

OP8120 - Application of Adopted Maximum Infrastructure Charges Regime Policy

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References to documents this policy relies upon or satisfies	<i>South-East Queensland Water (Distribution and Retail Restructuring) Act 2010</i> <i>Sustainable Planning Act 2009</i> <i>Sustainable Planning (Housing Affordability and Infrastructure Charges Reform) Act 2011</i>
References to written direction that give effect to this Policy	n/a (List the procedures, manual or work instructions that give effect to this policy)

1. Introduction

The *Sustainable Planning Act 2009* (SPA) provides for funding of trunk infrastructure (water and wastewater) networks in new developments via infrastructure charges schedules, i.e. a scheme for charging developers for the cost of building infrastructure for residential, commercial and industrial developments.

In accordance with this legislation, charging by Unitywater as a distributor-retailer occurs independently of other infrastructure charges set by its shareholder councils. However, the two councils encompassing the area serviced by Unitywater (Moreton Bay Regional Council (MBRC) and Sunshine Coast Regional Council (SCRC) may now set an adopted infrastructure charge that is equal to a standard amount for residential development, otherwise developers are required to contribute Unitywater's proportion of the lesser of either the charge equal to the amount paid by developers to local government before 1 July 2011 or the maximum adopted charge. Both councils resolved to implement adopted infrastructure charges.

The requirement for this 'maximum adopted charge' regime was introduced by the State Government to facilitate housing affordability in Queensland during a difficult period of the financial climate. This requirement will remain in place until 1 July 2013 when provisions allowing distributor-retailers to determine infrastructure charges amounts become applicable once more.

2. Purpose

The introduction of the State Government's SPA infrastructure funding provisions has created situations where developers with Development Approval conditions outlining funding under the pre-1 July 2011 regime are requesting Unitywater to reduce their infrastructure charges liabilities by applying the new regime.

This policy sets out Unitywater's position in relation to charges for trunk water and wastewater infrastructure under the State Government's provisions pursuant to s. 648B of SPA.

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It also provides a framework whereby a range of infrastructure charges matters are clarified (including applicability of charges to extension of development permit currency period, and credits for trunk infrastructure works constructed by developers).

3. Applicability

This Policy and its associated documents apply to development within Unitywater's water and sewerage service area, including reconfiguration of a lot, changing the material use of land and the carrying out of building works.

4. Definitions

Term	Meaning
Development	The definition accorded under SPA: Development is any of the following— (a) carrying out building work; (b) carrying out plumbing or drainage work; (c) carrying out operational work; (d) reconfiguring a lot; (e) making a material change of use of premises.
Trunk infrastructure	Shared (water and wastewater) development infrastructure required to ensure the healthy and safe functioning of the uses it is servicing. Trunk infrastructure's primary purpose is to service 'catchment' areas with a number of users or developments, rather than servicing individual developments or users.
Development Approval	The definition accorded under SPA: development approval means— (a) a decision notice or a negotiated decision notice that— (i) approves, wholly or partially, development applied for in a development application (whether or not the approval has conditions attached to it); and (ii) is in the form of a preliminary approval, a development permit or an approval combining both a preliminary approval and a development permit in the one approval; or (b) a deemed approval, including any conditions applying to it.
Developer	Person or a firm that improves vacant land with labour and capital, and arranges for utilities and essential services, in order to sell subdivided parcels of land or to build structures for rent and/or sale.
Adopted Infrastructure Charges	The charges set out in the Adopted Infrastructure Charges Resolution by Unitywater's shareholder Councils (Sunshine Coast Regional Council and Moreton Bay Regional Council).
SPRP	State Planning Regulatory Provision

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5. Policy

Unitywater will apply the Adopted Infrastructure Charges to development applications decided before 1 July 2011, in lieu of other planning scheme policy charges imposed through a development condition, when requested to do so by the relevant developer.

Unitywater will apply the infrastructure charges regime existing at the time of decision for development applications lodged prior to 1 July 2011 but not yet decided.

Unitywater will apply the infrastructure charges regime (Adopted Infrastructure Charges) existing at the time of decision for development applications lodged after 1 July 2011.

Unitywater will not make any price level related changes to existing Infrastructure Charges Agreements.

Unitywater will agree to extensions of development approvals currency periods in particular circumstances subject to the application of adopted infrastructure charges contributions.

Unitywater will provide for credits to be applied for previously identified trunk infrastructure constructed by the developer and contributed as an asset to Unitywater.

Unitywater will not allow developers to enter into deferred payment arrangements for the payment of infrastructure charges.

Unitywater will exempt certain residential developments from payment of infrastructure charges.

6. Intent

Unitywater's response to requests by developers for amendments of development approval conditions relating to the level of infrastructure charges applied, and the imposition of infrastructure charges generally will be dictated by the following policy scope.

6.1 Amendments of Development Approval Conditions issued prior to 1 July 2011

Some developers are lawfully conditioned in their development approvals to pay infrastructure charges for Unitywater's trunk water and wastewater infrastructure under the Planning Scheme Policy (PSP) charges regime existing prior to 1 July 2011 and, in some cases, the PSP charges are a larger amount than would be payable if the Adopted Charges applied.

