ground does not specify which paragraph of the Decision Notice to which it relates, it appears to relate to paragraph 33 which states:

*“Having considered those provisions of the Charges Resolution, and for reasons further developed below, the Tribunal is satisfied that an adopted charge applies in respect of the approved development. In that premise, the Tribunal finds the Council was empowered by section 119 of the Planning Act to give the ICN.”*

52. In the Council’s submission, the Appellants have not established an error or mistake in law on the part of the Development Tribunal or jurisdictional error in its finding that the Council was empowered by section 119 of the PA to give the ICN.

53. Section 119(2) of the PA imposes an obligation on a local government to give an infrastructure charges notice if:

- (a) a development approval has been given (section 119(1)(a)); and
- (b) an adopted charge (being a charge adopted by resolution<sup>28</sup>) applies to providing trunk infrastructure for the development (section 119(1)(b)).

54. As a starting point, as observed by the Development Tribunal, it was common ground between the parties that a development approval (RAL21/0138) was given to the

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<sup>26</sup> *MZAPC v Minister for Immigration and Border Protection and Anor* (2021) 273 CLR 506 at [39] per Kiefel CJ, Gageler, Keane and Gleeson JJ.

<sup>27</sup> Decision Notice, para.43.

<sup>28</sup> PA, s.113(1) and sch.2.

Appellants.<sup>29</sup> Therefore, the first pre-condition in section 119(1)(a) of the PA was clearly met.

55. Turning to the second pre-condition in section 119(1)(b) of the PA, the Development Tribunal made findings about the second pre-condition at paragraphs 27 to 32 and 42 to 47 of the Decision Notice. Relevantly, the Development Tribunal found that:
- (a) the Charges Resolution applied to all of the Council’s local government area;<sup>30</sup>
  - (b) the Charges Resolution adopted charges for providing trunk infrastructure for reconfiguring a lot;<sup>31</sup>
  - (c) the adopted charge for reconfiguring a lot was set out in Schedule 1, Table A of the Charges Resolution;<sup>32</sup>
  - (d) neither party argued that the subject land fell within the localities described in row 1 of Table A or Maryborough, Howard, Tornanlea or Tiaro in row 2 of Table A;<sup>33</sup>
  - (e) the subject land should be treated as being in a “*Rural township*” for the purposes of Schedule 1 of the Charges Resolution in circumstances where:
    - (i) the Charges Resolution applied to the whole of the Council’s local government area;
    - (ii) there was no indication anywhere in the Charges Resolution that it was intended to exclude any part of the Council’s local government area from the application of the adopted charges;
    - (iii) the subject land was not contained in the other localities described in Table A; and
    - (iv) “*Rural townships*” would act as a catchall to capture other areas in the Council’s local government area not otherwise described in Table A;<sup>34</sup> and

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<sup>29</sup> Decision Notice, para.26.

<sup>30</sup> Decision Notice, para.28 and 44.

<sup>31</sup> Decision Notice, para.28.

<sup>32</sup> Decision Notice, para.31.

<sup>33</sup> Decision Notice, para.45.

<sup>34</sup> Decision Notice, para.44 and 45.

- (f) section 3.6 of the Charges Resolution supported its findings in sub-paragraph (e) above.<sup>35</sup>
56. The findings of the Development Tribunal at paragraph 55(a) to (d) above were findings of fact. Those findings at paragraph 55(e) and (f) above were findings of law as they involved the construction of the Charges Resolution and the Charges Resolution is a statutory instrument<sup>36</sup>.
57. It is submitted that the Development Tribunal did not misconstrue the Charges Resolution. In fact, the construction adopted by the Development Tribunal is both orthodox and consistent with the established principles and canons of statutory construction.
58. **First**, the Development Tribunal’s construction allows all words in Table A, Column 1 to be given meaning and for a harmonious construction between Table A and other parts of the Charges Resolution (such as section 3.6) to be adopted.<sup>37</sup> That would also be the case for Table B.
59. **Secondly**, the Development Tribunal’s construction is consistent with and best achieves the purpose of the Charges Resolution, which is to adopt charges for providing trunk infrastructure for development (including reconfiguring a lot) in all of the Council’s local government area.<sup>38</sup> Pursuant to section 14A of the AIA and section 14 of the SIA, an interpretation of a provision of a statutory instrument that will best achieve the purpose of the statutory instrument is to be preferred to any other interpretation.
60. **Thirdly**, the Development Tribunal’s construction enables a practical, broad and sensible reading of the Charges Resolution, which is appropriate in circumstances where, like planning schemes, it is not “*drawn with the precision of an Act of Parliament*”.<sup>39</sup>

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<sup>35</sup> Decision Notice, para.47.

<sup>36</sup> *Statutory Instruments Act 1992 (SIA)*, s.7. The Charges Resolution was made under s.113 of the PA and is a notification of a public nature.

<sup>37</sup> see, for example, *Project Blue Sky Inc v Australian Broadcasting Authority* (1998) 194 CLR 355 at [69]-[71].

<sup>38</sup> Charges Resolution, s.1.6.

<sup>39</sup> *Westfield Management Ltd v Pine Rivers Shire Council & Anor* [2004] QPELR 337 at 342 at [18]; see also *Zappala Family Co Pty Ltd v Brisbane City Council* [2014] QPELR 686, 700 at [56] and [57].

61. **Fourthly**, contrary to the Appellants' contention, Table A is "*workable*"<sup>40</sup> and it would not be difficult to determine which row in Table A that may be applicable to a particular parcel of land in the Council's local government area.
62. When the Charges Resolution is read as a whole, it is clear that the Charges Resolution applies to all of the Council's local government area. With that in mind, when one then turns to Table A, the first step is to determine whether a parcel of land would fall within the specified localities in row 1. If it does not, the parcel of land would fall within row 2. Table A should be given its full effect and not be read down.
63. The Development Tribunal was correct in finding that an adopted charge under the Charges Resolution applied to the development approved by the development approval (RAL21/0138).<sup>41</sup> The second pre-condition in section 119(1)(b) of the PA was therefore met.
64. There was no error of law or mistake on the part of the Development Tribunal in its construction and application of section 119 of the PA and the Charges Resolution.
65. This ground of appeal must fail.

### Conclusion

66. In the Council's submission, this appeal should be dismissed. The Council wishes to be heard further on the question of costs.

**Ronald Yuen**  
Counsel for the Respondent  
20 March 2026

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<sup>40</sup> Decision Notice, para.32 and 42.

<sup>41</sup> Decision Notice, para.33, 44 and 46.