



Queensland

# **Sustainable Planning (Housing Affordability and Infrastructure Charges Reform) Amendment Act 2011**

**Act No. 17 of 2011**





## Queensland

# Sustainable Planning (Housing Affordability and Infrastructure Charges Reform) Amendment Act 2011

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Queensland

## **Sustainable Planning (Housing Affordability and Infrastructure Charges Reform) Amendment Act 2011**

**Act No. 17 of 2011**

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**An Act to amend the Building Act 1975, the Local Government Act 2009 and  
the Sustainable Planning Act 2009 for particular purposes**

**[Assented to 6 June 2011]**

## The Parliament of Queensland enacts—

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Sustainable Planning (Housing Affordability and Infrastructure Charges Reform) Amendment Act 2011*.

#### 2 Commencement

Part 3 commences on 2 July 2011.

### Part 2 Amendment of the Building Act 1975

#### 3 Act amended

This part amends the *Building Act 1975*.

#### 4 Amendment of s 246AR (Owner's obligation to give notice of existing regulated pool)

(1) Section 246AR(2), from 'within' to 'commencement'—  
*omit, insert—*

'by a day prescribed under a regulation (the *prescribed day*)'.

(2) Section 246AR(3), '6 months after the commencement'  
*omit, insert—*

'the prescribed day'.



- 
- (3) Section 246AR(3) and (4)—  
*renumber* as section 246AR(4) and (5).
- (4) Section 246AR—  
*insert*—
- ‘(3) The prescribed day must not be later than 12 months after the commencement of this subsection.’.

## 5 Insertion of new ch 11, pt 12

Chapter 11—

*insert*—

## ‘Part 12 Transitional provision inserted under Sustainable Planning (Housing Affordability and Infrastructure Charges Reform) Amendment Act 2011

### ‘306 Provision about offences under s 246AR

- ‘(1) A proceeding can not be started or continued for an offence constituted by an act or omission under pre-amended section 246AR if the circumstances giving rise to the commission of the offence would not, if the circumstances happened after the commencement of this section, give rise to the commission of an offence under post-amended section 246AR.

- ‘(2) In this section—

*post-amended section 246AR* means section 246AR as amended under the *Sustainable Planning (Housing Affordability and Infrastructure Charges Reform) Amendment Act 2011*, section 4.

*pre-amended section 246AR* means section 246AR as in force immediately before the *Sustainable Planning (Housing Affordability and Infrastructure Charges Reform) Amendment Act 2011*, section 4 commenced.’.

## **Part 3**                      **Amendment of Local Government Act 2009**

### **6**        **Act amended**

This part amends the *Local Government Act 2009*.

### **7**        **Insertion of new ch 10**

Before schedule 2—

*insert—*

## **‘Chapter 10**    **Transitional provision for Sustainable Planning (Housing Affordability and Infrastructure Charges Reform) Amendment Act 2011**

### **‘293**    **Continuation of implementation of matters under s 282A**

- ‘(1) This section continues the implementation of the following limited reviewable local government matters implemented under section 282A—
- (a) a change to the external boundaries of Ipswich City Council and Scenic Rim Regional Council gazetted on 11 June 2010;
  - (b) a change to the external boundaries of Cook Shire Council and Wujal Wujal Aboriginal Shire Council gazetted on 16 July 2010.
- ‘(2) To remove any doubt, it is declared that an action started by a former local government is taken to have been started by a current local government.

- 
- ‘(3) To remove any doubt, it is declared that the assets and public works on a relevant lot belong to the current local government.

*Example—*

Any material associated with a road or bridge is an asset.

- ‘(4) An existing planning scheme applies after 17 September 2010 until the current local government makes or amends a planning scheme to include the relevant lot.
- ‘(5) The existing planning scheme must be implemented, administered and enforced by the current local government to the extent it relates to the relevant lot as if the existing scheme were part of a planning scheme for its local government area.
- ‘(6) A reference in a document about a relevant lot to a former local government may, as appropriate, be taken to be a reference to the current local government.
- ‘(7) In this section—

***action*** means the performance of a function, or the exercise of a power, including the following—

- (a) an application about land;
- (b) the amount of rate for land on a relevant lot;
- (c) a demand for payment of an amount of rate;
- (d) any requirement under an Act.

***current local government*** means the local government for a relevant lot immediately after 17 September 2010.

***existing planning scheme*** means a planning scheme for a relevant lot made by the former local government before 17 September 2010.

***former local government*** means the local government for a relevant lot immediately before 17 September 2010.

***relevant lot*** means a lot, shown on a map showing the boundaries of a local government area, that was transferred from the former local government to the current local government on 17 September 2010.’

## Part 4                                      Amendment of Sustainable Planning Act 2009

### 8            Act amended

This part amends the *Sustainable Planning Act 2009*.

