

# Lockyer Valley Regional Council

## Adopted Infrastructure Charges Resolution (No. 8) 2024

### Contents

<b>Part 1 Introduction .....</b>	<b>2</b>
1. <i>Planning Act 2016</i> .....	2
2. Application of the resolution to the local government area .....	2
3. When the resolution has effect .....	2
4. Priority infrastructure area .....	2
5. Defined terms .....	2
<b>Part 2 Adopted charges .....</b>	<b>3</b>
6. Adopted charges.....	3
<b>Part 3 Levied Charges .....</b>	<b>7</b>
7. Working out the levied charge .....	7
8. Working out the development demand .....	7
9. Working out the development credit .....	8
10. Automatic increases to levied charges .....	9
11. Payment trigger .....	9
<b>Part 4 Offsets and refunds .....</b>	<b>10</b>
12. Application of an offset or refund .....	10
13. Default establishment cost.....	10
14. Calculating the establishment cost.....	10
15. Payment of an offset or refund .....	12
16. Agreements about payment, instead of payment.....	13
<b>Part 5 Conversion applications .....</b>	<b>13</b>
17. Application to convert infrastructure to trunk infrastructure.....	13
18. Criteria for deciding conversion applications .....	14
19. Effect of conversion .....	14
<b>Schedule 1 Method for calculating establishment cost – Land.....</b>	<b>16</b>
<b>Schedule 2 Method for calculating establishment cost – Works.....</b>	<b>18</b>

## Part 1 Introduction

### 1. **Planning Act 2016**

This resolution is made under section 113 of the *Planning Act 2016* ('the Act').

### 2. **Application of the resolution to the local government area**

- (1) This resolution applies to the whole of the Lockyer Valley Regional Council area.
- (2) This resolution adopts charges for providing trunk infrastructure for development, which are no more than the applicable maximum adopted charge, for development that is:
  - (a) Reconfiguring a lot;
  - (b) a Material change of use;
  - (c) Building work.

### 3. **When the resolution has effect**

This resolution has effect on and from 22 July 2024.

### 4. **Priority infrastructure area**

The priority infrastructure area for Lockyer Valley Region is identified in the local government infrastructure plan in the Lockyer Valley Planning Scheme.

### 5. **Defined terms**

In this resolution, these terms have the following meanings:

**Table 1: Defined terms**

TERM	DEFINITION
<b>adopted charge</b>	The charges set by this resolution see section 2 Application of adopted charges.
<b>completion</b>	The stage in the provision of a trunk infrastructure contribution by an applicant when Council is satisfied that the trunk infrastructure contribution is complete other than for a minor omission or a minor defect or both which: <ol style="list-style-type: none"> <li>(a) is not essential;</li> <li>(b) does not prevent the matter from being reasonably capable of being used for its intended purpose;</li> <li>(c) Council finds the applicant has a reasonable basis for not promptly rectifying; and</li> <li>(d) the rectification of which will not prejudice the convenient use of the matter.</li> </ol>
<b>Council</b>	Lockyer Valley Regional Council
<b>demand unit</b>	A unit of measurement for measuring the level of demand for infrastructure.
<b>development demand</b>	The load development of a site places on trunk infrastructure.
<b>demand credit</b>	The load placed on trunk infrastructure by existing or previous lawful use of the premises. See also section 120(2) of the Act.
<b>impervious area</b>	The area of a site that is impervious to rainfall or overland flow that results in the discharge of stormwater from the premises.

- (2) Words and terms not defined above and used in this resolution have the meaning given in the Act or *Planning Regulation 2017* ('the Regulation').
- (3) A term that is used but not defined in this resolution will, have the meaning give to it by (in the following order):
  - (a) the Act or the Regulation;
  - (b) the Planning Scheme; or
  - (c) its ordinary meaning given to it by the edition of the Macquarie Dictionary that is current at the date this resolution takes effect, subject to section 14A of the *Acts Interpretation Act 1954* and section 14 of the *Statutory Instruments Act 1992*.

## Part 2 Adopted charges

### 6. Adopted charges

- (1) Lockyer Valley Regional Council resolves to adopt the charges mentioned in:
  - (a) Table 2, Column 3, for the development of a use mentioned in Table 2, Column 2; and
  - (b) Table 3, Column 3, for the development of a use mentioned in Table 3, Column 2.
- (2) The adopted charge for Reconfiguring a lot is the amount for each lot as stated in Table 2, Column 3, for a dwelling with 3 or more bedrooms.
- (3) The adopted charge for a Material change of use or Building works for:
  - (a) Residential development – is the amount stated in Table 2, Column 3, for the applicable use mentioned in Table 2, Column 2;
  - (b) Non-residential development – is the amount stated in Table 3, Column 3, which includes the following:
    - (i) the adopted charge mentioned in Table 3, Column 3A; and
    - (ii) the adopted charge mentioned in Table 3, Column 3B;for the applicable use mentioned in Table 2, Column 2.
- (4) For details on adopted charges for water and sewerage infrastructure, refer to Urban Utilities' Water Netserv Plan under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