If a developer in such circumstances requests reassessment of those charges with a view to application of the Adopted Infrastructure Charges, Unitywater will accede to the request.

In response to the State Government's advices on the matter, Unitywater will apply the Adopted Infrastructure Charges, even though s.880(3)(b) of SPA allow for the collection of infrastructure charges lawfully imposed prior to 1 July 2011.

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6.2 Amendments to Infrastructure Charges Agreements

Some developers have entered into an Infrastructure Charges Agreement with Unitywater prior to 1 July 2011 and willingly agreed to the applicable charges.

If a developer in such circumstances requests an amendment of the Agreement with respect to these applicable charges, Unitywater will refuse the request.

In this instance, Unitywater will exercise its legal rights under contract legislation and s.880(3)(b) of SPA to collect infrastructure charges lawfully imposed prior to 1 July 2011 and negating the application of the new Adopted Infrastructure Charges.

6.3 Conditions for Development Applications not decided prior to 1 July 2011

Some developers have applied for development approvals prior to 1 July 2011 and a decision about the development has not yet been made.

Where the decision could reasonably have been made prior to 1 July 2011 and the delay is primarily attributable to Unitywater action, Unitywater will apply the infrastructure charges regime existing at the time the application was made. Otherwise the Adopted Charges will be applied.

In this manner, Unitywater aims to discharge its obligation under s.345 of SPA requiring that conditions applied in development approvals are reasonable and relevant.

6.4 Currency Periods for Development Approvals

Some developers may apply for an extension of the currency period of the development approval as delays in implementing the development are experienced.

In the SCRC area, Unitywater will agree to extensions to currency periods and apply it to Unitywater's water and sewerage infrastructure charges subject to the \$50,000 threshold amount being applied to the total adopted infrastructure charge (Council and Unitywater infrastructure networks).

In this manner, Unitywater aims to discharge its obligation under s.345 of SPA requiring that conditions applied in development approvals are reasonable and relevant, and align with the policy decisions of Council.

In the MBRC area, where the delay is primarily attributable to Unitywater action, Unitywater will agree to the extension of the currency period and, in these circumstances, the infrastructure charges applied at the time of the original decision will continue to apply.

In this manner, Unitywater aims to discharge its obligation under s.345 of SPA requiring that conditions applied in development approvals are reasonable and relevant, and generally align with the policy decisions of Council.

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However, where the delay is not attributable to Unitywater action and construction has not commenced, Unitywater will agree to an extension of the currency period but require that the new Adopted Infrastructure Charges regime is applied.

In including this requirement, Unitywater considers this a fair application of s.345 of SPA and its duty to consider the consistency of conditions of development approvals with the current laws and policies applying to the development.

6.5 Credits for and Refund of Construction Costs for Trunk Infrastructure

A developer is entitled to a credit for or refund from Unitywater, on terms agreed with Unitywater, for the prescribed portion of the cost of the trunk infrastructure provided.

Unitywater will not vary existing agreements on infrastructure charges credits and/or refunds. Retrospective applications of refund approaches in new infrastructure charges regimes is contrary to the original determination of contribution on the basis of reasonableness and equity.

However, Unitywater will apply the following refund strategy to development applications made after 1 July 2011 and not yet decided.

Where a developer has other developments within Unitywater's area of operations and the cost of creditable trunk infrastructure constructed by the developer exceeds the infrastructure charges payable by the developer for that particular development, the Infrastructure charges credits will be transferred to the infrastructure charges payable for the other development(s):

- a) across its entire region of operations, i.e. across the combined MBRC and SCRC geographical areas, and
- b) across networks within the same development or to other development sites within Unitywater's operational region and owned by the same developer.

For both of the above situations, if the cost of the construction of the contributed assets by the developer exceeds the total amount of infrastructure charges payable by that developer, the difference will be refunded to the developer, and payment of refunds will be made at the time that Unitywater's Priority Infrastructure Plan states construction would ordinarily have been completed.

Infrastructure charges credits will not be transferred to other development sites owned by other developers.

6.6 Payment Plans

Unitywater will not allow for deferral of infrastructure charges payments.

6.7 Exemption from Payment of Infrastructure Charges

In keeping with its customer care approach, Unitywater will not require payment of infrastructure charges for development applications for:

- a) specific bonafide residential uses (increase of bedrooms in a detached dwelling), or

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b) reconfigurations in rural zones for the purpose of road severance only.

6.8 Charitable/Community Organisations

Applications by charitable and/or community service organisations for the waiving and/or reduction of infrastructure charges will not be approved. Unitywater, in meeting its obligations to provide financial return its owner councils on an equitable basis, and to apply reasonable fees for service for its other customers, does not provide concessions to community/charitable organisations notwithstanding their contribution to the community.

7. Responsibilities

7.1 Strategic Planning and Asset Management – Development Services

The Development Services Branch is responsible for liaising with the statutory development approval and planning areas of shareholder councils to ensure conveyance of Unitywater's established policy position on infrastructure charges.

7.2 Retail Division - Customer Service Branch

The Retail Division is responsible for ensuring that communications with the public in relation to infrastructure charges are in accordance with this Policy.

7.3 Retail Division - Communications and Marketing Branch

The Retail Division is responsible for developing and implementing the communications plan associated with this policy and related procedure.

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