### 9            Amendment of s 20 (Power to make State planning regulatory provision)

(1) Section 20(1)(c)(ii)—

*renumber* as section 20(1)(c)(iii).

(2) Section 20(1)(c)—

*insert*—

‘(ii) an adopted infrastructure charges schedule for the supply of trunk infrastructure, and for other matters, under section 648B; or’.

### 10          Amendment of s 185 (Representations about conditions and other matters)

(1) Section 185(8), ‘or regulated’—

*omit, insert*—

‘, adopted infrastructure charge or regulated’.

(2) Section 185(8)(a)—

*omit, insert*—

‘(a) the local government may give the applicant an infrastructure charges notice, regulated infrastructure charges notice or an adopted infrastructure charges notice that replaces an existing notice; or’.

(3) Section 185(9)—

*insert*—

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*‘existing notice* means an existing infrastructure charges notice, negotiated infrastructure charges notice, regulated infrastructure charges notice, negotiated regulated infrastructure charges notice, adopted infrastructure charges notice or negotiated adopted infrastructure charges notice.’.

**11 Amendment of s 282 (Referral agency assesses application)**

(1) Section 282(2)—

*insert—*

‘(h) to the extent the referral agency’s jurisdiction involves the assessment of the cost impacts of supplying infrastructure for development under section 655 or 657—any relevant adopted infrastructure charges resolution.’.

(2) Section 282(3)(a), ‘and codes’—

*omit, insert—*

‘, codes and resolutions’.

**12 Amendment of s 313 (Code assessment—generally)**

Section 313(2)(f), ‘the priority’—

*omit, insert—*

‘an adopted infrastructure charges resolution or the priority’.

**13 Amendment of s 314 (Impact assessment—generally)**

Section 314(2)(k), ‘the priority’—

*omit, insert—*

‘an adopted infrastructure charges resolution or the priority’.

**14 Amendment of s 364 (Giving new infrastructure charges notice or regulated infrastructure charges notice)**

(1) Section 364, heading, from ‘new’—

*omit, insert—*

**‘new notice about charges for infrastructure’.**

(2) Section 364(1), ‘or regulated infrastructure charge’—

*omit, insert—*

**‘, regulated infrastructure charge or adopted infrastructure charge’.**

(3) Section 364(2), ‘or regulated infrastructure charges notice under section 643’—

*omit, insert—*

**‘, regulated infrastructure charges notice under section 643 or adopted infrastructure charges notice under section 648F’.**

**15 Amendment of s 388 (Deciding request)**

Section 388(1)(a), ‘or infrastructure charges payable under an infrastructure charges schedule’—

*omit, insert—*

**‘or charges payable under chapter 8, part 1’.**

**16 Amendment of s 478 (Appeals about particular charges for infrastructure)**

(1) Section 478(1)(a), ‘or regulated’—

*omit, insert—*

**‘, adopted infrastructure charges notice or regulated’.**

(2) Section 478(1)(b), ‘or negotiated’—

*omit, insert—*

**‘, negotiated adopted infrastructure charges notice or negotiated’.**

- (3) Section 478(5), ‘establish the charge in the relevant’—  
*omit, insert—*  
‘establish an adopted infrastructure charge or the charge in a relevant’.

**17 Amendment of s 535 (Appeals about charges for infrastructure)**

- (1) Section 535(1)(a)(i), ‘or regulated’—  
*omit, insert—*  
‘, adopted infrastructure charges notice or regulated’.
- (2) Section 535(1)(a)(ii), ‘or negotiated’—  
*omit, insert—*  
‘, negotiated adopted infrastructure charges notice or negotiated’.
- (3) Section 535(4), ‘establish the charge in the relevant’—  
*omit, insert—*  
‘establish an adopted infrastructure charge or the charge in a relevant’.

**18 Insertion of new ch 8, pt 1, div 2A**

Chapter 8, part 1—

*insert—*

**‘Division 2A Particular development infrastructure**

**‘626A Conditions local government may impose for particular development infrastructure**

- ‘(1) This section applies for a local government that—  
(a) does not have a priority infrastructure plan; and

- (b) has not made an adopted infrastructure charges resolution about the matters mentioned in section 648D(1)(e).
- ‘(2) The local government may, in addition to any condition it may impose under division 6 or 7, impose a condition for supplying development infrastructure for 1 or more of the following—
  - (a) networks internal to the premises;
  - (b) connecting the premises to external infrastructure networks;
  - (c) protecting or maintaining the safety or efficiency of the infrastructure network of which the development infrastructure is a component.
- ‘(3) The condition must state—
  - (a) the infrastructure to be supplied; and
  - (b) when the infrastructure must be supplied.’.

**19 Amendment of s 629 (Funding trunk infrastructure for local governments)**

- (1) Section 629(1), ‘either’—  
*omit, insert—*  
‘any’.
- (2) Section 629(1)—  
*insert—*  
‘(c) division 5A.’.