**Table 2 – Adopted charges for residential uses**

COLUMN 1 ADOPTED CHARGE CATEGORY	COLUMN 2 REGULATION USE	COLUMN 3 ADOPTED CHARGE FOR COUNCIL'S INFRASTRUCTURE NETWORKS	COLUMN 4 CHARGES BREAKUP WITH URBAN UTILITIES – % CHARGED BY COUNCIL
<b>Residential uses</b>	<ul style="list-style-type: none"> <li>• Caretaker's accommodation</li> <li>• Dual occupancy</li> <li>• Dwelling house</li> <li>• Multiple dwelling</li> </ul>	(a) \$12,260.72 for each dwelling with 2 or less bedrooms (b) \$15,144.21 for each dwelling with 3 or more bedrooms	50%
<b>Accommodation (short-term)</b>	<ul style="list-style-type: none"> <li>• Tourist park</li> </ul>	If the tourist park has tent or caravan sites: (a) \$6,130.35 for each group of 2 sites or less; (b) \$7,572.10 for each group of 3 sites  If the tourist park has cabins: (a) \$6,130.35 for each cabin with 2 or less bedrooms; (b) \$7,572.10 for each cabin with 3 or more bedrooms	50%
	<ul style="list-style-type: none"> <li>• Hotel</li> <li>• Resort complex</li> <li>• Short-term accommodation</li> </ul>	(a) \$6,130.35 for each suite with 2 or less bedrooms (b) \$7,572.10 for each suite with 3 or more bedrooms (c) \$6,130.35 for each bedroom that is not part of a suite	
<b>Accommodation (long-term)</b>	<ul style="list-style-type: none"> <li>• Relocatable home park</li> </ul>	(a) \$12,260.72 for each relocatable dwelling site for 2 or less bedrooms (b) \$15,144.21 for each relocatable dwelling site for 3 or more bedrooms	50%
	<ul style="list-style-type: none"> <li>• Community residence</li> <li>• Retirement facility</li> <li>• Rooming accommodation</li> </ul>	(a) \$12,260.72 for each suite with 2 or less bedrooms (b) \$15,144.21 for each suite with 3 or more bedrooms (c) \$12,260.72 for each bedroom that is not part of a suite	

**Table 3 - Adopted charges for non-residential uses**

COLUMN 1 ADOPTED CHARGE CATEGORY	COLUMN 2 REGULATION USE	COLUMN 3 ADOPTED CHARGE FOR COUNCIL'S INFRASTRUCTURE NETWORKS		COLUMN 4 CHARGES BREAKUP WITH URBAN UTILITIES – % CHARGED BY COUNCIL
		COLUMN 3A TRANSPORT AND LAND NETWORKS (\$/m <sup>2</sup> of GFA)	COLUMN 3B STORMWATER NETWORK (\$/m <sup>2</sup> impervious to stormwater)	
<b>Places of assembly</b>	<ul style="list-style-type: none"> <li>• Club</li> <li>• Community use</li> <li>• Function facility</li> <li>• Funeral parlour</li> <li>• Place of worship</li> </ul>	\$50.46	\$12.21	59%
<b>Commercial bulk goods</b>	<ul style="list-style-type: none"> <li>• Agricultural supplies store</li> <li>• Bulk landscape supplies</li> <li>• Garden centre</li> <li>• Hardware and trade supplies</li> <li>• Outdoor sales</li> <li>• Showroom</li> </ul>	\$83.77	\$12.21	49%
<b>Commercial (retail)</b>	<ul style="list-style-type: none"> <li>• Adult store</li> <li>• Food and drink outlet</li> <li>• Service industry</li> <li>• Service station</li> <li>• Shop</li> <li>• Shopping centre</li> </ul>	\$134.09	\$12.21	61%
<b>Commercial (office)</b>	<ul style="list-style-type: none"> <li>• Office</li> <li>• Sales office</li> </ul>	\$83.77	\$12.21	49%
<b>Educational facility</b>	<ul style="list-style-type: none"> <li>• Childcare centre</li> <li>• Community care centre</li> <li>• Educational establishment</li> </ul>	\$83.77	\$12.21	49%
<b>Entertainment</b>	<ul style="list-style-type: none"> <li>• Hotel</li> <li>• Nightclub entertainment facility</li> <li>• Resort complex</li> <li>• Theatre</li> </ul>	\$122.09, other than areas for providing accommodation	\$12.21	50%
<b>Indoor sport and recreation</b>	<ul style="list-style-type: none"> <li>• Indoor sport and recreation</li> </ul>	\$122.09, other than court areas	\$12.21	50%
		\$18.27, for court areas	\$12.21	75%
<b>High impact industry or special industry</b>	<ul style="list-style-type: none"> <li>• High impact industry</li> <li>• Special industry</li> </ul>	\$33.36	\$12.21	39%
<b>Other industry</b>	<ul style="list-style-type: none"> <li>• Low impact industry</li> <li>• Medium impact industry</li> <li>• Research and technology industry</li> <li>• Rural industry</li> <li>• Warehouse</li> </ul>	\$25.64	\$12.21	42%

COLUMN 1 ADOPTED CHARGE CATEGORY	COLUMN 2 REGULATION USE	COLUMN 3 ADOPTED CHARGE FOR COUNCIL'S INFRASTRUCTURE NETWORKS		COLUMN 4 CHARGES BREAKUP WITH URBAN UTILITIES – % CHARGED BY COUNCIL
		COLUMN 3A TRANSPORT AND LAND NETWORKS (\$/m <sup>2</sup> of GFA)	COLUMN 3B STORMWATER NETWORK (\$/m <sup>2</sup> impervious to stormwater)	
<b>High impact rural</b>	<ul style="list-style-type: none"> <li>• Cultivating, in a confined area, aquatic animals or plants for sale</li> <li>• Intensive animal industry</li> <li>• Intensive horticulture</li> <li>• Wholesale nursery</li> <li>• Winery</li> </ul>	\$12.18	N/A	50%
<b>Low impact rural</b>	<ul style="list-style-type: none"> <li>• Animal husbandry</li> <li>• Cropping</li> <li>• Permanent plantation</li> <li>• Wind farm</li> </ul>	Nil charge		NA
<b>Essential services</b>	<ul style="list-style-type: none"> <li>• Correctional facility</li> <li>• Emergency services</li> <li>• Healthcare services</li> <li>• Hospital</li> <li>• Residential care facility</li> <li>• Veterinary services</li> </ul>	\$135.06	\$12.21	79%
<b>Minor uses</b>	<ul style="list-style-type: none"> <li>• Advertising device</li> <li>• Cemetery</li> <li>• Home-based business</li> <li>• Market</li> <li>• Outdoor lighting</li> <li>• Park</li> <li>• Roadside stall</li> <li>• Telecommunications facility</li> </ul>	Nil charge		NA
<b>Other uses</b>	<ul style="list-style-type: none"> <li>• Air service</li> <li>• Animal keeping</li> <li>• Car park</li> <li>• Crematorium</li> <li>• Extractive industry</li> <li>• Major sport, recreation and entertainment facility</li> <li>• Motor sport facility</li> <li>• Outdoor sport and recreation</li> <li>• Rural workers accommodation</li> <li>• Tourist attraction</li> <li>• Utility installation</li> <li>• Any other use not listed in column 2</li> </ul>	The adopted charge is the charge in Column 3 for another use in Column 2 that Council decides to apply to the use.		The relevant portions are those for the Adopted Charge Category that the local government or distributor-retailer decides to apply to the use.