**20 Insertion of new ch 8, pt 1, div 5A**

- Chapter 8, part 1—  
*insert—*



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**‘Division 5A                    Trunk infrastructure funding and  
related matters—adopted  
infrastructure charges**

**‘648A Meaning of *adopted infrastructure charge***

- ‘(1) An *adopted infrastructure charge*, for trunk infrastructure for which a State planning regulatory provision (adopted charges) applies, is—
- (a) if the local government has adopted a charge for the infrastructure under an adopted infrastructure charges resolution—the adopted charge; or
  - (b) otherwise—the lesser of the following—
    - (i) a charge equivalent to the pre-SPRP amount for development for which the charge is levied;
    - (ii) the maximum adopted charge for the infrastructure.

- ‘(2) In this section—

*prescribed time* means immediately before the State planning regulatory provision (adopted charges) for the trunk infrastructure comes into effect.

*pre-SPRP amount* for development is the maximum amount the local government could have obtained in relation to the development, at the prescribed time, by doing any of the following—

- (a) imposing a condition requiring payment of a contribution under section 848;
- (b) levying an infrastructure charge under division 4;
- (c) levying a regulated infrastructure charge under division 5.

**‘648B Charges for infrastructure under State planning regulatory provision**

- ‘(1) A State planning regulatory provision may provide for a charge for the supply of trunk infrastructure.
- ‘(2) The State planning regulatory provision must state the following—
  - (a) that it is made for this division;
  - (b) a maximum charge (a *maximum adopted charge*) for trunk infrastructure;
  - (c) development for which the charge may be levied.
- ‘(3) The State planning regulatory provision must include a schedule of the maximum adopted charges for the trunk infrastructure (an *adopted infrastructure charges schedule*).
- ‘(4) Without limiting subsection (1), the State planning regulatory provision may—
  - (a) state different charges for different development; and
  - (b) state different charges for different local governments or parts of a local government’s area; and
  - (c) identify, for a local government area, a priority infrastructure area; and
  - (d) state the proportion of an adopted infrastructure charge under section 648A(1)(b) for the trunk infrastructure that may be—
    - (i) levied by a participating local government; or
    - (ii) charged by a distributor-retailer for its water service or wastewater service.

*Note—*

Under section 648G, a participating local government and a distributor-retailer may enter into an agreement about the proportion of an adopted infrastructure charge that may be levied by the local government or charged by the distributor-retailer. If an agreement is entered into, the proportion provided for under the agreement prevails over the proportion stated in the State planning regulatory provision.

- 
- ‘(5) A State planning regulatory provision under this section is called a *State planning regulatory provision (adopted charges)*.

**‘648C Minister may change maximum adopted charge**

- ‘(1) The Minister may, by gazette notice, change the amount of a maximum adopted charge under a State planning regulatory provision (adopted charges).
- ‘(2) Any increase under subsection (1) in a maximum adopted charge over a financial year must not be more than an amount equal to the amount of the maximum adopted charge at the start of the financial year multiplied by the 3-year moving average annual percentage increase in the relevant producer index for the period of 3 years ending at the start of the financial year.
- ‘(3) A change to a maximum adopted charge under subsection (1) takes effect on the day the notice is gazetted.
- ‘(4) An amendment of the State planning regulatory provision under this section has effect despite section 70(1).
- ‘(5) In this section—  
*relevant producer index* means the producer price index for Queensland road and bridge construction available quarterly from the Australian Bureau of Statistics.

**‘648D Local government may decide matters about charges for infrastructure under State planning regulatory provision**

- ‘(1) A local government may by resolution (an *adopted infrastructure charges resolution*)—
- (a) adopt a charge for particular development that is less than the maximum adopted charge for the development; and
- (b) adopt different charges for development in different parts of its local government area, if each charge is less

- than the maximum adopted charge for the development in the part; and
- (c) declare that an adopted infrastructure charge does not apply for its local government area or a part of its local government area; and
  - (d) state—
    - (i) that, in stated circumstances, the charge for particular development is to be discounted to take into account the existing usage of trunk infrastructure by the premises on or in relation to which the development is carried out; and
    - (ii) how the discount is to be calculated; and
  - (e) if the local government does not have a priority infrastructure plan—
    - (i) identify trunk infrastructure for its local government area; and
    - (ii) identify the trunk infrastructure network or trunk infrastructure networks to which an adopted infrastructure charge applies; and
    - (iii) state the standard of service for each network mentioned in subparagraph (ii); and
    - (iv) state the establishment cost of each network.
- ‘(2) A participating local government for a distributor-retailer must not adopt a charge that is—
- (a) less than the standard amount for the distributor-retailer under chapter 9, part 7A; or
  - (b) more than an amount equal to the sum of—
    - (i) the standard amount for the distributor-retailer under chapter 9, part 7A; and
    - (ii) an amount equal to the maximum adopted charge for the infrastructure multiplied by the local government’s relevant proportion of the adopted infrastructure charge.

- ‘(3) As soon as practicable after the local government makes an adopted infrastructure charges resolution, the local government must publish, in a newspaper circulating generally in its area, a notice stating the following—
- (a) the name of the local government;
  - (b) the day the resolution was made;
  - (c) the details of the resolution, or how a person can obtain the details.
- ‘(4) On the day the notice is published, or as soon as practicable after the day, the local government must give the chief executive—
- (a) a copy of the notice; and
  - (b) 3 certified copies of a document stating the details of the resolution.
- ‘(5) The resolution has effect—
- (a) on and from the day the making of the resolution is first notified in a newspaper circulating generally in the local government’s area; or
  - (b) if a later day is stated in the resolution for that purpose—the later day.
- ‘(6) A copy of the details of the resolution must be attached to each copy of the local government’s planning scheme.
- ‘(7) To remove any doubt, it is declared that the copy of the details of the resolution is not part of the local government’s planning scheme.
- ‘(8) A local government may, under its adopted infrastructure charges resolution, state whether or not an adopted infrastructure charge may be levied for development in a declared master planned area of the local government.
- ‘(9) If the local government has a priority infrastructure plan, the resolution ceases to have effect, to the extent it provides for matters mentioned in subsection (1)(e), when the priority infrastructure plan has effect.

**‘648E When adopted infrastructure charge can not be levied**

‘An adopted infrastructure charge must not be levied for—

- (a) work or use of land authorised under the *Mineral Resources Act 1989*, the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004* or the *Greenhouse Gas Storage Act 2009*; or
- (b) development in an urban development area under the *Urban Land Development Authority Act 2007*; or
- (c) development in a declared master planned area in a local government’s area, unless an adopted infrastructure charges resolution of the local government states the charge applies for development in the declared master planned area.

**‘648F Adopted infrastructure charges notices**

- ‘(1) A notice requiring payment of an adopted infrastructure charge (an *adopted infrastructure charges notice*) must state each of the following—
  - (a) the amount of the charge;
  - (b) the land to which the charge applies;
  - (c) the person to whom the charge must be paid;
  - (d) when the charge is payable.
- ‘(2) An adopted infrastructure charges notice may be given only in relation to a development approval or compliance permit.
- ‘(3) The local government must give the notice to the applicant or person who requested compliance assessment—
  - (a) if the local government is the assessment manager or compliance assessor—
    - (i) at the same time as the development approval or compliance permit is given; or

- 
- (ii) for a deemed approval for which a decision notice has not been given—within 20 business days after receiving a copy of the deemed approval notice; or
  - (b) otherwise—
    - (i) within 10 business days after the local government receives a copy of the approval or permit; or
    - (ii) for a deemed approval for which a decision notice has not been given—within 20 business days after receiving a copy of the deemed approval notice.
  - ‘(4) The charge is not recoverable unless the entitlements under the development approval or compliance permit are exercised.
  - ‘(5) The notice lapses if the development approval or compliance permit stops having effect.

**‘648G Limitation on adopted infrastructure charge for participating local government**

- ‘(1) This section applies to a participating local government for a distributor-retailer.
- ‘(2) The local government and the distributor-retailer may enter into a written agreement about the proportion of an adopted infrastructure charge under section 648A(1)(b) that may be—
  - (a) levied by the local government; or
  - (b) charged by the distributor-retailer for its water service or wastewater service.
- ‘(3) An adopted infrastructure charge levied by the local government for trunk infrastructure must be—
  - (a) if the local government has adopted a charge under an adopted charges resolution—the adopted charge less the distributor-retailer’s standard amount under chapter 9, part 7A in relation to the infrastructure; or
  - (b) otherwise—the amount of the local government’s relevant proportion of the adopted infrastructure charge for the infrastructure.

### **‘648H When adopted infrastructure charges are payable**

‘An adopted infrastructure charge is payable—

- (a) if the charge applies to reconfiguring a lot that is assessable development or development requiring compliance assessment—before the local government approves the plan of subdivision for the reconfiguration; or
- (b) if the charge applies to building work that is assessable development or development requiring compliance assessment—before the certificate of classification for the building work is issued; or
- (c) if the charge applies to a material change of use—before the change happens; or
- (d) otherwise—on the day stated in the adopted infrastructure charges notice or negotiated adopted infrastructure charges notice.

### **‘648I Application of adopted infrastructure charge**

‘An adopted infrastructure charge levied and collected for trunk infrastructure must be used to provide—

- (a) if the local government has, under an adopted infrastructure charges resolution, identified the trunk infrastructure network or trunk infrastructure networks to which the charge applies—the network or networks identified for the charge; or
- (b) otherwise—trunk infrastructure.

### **‘648J Accounting for adopted infrastructure charge**

‘To remove any doubt, it is declared that an adopted infrastructure charge levied and collected by a local government need not be held in trust.