## Part 3 Levied Charges

### 7. Working out the levied charge

- (1) Section 120 of the Act provides that a levied charge may be only for extra demand placed on trunk infrastructure that the development will generate. When working out the extra demand, the demand on trunk infrastructure generated by the following must not be included:
  - (a) an existing use on the premises if the use is lawful and already taking place on the premises;
  - (b) a previous use that is no longer taking place on the premises if the use was lawful at the time it was carried out; and
  - (c) other development on the premises if the development may be lawfully carried out without the need for a further development permit.
- (2) Generally, the levied charge for a development is calculated by Council as follows:

$$LC = DD - DC$$

Where: *LC* is the levied charge for the development, which cannot be less than zero.  
*DD* is the development demand for the development.  
*DC* is the demand credit of existing or previous lawful development.

### 8. Working out the development demand

- (1) The development demand is worked out using the demand unit of the relevant adopted charge for the development in section 6.
- (2) Generally, the development demand is calculated by Council as follows:
  - (a) if the development is for Reconfiguring a lot – the total number of lots proposed;
  - (b) if the development is for a Material change of use or Building works for a residential use – the total number of dwelling units, cabins or suites (as relevant) proposed for the site;
  - (c) if the development is for a Material change of use or Building works for a non-residential use – the total gross floor area and impervious area proposed for the site.
- (3) For clarification, if the development is for a Material change of use that is a non-residential use, the development demand is calculated by Council as follows:

$$DD = AC_{TL} \times N_{GFA} + AC_{SW} \times N_{IA}$$

Where: *DD* is the development demand for the development  
*AC<sub>TL</sub>* is the adopted charge for the transport and land networks in Table 3, Column 3A.  
*N<sub>GFA</sub>* is the total gross floor area in square metres.  
*AC<sub>SW</sub>* is the adopted charge for the stormwater network in Table 3, Column 3B.  
*N<sub>IA</sub>* is the total impervious area in square metres.

- (4) If the development is for Material change of use and there is more than one use proposed:
  - (a) the development demand for any common area used for more than one use is worked out based on the use with the highest adopted charge;
  - (b) where separate areas of a premises are used for different uses, the development demand is the sum of development demand for each of the uses.

## 9. Working out the development credit

- (1) The demand credit is worked out using the demand unit of the relevant adopted charge for the existing or previous lawful use of the land in section 6.
- (2) Generally, the demand credit is calculated by Council as follows:

$$DC = AC \times N$$

Where: *DC* is the demand credit for the existing or previous lawful use.  
*AC* is the adopted charge for the existing or previous lawful use.  
*N* is the number of demand units for the existing or previous lawful use.

- (3) The demand credit is worked out using the following number of demand units:
  - (a) if the development is for Reconfiguring a lot - the number of existing lots;
  - (b) if the development is for a Material change of use or Building works for a residential use – the number of existing lawful, or previous lawful, dwelling units, cabins or suites (as relevant) on the site;
  - (c) if the development is for a Material change of use or Building works for a non-residential use – the total gross floor area and impervious area of the existing lawful, or previous lawful, use of the site.
- (4) For clarification, if the existing lawful, or previous lawful, use is a Material change of use that is a non-residential use, the demand credit is calculated by Council as follows:

$$DC = AC_{TL} \times N_{GFA} + AC_{SW} \times N_{IA}$$

Where: *DC* is the demand credit  
*AC<sub>TL</sub>* is the adopted charge for the transport and land networks in Table 3, Column 3A for the existing or previous lawful use.  
*N<sub>GFA</sub>* is the gross floor area of the existing or previous lawful use in square metres.  
*AC<sub>SW</sub>* is the adopted charge for the stormwater network in Table 3, Column 3B.  
*N<sub>IA</sub>* is the impervious area of the existing or previous use in square metres.

- (5) If the development is for Material change of use or Building works, the demand credit is to be worked out using the greater of the following:
  - (a) if the premises is vacant – for each lot making up the site, the demand for a dwelling with 3 or more bedrooms in Column 3 of Table 2;
  - (b) if the premises is subject to an existing use which is lawful and already taking place on the premises (existing lawful use) – the demand generated for the existing lawful use using the applicable demand units for the use;
  - (c) if the premises is subject to a previous use which was lawful at the time it was carried out and is no longer taking place on the premises (previous lawful use) – the demand generated for the previous lawful use using the applicable demand units for the use;



- (d) if more than one lawful use is relevant to the premises:
  - (i) if there is an existing lawful use and previous lawful use relevant to the premises, the demand credit will be worked out based on the use with the highest adopted charge;  
*Example—If a building has an existing lawful use as an Office, but has a previous lawful use as a Funeral parlour, a credit will only be granted for the current Office use (which has a higher adopted charge), because the two uses are for the same building and cannot occur simultaneously.*
  - (ii) if the development involves a common area used for more than one use, the demand credit is worked out based on the use with the highest adopted charge;
  - (iii) where separate areas of a premises are used for different lawful uses, the demand credit is the sum of all credits for each of the uses.