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**‘648K Agreements about, and alternatives to, paying adopted infrastructure charge**

- ‘(1) Despite section 648H, a person to whom an adopted infrastructure charges notice or negotiated adopted infrastructure charges notice has been given and the local government may enter into a written agreement about 1 or more of the following—
- (a) whether the charge may be paid at a different time from the time stated in the notice, and whether it may be paid by instalments;
  - (b) whether infrastructure may be supplied instead of paying all or part of the charge.
- ‘(2) For development infrastructure that is land, the local government may give the applicant or person who requested compliance assessment a notice, in addition to, or instead of, the notice given under section 648F, requiring the applicant or person to—
- (a) give to the local government, in fee simple, part of the land the subject of the development application or request for compliance assessment; or
  - (b) give to the local government—
    - (i) in fee simple, part of the land the subject of the development application or request for compliance assessment; and
    - (ii) part of an adopted infrastructure charge.
- ‘(3) If the applicant or person who requested compliance assessment is required to give land under subsection (2)(a), or a combination of land and a charge under subsection (2)(b), the total value of the contribution must not be more than the amount of the charge mentioned in section 648F(1).
- ‘(4) The applicant or person who requested compliance assessment must comply with a notice under subsection (2) as soon as practicable.

- ‘(5) If land is to be given under subsection (2) to the local government for public parks infrastructure or local community facilities, the land must be given on trust.

**‘648L Adopted infrastructure charge taken to be rates**

- ‘(1) An adopted infrastructure charge levied by a local government is, for the purposes of recovery, taken to be rates within the meaning of the Local Government Act.
- ‘(2) However, if the local government and an applicant or person who requested compliance assessment enter into a written agreement stating the charge is a debt owing to it by the applicant or person, subsection (1) does not apply.’.

**21 Amendment of s 649 (Conditions local governments may impose for necessary trunk infrastructure)**

- (1) Section 649(1), after ‘plan’—  
*insert—*  
‘or an adopted infrastructure charges resolution of the local government’.
- (2) Section 649(2), after ‘plan’—  
*insert—*  
‘or the resolution’.
- (3) Section 649(6)(a), ‘or regulated infrastructure charge’—  
*omit, insert—*  
‘, regulated infrastructure charge or adopted infrastructure charge’.
- (4) Section 649(6)(b)(ii), ‘under’—  
*omit, insert—*  
‘as an adopted infrastructure charge or under’.
- (5) Section 649(7), ‘633 or 643’—

*omit, insert—*  
'633, 643 or 648F'.

**22 Amendment of s 650 (Conditions local governments may impose for additional trunk infrastructure costs)**

- (1) Section 650(1)(b)(i), 'or regulated infrastructure charges'—  
*omit, insert—*  
' , regulated infrastructure charges or adopted infrastructure charges'.
- (2) Section 650(8)(a), 'the infrastructure charges schedule'—  
*omit, insert—*  
'an infrastructure charges schedule or adopted infrastructure charges resolution'.

**23 Amendment of s 653 (Conditions State infrastructure provider may impose)**

- (1) Section 653(3)(a) and (b), after 'plan'—  
*insert—*  
'or an adopted infrastructure charges resolution'.
- (2) Section 653(4)(a), after 'charge'—  
*insert—*  
'or adopted infrastructure charge'.

**24 Amendment of s 655 (Requirements for conditions about additional infrastructure costs)**

Section 655(3), 'trunk'—  
*omit.*

**25 Amendment of s 659 (Sale of particular land held on trust by local governments)**

Section 659(1)(c)(i), after ‘charge’—

*insert—*

‘, regulated infrastructure charge or adopted infrastructure charge’.

**26 Amendment of s 660 (Definition for pt 2)**

Section 660, definition *infrastructure agreement*—

*insert—*

- section 648K
- section 648L’.

**27 Amendment of s 665 (Infrastructure agreements prevail if inconsistent with particular instruments)**

(1) Section 665(2)(c)—

*renumber* as section 665(2)(d).

(2) Section 665(2)—

*insert—*

‘(c) an adopted infrastructure charges notice or negotiated adopted infrastructure charges notice;’.

**28 Amendment of s 675 (Definition for pt 4)**

Section 675, definition *relevant appeal period*, ‘or regulated’—

*omit, insert—*

‘, adopted infrastructure charges notice or regulated’.

**29 Amendment of s 676 (Application of pt 4)**

Section 676, ‘or regulated’—

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*omit, insert—*

‘, adopted infrastructure charges notice or regulated’.

**30 Amendment of s 678 (Consideration of representations)**

Section 678, ‘or regulated’—

*omit, insert—*

‘, adopted infrastructure charges notice or regulated’.

**31 Amendment of s 679 (Decision about representations)**

(1) Section 679(1)(c)—

*renumber* as section 679(1)(d).

(2) Section 679(1)—

*insert—*

‘(c) for representations about an adopted infrastructure charges notice—a new adopted infrastructure charges notice (the *negotiated adopted infrastructure charges notice*); or’.

(3) Section 679(2) and (3), ‘or negotiated’—

*omit, insert—*

‘, negotiated adopted infrastructure charges notice or negotiated’.

**32 Amendment of s 680 (Suspension of relevant appeal period)**

(1) Section 680(1), ‘or regulated’—

*omit, insert—*

‘, adopted infrastructure charges notice or regulated’.

(2) Section 680(4)(c), ‘or negotiated’—

*omit, insert—*

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‘, negotiated adopted infrastructure charges notice or negotiated’.

**33 Amendment of s 724 (Documents local government must keep available for inspection and purchase—general)**

(1) Section 724(1)—

*insert—*

‘(ta) a register (the *adopted infrastructure charges register*) of all adopted infrastructure charges levied by the local government;’.

(2) Section 724(1)(u), after ‘adopted’—

*insert—*

‘, or adopted infrastructure charges resolution made,’.

(3) Section 724(3), ‘and the regulated infrastructure charges register’—

*omit, insert—*

‘, regulated infrastructure charges register and adopted infrastructure charges register’.

(4) Section 724(3)(e), before ‘the’—

*insert—*

‘if relevant,’.

**34 Amendment of s 738 (Limited planning and development certificates)**

Section 738(b)—

*insert—*

‘*Note—*

A State planning regulatory provision (adopted charges) may apply to the premises.’.

**35 Amendment of s 739 (Standard planning and development certificates)**

Section 739(h), ‘or regulated infrastructure charges register’—

*omit, insert—*

‘, regulated infrastructure charges register or adopted infrastructure charges register’.

**36 Amendment of s 755A (Definitions for pt 7A)**

Section 755A—

*insert—*

‘*standard amount*, for a distributor-retailer in relation to a charge for trunk infrastructure for its water service or wastewater service, means—

(a) if its participating local government for the area in relation to which the trunk infrastructure for the charge is supplied has made an adopted infrastructure charges resolution—the amount of the distributor-retailer’s relevant proportion of the adopted infrastructure charge immediately before the resolution takes effect; or

(b) if paragraph (a) does not apply—the distributor-retailer’s relevant proportion of the adopted infrastructure charge under section 648A(1)(b).

*standard charge day*, for a distributor-retailer, means the day a State planning regulatory provision (adopted charges) first has effect.’.

**37 Amendment of s 755J (Conditions about non-trunk infrastructure)**

Section 755J, ‘626’—

*omit, insert—*

‘626 or 626A’.

**38 Amendment of s 755K (Funding trunk infrastructure)**

(1) Section 755K, heading, after ‘infrastructure’—

*insert—*

**‘—levying charge before standard charge day’.**

(2) Section 755K(1), ‘may levy’—

*omit, insert—*

‘may, until the standard charge day for the distributor-retailer, levy’.

**39 Insertion of new ss 755KA and 755KB**

After section 755K—

*insert—*

**‘755KA Distributor-retailer may decide matters about adopted infrastructure charge**

‘(1) A distributor-retailer’s board may decide—

- (a) to adopt a charge for supplying trunk infrastructure in relation to its water service or wastewater service that is not more than the amount of the distributor-retailer’s relevant proportion of the maximum adopted charge for the infrastructure; and
- (b) to adopt a charge for supplying trunk infrastructure in relation to its water service or wastewater service in a part of its geographic area that is not more than the amount of the distributor-retailer’s relevant proportion of the maximum adopted charge for the infrastructure in the part of the geographic area; and
- (c) that an adopted infrastructure charge does not apply for supplying trunk infrastructure in relation to its water service or wastewater service in its geographic area or a part of its geographic area.

‘(2) In this section—



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*geographic area*, for a distributor-retailer, means the distributor-retailer's geographic area under the SEQ Water Act.

**'755KB Funding trunk infrastructure—levying charge on and from standard charge day**

- '(1) For this Act, a distributor-retailer may, on and from the standard charge day for the distributor-retailer, levy a charge for supplying trunk infrastructure in relation to its water service or wastewater service.
- '(2) The amount of the charge levied must be—
  - (a) if the distributor-retailer's board has decided to adopt a charge under section 755KA(1)(a) or (b)—the adopted charge; or
  - (b) otherwise—the distributor-retailer's standard amount for the trunk infrastructure.
- '(3) For subsection (1), a distributor-retailer may give a person an adopted infrastructure charges notice under section 648F(1).
- '(4) The adopted infrastructure charges notice may be given only in relation to a development approval or compliance permit.
- '(5) The distributor-retailer must give the notice to the applicant or the person who requested compliance assessment—
  - (a) within 10 business days after the distributor-retailer receives a copy of the approval or permit; or
  - (b) for a deemed approval for which a decision notice has not been given—within 20 business days after receiving a copy of the deemed approval notice.
- '(6) The charge is not recoverable unless the entitlements under the approval or permit are exercised.
- '(7) The notice lapses if the approval or permit stops having effect.
- '(8) If a negotiated decision notice is given for a development application (distributor-retailer) and section 364(1) applies in relation to the negotiated decision notice, the distributor-retailer may give the applicant a new adopted

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infrastructure charges notice under section 648F(1) to replace the original notice.’.