- (6) A demand credit does not apply if:
  - (a) an infrastructure charges notice that applies, or applied, to the existing use or development has not been paid; or
  - (b) an infrastructure charges notice applies to the premises on which the development will be carried out and the notice was issued on the basis that the development is of a lower scale or intensity being carried on the premises.
- (7) A demand credit is only to be provided to a maximum amount equal to the development demand.

#### **10. Automatic increases to levied charges**

- (1) The levied charge for development will be increased from the date the charge is levied to the date the charge is paid using the 3-yearly PPI average.<sup>1</sup>
- (2) The automatic increase is the lesser of the following:
  - (a) the difference between the levied charge and the maximum adopted charge Council could have levied for the development when the charge is paid;
  - (b) the increase worked out using the 3-yearly PPI average for the period starting on the day the levied charge is levied and ending on the day the charge is paid.

#### **11. Payment trigger**

- (1) A levied charge is payable at the following time:
  - (a) if the charge applies to Reconfiguring a lot – when Council approves the plan of subdivision;
  - (b) if the charge applies to a Material change of use – when the change of use happens.
  - (c) if the charge applies to carrying out Building work– when:

---

<sup>1</sup> The PPI is the Producer Price Index for construction 6427.0 (ABS PPI) index number 3101 for road and bridge construction in Queensland published by the Australian Bureau of Statistics. Section 114(6) of the Act defines the 3-yearly PPI average as the PPI adjusted according to the three-year moving average quarterly percentage change between financial quarters.

- (i) the final inspection certificate (for a single detached class 1a building or a class 10 building or structure) is given; or
  - (ii) the certificate of classification (for a building or structure of another class) for the Building work is given.
- (2) In accordance with section 123 of the Act, the recipient of an infrastructure charges notice and Council may agree that the levied charge under the notice may be paid other than as outlined in (1) above, including payment by instalments.

## Part 4 Offsets and refunds

### 12. Application of an offset or refund

- (1) The following apply if a trunk infrastructure contribution services or is planned to service premises other than premises the subject of the relevant approval and an adopted charge applies to the development the subject of the relevant approval:
- (a) an offset—where the establishment cost for the trunk infrastructure contribution is equal to or less than the levied charge, the cost is offset against the levied amount; and
  - (b) a refund—where the establishment cost for the trunk infrastructure contribution is more than the levied charge, Council will refund to the applicant the difference between the establishment cost and the levied charge.

### 13. Default establishment cost

- (1) For trunk infrastructure that is the whole of an item in the Schedule of Works table of the LGIP – the establishment cost of the trunk infrastructure is the amount stated for the item in the relevant Schedule of Works table, indexed using the PPI, adjusted according to the 3-yearly PPI average, for the period starting on the base date in the LGIP.
- (2) For trunk infrastructure that is part of an item in the Schedule of Works table of the LGIP – the establishment cost of the trunk infrastructure is a proportion of the amount stated for the item in the relevant Schedule of Works table as applicable for the relevant part, indexed using the PPI, adjusted according to the 3-yearly PPI average, for the period starting on the base date in the LGIP.
- (3) For trunk infrastructure that is not an item in the Schedule of Works table of the LGIP – an amount estimated by Council as reasonably reflecting the approximate costs of the trunk infrastructure including land acquisition, financing, design and construction.

### 14. Calculating the establishment cost

- (1) If an applicant disagrees with the default establishment cost under section 13, the applicant may give Council a notice under section 137 of the Act requesting the establishment cost be recalculated.
- (2) If a notice is given under section 137 of the Act for trunk infrastructure, the establishment cost is to be recalculated in accordance with:
  - (a) if the trunk infrastructure is land – the method set out in Schedule 1 Method for calculating establishment cost – Land;

- (b) if the trunk infrastructure is works – the method set out in Schedule 2 Method for calculating establishment cost – Works; or
  - (c) another method agreed in writing between Council and the applicant.
- (3) The following costs may be included in the establishment cost for trunk works:
- (a) the cost of planning and designing the work;
  - (b) the cost of survey and site investigation for the work;
  - (c) the cost of relocation of services which are considered necessary to deliver the works following Council’s standards;
  - (d) a cost (fixed or provisional) under a construction contract for the work;
  - (e) contract administration;
  - (f) construction or engineering supervision;
  - (g) a portable long service leave payment for a construction contract;
  - (h) an insurance premium for the work;
  - (i) Council’s inspection fee for the beginning and end of the maintenance period for the work;
  - (j) the cost of an approval for the work; and
  - (k) any variations agreed to by Council as a result of agreed site directions including the superintendent of works and the Council officer.
- (4) The following costs are excluded from the establishment cost for trunk works:
- (a) the cost of carrying out temporary infrastructure;
  - (b) the cost of carrying out non-trunk infrastructure;
  - (c) the cost of the decommissioning, removing and rehabilitating temporary and non-trunk infrastructure;
  - (d) the part of the trunk infrastructure provided by Council or a person other than the person seeking the infrastructure offset;
  - (e) a cost to the extent that GST is payable and an input tax credit can be claimed for the work; and
  - (f) the cost of carrying out relocation or rehabilitation works for existing infrastructure not directly associated with the supply of trunk works.
- (5) Where the establishment cost is calculated in accordance with this section, the establishment cost is to be increased using the PPI, adjusted according to the 3-yearly PPI average, for the period (if any) between:
- (a) the date as at which the establishment cost is calculated; and
  - (b) the date on which an amended infrastructure charges notice is given.
- (6) To avoid any doubt:
- (a) Schedules 1 and 2 state the method for working out the cost of the infrastructure that is the subject of an offset or refund in accordance with section 116 of the Act;
  - (b) at any time, Council and the applicant may agree in writing that a stated amount is the calculated establishment cost for the purposes of this section.

**15. Payment of an offset or refund**

- (1) An applicant entitled to seek an offset or refund for the trunk infrastructure contribution is to:
  - (a) give to Council a notice which states the following:
    - (i) the date the trunk infrastructure contribution the subject of an offset or refund was lawfully completed;
    - (ii) the trunk infrastructure contribution has been provided under the relevant approval for the trunk infrastructure contribution; and

*Editor's note—A relevant approval is a development approval under the Act.*

- (b) pay the prescribed fee.

*Editor's note—The prescribed fee may include Council's costs for determining the matters in subsection (1)(a), above.*

- (2) As soon as reasonably practicable after receiving a notice under subsection (1) above, Council is to:
  - (a) decide whether the trunk infrastructure contribution has satisfied the matters in subsection (1)(a) above; and
  - (b) give to the applicant a notice stating the Council's decision.
- (3) If Council decides the trunk infrastructure contribution has satisfied the matters in subsection (1)(a) above, Council must (unless otherwise in an infrastructure agreement):
  - (a) for an offset—offset the establishment cost for the trunk infrastructure contribution against the levied charge when the levied charge stated in the infrastructure charges notice is payable under the Act;
  - (b) for a refund—give the refund when stated in the infrastructure charges notice.
- (4) A refund will be provided as either an infrastructure demand credit (where agreed to with the applicant) or a cash payment.
- (5) A refund provided as a cash payment will be made in accordance with the payment schedule outlined in Table 4. Council may consider an accelerated payment schedule.

**Table 4: Refund payment schedule**

REFUND AMOUNT	REFUND PAYMENT SCHEDULE
Less than \$100,000	By 31 December of the financial year following Council accepting the trunk infrastructure on maintenance.
\$100,000 to \$500,000	Annually in equal payments of \$150,000 by 31 December in each financial year, commencing in the financial year following Council accepting the trunk infrastructure on maintenance, until the amount is paid.
\$500,000 to \$1 million	Annually in equal payments of \$200,000 by 31 December in each financial year, commencing in the financial year following Council accepting the trunk infrastructure on maintenance, until the amount is paid.
greater than \$1 million	Annually in equal payments of \$250,000 by 31 December in each financial year, commencing in the financial year following Council accepting the trunk infrastructure on maintenance, until the amount is paid.

## **16. Agreements about payment, instead of payment**

- (1) Council may enter into an infrastructure agreement where an alternative to the above process is sought by an applicant, or to address other matters including (but not limited to):
  - (a) the method for determining the establishment cost of trunk infrastructure;
  - (b) the required charges or trunk infrastructure to be contributed for each part or hierarchy of the network;
  - (c) the timing of payment of levied charges;
  - (d) the nature and timing of offsets and refunds;
  - (e) details of the trunk infrastructure to be provided and the provision program;
  - (f) the nature of any security to be lodged and the details of the use and release of such security;
  - (g) details of the responsible entity for the funding, design and construction of trunk infrastructure including land acquisition (if applicable);
  - (h) limited novation, assignment and rescission provisions to allow an alternate party to construct the same trunk infrastructure detailed in the agreement;
  - (i) provisions for unforeseen delays and redundancy provisions where a development approval and trunk infrastructure construction activities are held in abeyance.
- (2) Infrastructure agreements are to be prepared at no cost to Council.

## **Part 5 Conversion applications**

### **17. Application to convert infrastructure to trunk infrastructure**

- (1) An application may be made to Council to convert non-trunk infrastructure to trunk infrastructure (a conversion application) where:
  - (a) a condition of a development approval requires the non-trunk infrastructure to be provided in accordance with section 145 of the Act; and
  - (b) the construction of the non-trunk infrastructure has not started.
- (2) A conversion application must be made in writing and within 1 year after the development approval has effect.
- (3) A conversion application must be accompanied by supporting information including:
  - (a) the applicant's contact details;
  - (b) details of the relevant development approval including application number, property address and real property description;
  - (c) the relevant condition/s for non-trunk infrastructure to which the conversion application relates;
  - (d) commentary and rationale that addresses Council's trunk infrastructure criteria;
  - (e) other relevant supporting information where available including:
    - (i) engineering estimates of works;
    - (ii) preliminary design plans;

- (iii) network servicing analysis;
  - (iv) details of special considerations (e.g. geographical context).
- (4) Council must consider and decide a conversion application in accordance with section 140 of the Act.

**18. Criteria for deciding conversion applications**

- (1) A conversion application made under section 139 of the Act may be granted only if each of the criteria in this section is met.
- (2) The infrastructure must service development that is located completely inside the Priority Infrastructure Area (PIA).
- (3) The infrastructure has capacity to service other developments in the area.
- (4) The infrastructure—
  - (a) must service development that is consistent with the assumptions about the type, scale, location and timing of development stated in the LGIP; or
  - (b) would have been identified as trunk infrastructure had the ultimate demand and development pattern been known at the time of developing the LGIP.
- (5) The function and purpose of the infrastructure is consistent with other trunk infrastructure identified in the LGIP and is consistent with the Desired Standards of Service (DSS) stated in the LGIP.
- (6) The infrastructure is not consistent with non-trunk infrastructure for which conditions may be imposed in accordance with section 145 of the Act, i.e. the infrastructure must not be for any of the following:
  - (a) a network, or part of a network, internal to premises;
  - (b) connecting the premises to external infrastructure networks; or
  - (c) protecting or maintaining the safety or efficiency of the infrastructure network of which the non-trunk infrastructure is a component.
- (7) The type, size and location of the infrastructure is the most cost effective option for servicing multiple users in the area. The most cost effective option is the least cost option based upon the life cycle cost of the infrastructure required to service future urban development in the area at the desired standard of service.
- (8) The infrastructure must not have been proposed by the applicant for the purpose of obtaining:
  - (a) an increase in height or density; or
  - (b) any other concession or relaxation of an outcome under the Planning Scheme.
- (9) The infrastructure must not have been proposed by the applicant on the basis that it would be non-trunk infrastructure (or would otherwise not be subject to an offset or refund).
- (10) The infrastructure must not involve an upgrade of an existing trunk infrastructure item made necessary to service development that is inconsistent with the type, scale, location or timing of development assumed in the LGIP.