#### **40 Insertion of new s 755MA**

After section 755M—

*insert—*

##### **‘755MA Agreements about, and alternatives to, paying adopted infrastructure charge**

- ‘(1) Subsection (2) applies if the relevant local government for a distributor-retailer has a priority infrastructure plan.
- ‘(2) Despite section 755KB, a person to whom an adopted infrastructure charges notice or a negotiated adopted infrastructure charges notice has been given and the distributor-retailer may enter into a written agreement about 1 or more of the following—
  - (a) whether the charge may be paid at a different time from the time stated in the notice, and whether it may be paid by instalments;
  - (b) whether infrastructure may be supplied instead of paying all or part of the charge;
  - (c) whether infrastructure that delivers the same standard of service as that stated in the priority infrastructure plan for the land to which the charge applies may be supplied instead of the infrastructure identified in the priority infrastructure plan;
  - (d) whether land in fee simple may be given instead of paying the charge or part of the charge.
- ‘(3) For development infrastructure that is land, the distributor-retailer may give the applicant or the person who requested compliance assessment a notice, in addition to, or instead of, the adopted infrastructure charges notice, requiring the person to—

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- (a) give the distributor-retailer, in fee simple, part of the land the subject of the development application or request for compliance assessment; or
  - (b) give the distributor-retailer—
    - (i) in fee simple, part of the land the subject of the development application or request for compliance assessment; and
    - (ii) part of an adopted infrastructure charge.
- ‘(4) If the applicant or person who requested compliance assessment is required to give land under subsection (3)(a), or a combination of land and a charge under subsection (3)(b), the total value of the contribution must not be more than the amount of the adopted infrastructure charge payable to the distributor-retailer.
- ‘(5) The applicant or person who requested compliance assessment must comply with the notice as soon as practicable.
- ‘(6) Subsection (7) applies if the relevant local government for a distributor-retailer does not have a priority infrastructure plan.
- ‘(7) Despite section 755KB, a person to whom an adopted infrastructure charges notice or a negotiated adopted infrastructure charges notice has been given and the distributor-retailer may enter into a written agreement about 1 or more of the following—
- (a) whether the charge may be paid at a different time from the time stated in the notice, and whether it may be paid by instalments;
  - (b) whether infrastructure may be supplied instead of paying all or part of the charge;
  - (c) whether land in fee simple may be given instead of paying the charge or part of the charge.
- ‘(8) For this Act, an agreement, as amended from time to time, mentioned in subsection (2) or (7) is an infrastructure agreement.’.

**41 Amendment of s 755O (Application of particular provisions—generally)**

- (1) Section 755O(1)(e) and (f)—  
*renumber* as section 755O(f) and (g).
- (2) Section 755O(1)—  
*insert*—  
'(e) sections 648H to 648J;'

**42 Amendment of s 755P (Application of ss 636 and 646)**

- (1) Section 755P, heading, 'and 646'—  
*omit, insert*—  
'**646 and 648J**'.
- (2) Section 755P, 'and 646'—  
*omit, insert*—  
'**646 and 648J**'.

**43 Amendment of s 755W (Appeals about infrastructure charge or regulated infrastructure charge)**

- (1) Section 755W, heading, 'or regulated infrastructure charge'—  
*omit, insert*—  
'**regulated infrastructure charge or adopted infrastructure charge**'.
- (2) Section 755W, 'or regulated infrastructure charges notice'—  
*omit, insert*—  
'**regulated infrastructure charges notice or adopted infrastructure charges notice**'.

**44 Insertion of new ch 10, pt 4**

Chapter 10—

*insert—*

**‘Part 4**                      **Transitional provisions for  
Sustainable Planning (Housing  
Affordability and Infrastructure  
Charges Reform) Amendment  
Act 2011**

**‘879**    **Extended application of s 856 for adopted  
infrastructure charge**

‘Section 856 applies to an agreement mentioned in section 856(1) as if the reference in section 856(3)(c) to an infrastructure charge included a reference to an adopted infrastructure charge.

**‘880**    **When local government must not levy particular  
charges for infrastructure**

‘(1) This section applies—

- (a) on the day a State planning regulatory provision (adopted charges) first has effect; and
- (b) until the day the State planning regulatory provision ceases to have effect.

‘(2) A local government must not—

- (a) levy an infrastructure charge or regulated infrastructure charge under chapter 8, part 1, division 4 or 5; or
- (b) impose a condition under a planning scheme policy to which section 847 applies.