**19. Effect of conversion**

- (1) If Council decides to convert the non-trunk infrastructure to trunk infrastructure:

- (a) the condition of the development approval requiring non-trunk infrastructure to be provided no longer has effect;
- (b) Council may, within 20 business days after making the decision, amend the development approval by imposing a necessary infrastructure condition for the trunk infrastructure under section 128 of the Act; and
- (c) if the necessary infrastructure condition is imposed, Council will, within 10 business days after imposing the condition give an amended infrastructure charges notice for the development approval for the purposes of determining any offset or refund.

**Schedule 1 Method for calculating establishment cost – Land**

ACTIONS	TIMING
<p><b>1. Development application</b>                      When preparing the development application, the applicant must include:</p> <ul style="list-style-type: none"> <li>(a) the LGIP identification number for the trunk infrastructure;</li> <li>(b) a development plan prepared by a licensed cadastral surveyor clearly depicting the land identified as necessary trunk infrastructure in the LGIP, and identifying the real and relevant constraints to be considered in any information necessary for a land valuation report including:                             <ul style="list-style-type: none"> <li>(i) land below 5% AEP for overland flow paths and stormwater drainage;</li> <li>(ii) land between the 5% AEP to 1% AEP (i.e. Defined Flood Level) for flood reserve.</li> </ul> </li> </ul> <p>The plan may be in the same format as the development plan; but it must clearly distinguish the trunk infrastructure from any non-trunk infrastructure (e.g. overland flow paths).</p>	<p>Development Application</p>
<p><b>2. Development approval</b>                      Council will assess the development application and will condition as part of and development approval the land be provided as ‘necessary trunk infrastructure’ as part of the first stage of development, unless another stage is more appropriate.</p> <p><i>Note—Any infrastructure charges notice given at this stage will be consistent with the default establishment cost in accordance with section 13.</i></p>	<p>Development Approval</p>
<p><b>3. Valuation</b>                      The applicant must, at their cost, obtain and provide Council with a land valuation report, which must:</p> <ul style="list-style-type: none"> <li>(a) be prepared by a certified practicing valuer, who must act professionally and as a neutral and independent expert;</li> <li>(b) assess the market value of the land using a before-and-after method, by:                             <ul style="list-style-type: none"> <li>(i) determining the value of the original land before any land is transferred to Council;</li> <li>(ii) determining the value of the remaining land that will not be transferred to Council; and</li> <li>(iii) subtracting the amount in (ii) from the amount in (i), with the value being the difference between those two amounts;</li> </ul> </li> <li>(c) assess the market value at the following date, as applicable:                             <ul style="list-style-type: none"> <li>(i) if the land is identified in the LGIP – the day the relevant development application was properly made; or</li> <li>(ii) otherwise – the day the relevant development application was approved;</li> </ul> </li> <li>(d) include supporting information about the highest and best of use the land which the valuer has relied on to form an opinion about the value;</li> <li>(e) contain relevant sales evidence and clear analysis of how those sales and any other information was relied upon in forming the valuation assessment;</li> <li>(f) show the area of land that is above the Q100 flood level and the area that is below the Q100 flood level (i.e. 1% AEP also known as the Defined Flood Level);</li> <li>(g) show and consider all other real and relevant constraints including:                             <ul style="list-style-type: none"> <li>(i) vegetation protection;</li> <li>(ii) ecological values including riparian buffers and corridors;</li> <li>(iii) stormwater or drainage corridors (i.e. 5% AEP);</li> <li>(iv) slope;</li> <li>(v) bushfire and landslide hazards;</li> <li>(vi) heritage;</li> <li>(vii) airport environs;</li> <li>(viii) extractive resources;</li> <li>(ix) flooding;</li> <li>(x) land use buffer requirements;</li> <li>(xi) tenure related constraints; and</li> <li>(xii) restrictions such as easements, leases, licences and other dealings whether or not registered on title.</li> </ul> </li> </ul>	<p>Within 10 business days of the applicant giving Council a notice under section 137 of the Act.</p>



ACTIONS	TIMING
<p><b>4. Response to valuation</b> Council must consider the land valuation report and give the applicant a notice stating:</p> <ul style="list-style-type: none"> <li>(a) Council accepts the applicant’s valuation – in which case the establishment cost will be the amount stated in the land valuation report and the process ends; or</li> <li>(b) Council does not accept the applicant’s valuation.</li> </ul>	<p>Within 15 business days of receiving the land valuation report.</p>
<p><b>5. Council valuation</b> Council, at its own cost, must:</p> <ul style="list-style-type: none"> <li>(a) obtain a further land valuation report meeting the criteria of 3 above; and</li> <li>(b) provide a notice to the applicant stating Council’s valuation and attaching a copy of Council’s land valuation report.</li> </ul>	<p>Within 20 business days of giving the applicant notice that Council does not accept the valuation.</p>
<p><b>6. Response to Council valuation</b> The applicant must give a notice to Council stating either:</p> <ul style="list-style-type: none"> <li>(a) they accept Council’s valuation – in which case the establishment cost will be the amount stated in Council’s notice and the process ends; or</li> <li>(b) they do not accept the Council’s valuation.</li> </ul>	<p>Within 10 business days of receiving the notice from Council.</p>
<p><b>7. Further valuation</b> Council must obtain a further land valuation report meeting the criteria of 3 above. The valuer is to be chosen by Council in consultation with the applicant. Council and the applicant are to equally share the costs of the valuation. The establishment cost will be the amount stated in the further land valuation report.</p>	<p>Within 20 business days of receiving the notice from the applicant.</p>

**Schedule 2 Method for calculating establishment cost – Works**

ACTIONS	TIMING
<p><b>1. Development application</b>                      When preparing the development application, the applicant must include:</p> <ul style="list-style-type: none"> <li>(a) the LGIP identification number for the trunk infrastructure;</li> <li>(b) the development plan clearly depicting each trunk infrastructure item identified as necessary trunk infrastructure in the LGIP. The development plan must clearly distinguish trunk infrastructure from non-trunk infrastructure. The development plan and documentation are to clearly articulate the relevant design standards for each trunk infrastructure item.</li> </ul>	<p>Development application</p>
<p><b>2. Development approval</b>                      Council will assess the development application and will condition as part of any development approval:</p> <ul style="list-style-type: none"> <li>(a) the works as ‘necessary trunk infrastructure’;</li> <li>(b) any necessary design changes to ensure future stages appropriately consider the desired standards of service;</li> <li>(c) the works are to be completed as part of the first stage of development, unless another stage is more appropriate.</li> </ul> <p><i>Note—Any infrastructure charges notice given at this stage will be consistent with the default establishment cost in accordance with section 13.</i></p>	<p>Development approval</p>
<p><b>3. Operational works application</b>                      When preparing a development application for Operational works, the applicant must include:</p> <ul style="list-style-type: none"> <li>(a) the LGIP identification number for all trunk infrastructure;</li> <li>(b) a scope of works for the trunk infrastructure works that includes:                             <ul style="list-style-type: none"> <li>(i) specifications for the works;</li> <li>(ii) the standard to which the works are to be provided; and</li> <li>(iii) the location of the works.</li> </ul> </li> </ul>	<p>Operational works application</p>
<p><b>4. Operational works and scope of works approval</b>                      Council will consider the scope of works with the Operational works application, and will give the applicant a notice stating either:</p> <ul style="list-style-type: none"> <li>(a) that Council approves the scope of works; or</li> <li>(b) that Council approves the scope of works with conditions; or</li> <li>(c) that Council requires further information and changes to the scope of works – in which case, the applicant must submit a revised scope of works in accordance with 3(b) above.</li> </ul>	<p>Operational works approval</p>
<p><b>5. Bill of quantities and cost estimate</b>                      The applicant must, at their own cost, obtain and provide to Council the following, prepared by a suitably qualified person or quantity surveyor:</p> <ul style="list-style-type: none"> <li>(a) a bill of quantities for the design, construction and commissioning of the works, under the approved scope of works;</li> <li>(b) a ‘first principles’ estimate for the cost of designing, constructing and commissioning the works under that bill of quantities; and</li> <li>(c) evidence of a QLeave levy payment.</li> </ul>	<p>Before Operational works approval or within 15 business days of Council approving the scope of works.</p>
<p><b>6. Response to bill of quantities and cost estimate</b>                      Council must consider the bill of quantities and cost estimate and give the applicant a notice stating:</p> <ul style="list-style-type: none"> <li>(a) Council accepts the applicant’s bill of quantities and cost estimate – in which case, the establishment cost will be the amount stated in the applicant’s cost estimate and the process ends; or</li> <li>(b) Council does not accept the applicant’s bill of quantities and cost estimate and:                             <ul style="list-style-type: none"> <li>(i) the revised cost estimate process applies (see 7 below); or</li> <li>(ii) the tender process applies (see 8 below).</li> </ul> </li> </ul>	<p>Before Operational works approval or within 10 business days of receiving the bill of quantities and cost estimate.</p>

ACTIONS	TIMING
<b>7. REVISED COST ESTIMATE PROCESS</b>	
<p><b>7.1 Council bill of quantities and cost estimate</b> Council must, at its own cost, obtain and provide to the applicant a revised bill of quantities and cost estimate, prepared by a suitably qualified person in accordance with 5 above.</p>	<p>Within 20 business days of receiving the notice from Council</p>
<p><b>7.2 Response to Council bill of quantities and cost estimate</b> The applicant must give a notice to Council stating: (a) that the applicant accepts Council’s bill of quantities and cost estimate – in which case the establishment cost will be the amount stated in Council’s cost estimate and the process ends; or (b) the applicant does not accept Council’s bill of quantities and cost estimate.</p>	<p>Within 10 business days of receiving the bill of quantities and cost estimate.</p>
<p><b>7.3 Further bill of quantities and cost estimate</b> Council must obtain a bill of quantities and cost estimate, prepared by a suitably qualified person in accordance with 5 above. The suitably qualified person is to be chosen by Council in consultation with the applicant. Council and the applicant are to equally share the costs. The establishment cost will be the amount stated in the suitably qualified person’s cost estimate.</p>	<p>Within 20 business days of receiving the notice from the applicant.</p>
<b>8. TENDER PROCESS</b>	
<p><b>8.1 Submission of design material</b> The applicant must obtain and provide to Council designs and specifications for the works, which must follow all relevant standards and be prepared by a suitably qualified person.</p>	<p>Within 20 business days of receiving the notice from Council</p>
<p><b>8.2 Approval of design material</b> Council must give a notice to the applicant stating: (a) Council approves the applicant’s design material; or (b) Council requires specified changes to the design material – in which case, the applicant must resubmit the design material under 8.1 above.</p>	<p>Within 10 business days of receiving the design material</p>
<p><b>8.3 Submission of draft tender material</b> The applicant must prepare and provide to Council draft tender documentation for the works. The draft tender documentation must contain the following information: (a) final detailed design documents; (b) a bill of quantities<sup>2</sup> for the trunk works that matches the works identified in the Operational works approval; (c) a list of any prospective tenderers that the tender documents are to be specifically provided to as part of the open public tender; and (d) the criteria and process for tender assessment.</p>	<p>Within 20 business days of Council approving the design material</p>
<p><b>8.4 Approval of draft tender material</b> Council must give a notice to the applicant stating: (a) Council approves the applicant’s draft tender material; or (b) Council requires specified changes to the design material – in which case, the applicant must resubmit the detailed design document.</p>	<p>Within 10 business days of receiving draft tender material</p>
<p><b>8.5 Conduct of tender and submission of recommendation</b> The applicant must: (a) conduct a tender process in accordance with the approved documentation, including the requirement that prospective tenders state a dollar value figure for the construction cost of the works, exclusive of any costs for:</p>	<p>Within 20 business days of receiving notice of Council’s approval of draft tender material</p>

<sup>2</sup> The bill of quantities should separate the trunk infrastructure works from the non-trunk infrastructure works, and be in the same format it would be presented to tenderers as part of a tender process. This will ensure Council’s assessment of the trunk infrastructure design, bill of quantities and costs is seamless and expedited.