‘(3) Subsection (2)—

- (a) applies despite chapter 8, part 1, division 4 or 5 and sections 847 and 848; and
- (b) does not stop a local government—

- (i) collecting an infrastructure charge or regulated infrastructure charge lawfully levied by the local government; or
- (ii) collecting an infrastructure contribution payable under a condition lawfully imposed under a planning scheme policy to which section 847 applies; and
- (c) does not stop a local government giving a new notice under section 185(8) or 364; and
- (d) does not affect a right or liability, or action that can be taken, under this Act in relation to a charge or infrastructure contribution mentioned in paragraph (b).

**‘881 Effect of local government resolution made before commencement of amending Act**

- ‘(1) This section applies to a resolution made by a local government before the commencement of the amending Act, part 3, if the resolution provides for any matters mentioned in section 648D(1).
- ‘(2) For this Act, the resolution is taken—
  - (a) to be an adopted infrastructure charges resolution; and
  - (b) to have effect—
    - (i) immediately after a State planning regulatory provision (adopted charges) first has effect; or
    - (ii) if a later day is stated in the resolution for that purpose—the later day.
- ‘(3) However, the resolution is taken to be of no effect to the extent a charge adopted under the resolution for particular development or a part of the local government’s area is more than the maximum adopted charge for the development or part.
- ‘(4) Section 648D(2) to (4) and (6) to (8) applies in relation to the local government and the resolution as if the reference in section 648D(3) to ‘the local government makes an adopted

infrastructure charges resolution’ were a reference to ‘the commencement of the amending Act, part 3’.

‘(5) In this section—

***amending Act*** means the *Sustainable Planning (Housing Affordability and Infrastructure Charges Reform) Amendment Act 2011*.’.

#### 45 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions, *establishment cost* and *trunk infrastructure*—

*omit.*

(2) Schedule 3—

*insert—*

***‘adopted infrastructure charge*** see section 648A.

***adopted infrastructure charges notice*** see section 648F(1).

***adopted infrastructure charges register*** see section 724(1)(ta).

***adopted infrastructure charges resolution*** means a resolution made under section 648D(1) that is in effect.

***adopted infrastructure charges schedule*** see section 648B(3).

***establishment cost—***

1 *Establishment cost*, in relation to a trunk infrastructure network, means—

(a) for future infrastructure—all costs for the design, financing and construction of the infrastructure and for land acquisition for the infrastructure; and

(b) for existing infrastructure—

(i) the residual financing cost of the existing infrastructure; and

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- (ii) the cost of reconstructing the same works using contemporary materials, techniques and technologies; and
  - (iii) if the land acquisition for the infrastructure was completed after 1 January 1990—the value of the land at the time it was acquired, adjusted for inflation.
- 2 *Establishment cost*, in relation to a trunk infrastructure network, includes—
- (a) the cost of preparing an infrastructure charges schedule, including the desired standards of service and plans for trunk infrastructure used to calculate the charges stated in the infrastructure charges schedule; and
  - (b) ongoing administration costs for the infrastructure charges schedule for the infrastructure.

***maximum adopted charge***, in relation to trunk infrastructure, means the maximum adopted charge for the infrastructure, as amended from time to time under section 648C, under the State planning regulatory provision (adopted charges).

***negotiated adopted infrastructure charges notice*** see section 679(1)(c).

***relevant proportion***, of an adopted infrastructure charge for trunk infrastructure, means the proportion of the adopted infrastructure charge under section 648A(1)(b) that is—

- (a) agreed to under section 648G(2) by a distributor-retailer and its participating local government for the area in relation to which the trunk infrastructure is supplied; or
- (b) if paragraph (a) does not apply—stated under a State planning regulatory provision (adopted charges).

***standard amount*** see section 755A.

***standard charge day***, for chapter 9, part 7A, see section 755A.

***State planning regulatory provision (adopted charges)*** see section 648B(5).



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*trunk infrastructure*, for a local government, means—

- (a) if the local government’s planning scheme includes a priority infrastructure plan—development infrastructure identified in the plan as trunk infrastructure; or
  - (b) if an adopted infrastructure charges resolution identifies trunk infrastructure for the local government’s area—the trunk infrastructure identified in the resolution; or
  - (c) otherwise—development infrastructure, other than development infrastructure for which a condition has been imposed under section 626A.’.
- (3) Schedule 3, definition *desired standard of service*, ‘the priority’—  
*omit, insert—*  
‘an adopted infrastructure charges resolution or the priority’.
- (4) Schedule 3, definition *negotiated regulated State infrastructure charges notice*, ‘679(1)(c)’—  
*omit, insert—*  
‘679(1)(d)’.
- (5) Schedule 3, definition *priority infrastructure area*—  
*insert—*  
‘*Note—*  
A priority infrastructure area may be identified in a priority infrastructure plan or a State planning regulatory provision (adopted charges).’.