ACTIONS	TIMING
<ul style="list-style-type: none"> <li>(i) project management services;</li> <li>(ii) superintendent fees</li> <li>(iii) planning;</li> <li>(iv) construction administration; and</li> <li>(v) supervision;</li> <li>(b) undertake an analysis of the properly submitted tenders; and</li> <li>(c) give Council a notice that states:                             <ul style="list-style-type: none"> <li>(i) the tender process conducted;</li> <li>(ii) the tender documents distributed to prospective tenderers;</li> <li>(iii) the tenders received including separable parts and contract values for trunk works within the bill of quantities;</li> <li>(iv) the applicant's preferred tenderer to the award of the works contract;</li> <li>(v) the applicant's analysis of the tenders and reason(s) for the preferred tenderer in a tender evaluation report;</li> <li>(vi) the terms of the proposed work contract; and</li> <li>(vii) a plan for each infrastructure network clearly showing the extent of the works for which the infrastructure offset is sought.</li> </ul> </li> </ul> <p><i>Note—The dollar value figure of the approved tender will form part of the establishment cost as specified in 8.10. The costs mentioned in sub-paragraphs (a)(i)-(v) do not directly form part of the establishment cost but are included in the allowance mentioned in 8.10(c).</i></p>	
<p><b>8.6 Approval of tenderer</b> Council must give a notice to the applicant stating:</p> <ul style="list-style-type: none"> <li>(a) Council approves of the applicant's recommendation as to the award of the works contract – in which case, the contractor is to be appointed following the applicant's recommendation; or</li> <li>(b) Council requires a different specified tenderer to be appointed – in which case, the contractor specified by Council is to be appointed.</li> </ul>	<p>Within 10 business days of receiving notice of applicant's recommendation for awarding tender</p>
<p><b>8.7 Notice of proposed variation</b> If, during the course of the works contract, the contractor proposes a variation that will increase the cost of the works, the applicant must give a notice to Council that:</p> <ul style="list-style-type: none"> <li>(a) describes the proposed variation; and</li> <li>(b) states a dollar value figure for the added costs arising from the variation, which must be exclusive of any added costs for:                             <ul style="list-style-type: none"> <li>(i) project management services;</li> <li>(ii) superintendent fees;</li> <li>(iii) planning;</li> <li>(iv) construction administration; and</li> <li>(v) supervision.</li> </ul> </li> </ul> <p><i>Note—If the variation is approved under 8.8, the dollar value figure stated will form part of the establishment cost as specified in 8.10. The costs mentioned in sub-paragraphs (b)(i)-(v) do not directly form part of the establishment cost but are include in the allowance mentioned in 8.10(c).</i></p>	<p>Within 5 business days of any variation being proposed by the contractor.</p>
<p><b>8.8 Approval of proposed variation</b> Council must consider the proposed variation and give notice to the applicant stating:</p> <ul style="list-style-type: none"> <li>(a) Council approves the proposed variation; or</li> <li>(b) Council does not approve the proposed variation, and the reasons why.</li> </ul>	<p>Within 5 business days of receiving notice</p>
<p><b>8.9 Request for confirmation of establishment cost</b> The applicant must give Council a notice that they are requesting confirmation of the establishment cost for the works. The request must be made after submitting an 'on maintenance' application for the trunk works. If the applicant is nearing completion of the trunk works and wishes to obtain an 'on maintenance' certificate from Council for the trunk works, the request must be submitted concurrently with the request for 'on maintenance' certification. The applicant's request is to include the following:</p>	<p>No later than 10 business days after the works are completed.</p>

ACTIONS	TIMING
<ul style="list-style-type: none"> <li>(a) a copy of RPEQ certificate/s of payment for each progress claim for the trunk works and any agreed variations to date;</li> <li>(b) a reasonable amount of evidence to support any claimed and agreed variations (e.g. consultant reports, weigh bills, meeting minutes with Council officers, design details etc.);</li> <li>(c) a consolidated final bill of quantities in the same general format as was included in the notice to tender but having regard for (a) and (b) above and including the estimated amount of any works not fully completed.</li> </ul>	
<p><b>8.10 Confirmation of establishment cost</b></p> <p>Council must give the applicant a notice stating the amount of the establishment cost, which is to be the sum of the following (each of which must also be stated in the notice):</p> <ul style="list-style-type: none"> <li>(a) the construction cost of the works, being the dollar value amount stated under 8.5(a);</li> <li>(b) the associated QLeave levy amount;</li> <li>(c) an allowance for project management, superintended, planning, construction administration and supervision costs, being: <ul style="list-style-type: none"> <li>(i) for works for the parks and land for community facilities infrastructure network – 10.5% of the amount in paragraph (a) above; or</li> <li>(ii) otherwise – 16% of the amount in paragraph (a) above;</li> </ul> </li> <li>(d) the total added costs for any approved variations, being the total of the amounts stated under paragraph 8.7(b) for all approved variations; and</li> <li>(e) an allowance for project management, superintended, planning, construction administration and supervision costs relating to approved variations, being 4% of the amount in paragraph (d) above.</li> </ul> <p><i>Note—The establishment cost is to be the amount stated in Council’s notice. Council must issue an amended infrastructure charges notice stating the establishment cost for the trunk infrastructure.</i></p>	<p>Within 10 business of receiving the notice.</p>