

Our Ref: Z16280
Your Ref:



11 April 2019

Chief Executive Officer
Gladstone Regional Council
PO Box 29
GLADSTONE QLD 4680

GLADSTONE | GOLD COAST

p 0427 258 007
info@zoneplanning.com.au
zoneplanning.com.au

ABN 36 607 362 238

Dear Sir/Madam,

**REQUEST INFRASTRUCTURE INCENTIVES SCHEME APPROVAL FOR DEVELOPMENT PERMIT
(DA/32/2017) FOR A MATERIAL CHANGE OF USE FOR NATURE BASED TOURISM AT
2546 ROUND HILL ROAD, ROUND HILL (LOT 19 RP616664)**

We write on behalf of our client, Tim Lawry, in lodging this request to be considered for approval under Councils 'Infrastructure Charges Economic Development Incentives Scheme' for a 50% reduction in infrastructure Charges levied for the above mention tourism approval.

This development approval is for the following aspects of development:

- Development Permit for a Material Change of Use for Nature Based Tourism comprising 74 sites.

The Decision Notice was received by Zone Planning Group on 17 October 2017. The application was lodged with Council on 4 May 2017 and is therefore subject to infrastructure charges under Council's Adopted Infrastructure Charge Resolution (No. 1) 2015 – Amendment No. 2 (AICR) which commenced on 8 March 2017.

The AICR locates the subject site in charge area 6 (typically applied to rural areas of the region) and defined in the AICR as:

'Rural and small rural townships (Miriam Vale surrounds) that can be serviced with transport and parks trunk infrastructure. these areas only contribute to the existing trunk infrastructure'.

As suggested in the AICR definition, the subject site only places demand on two (2) of Council's four (4) infrastructure networks, being transport and parks networks. Note, water and sewer must be managed on-site due to the rural location and lack of infrastructure availability.

The total liability under the ICN issued by Council is \$202,150.

In considering this request Council should consider the request from a broader perspective of the purpose of the policy and make a decision based on whether the request will progress the purpose of the policy.

The purpose of the policy is stated in section 1:

"The policy provides incentives by way of discounted Levied Charges for developments proposing a Material Change of Use (other than for certain uses – Exclude Uses), which deliver economic development and growth outcomes that align with Councils Economic Development Strategy and Planning Scheme."

It is our view that this proposal clearly promotes economic development in the Tourism sector creating investment and employment in the area and is consistent with the purpose of the policy.

Section 6 of the policy sets out the criteria for application of the policy which we believe contains significant flaws which we have previously presented to full Council and understand Council resolved to review the policy based on these issues we raised. We understand progression of this review has been slow which considering the current subdued economic environment is disappointing.

Notwithstanding the limitations with the criteria each criteria is briefly commented on below:

1. Are lodged with Council after the 1 July 2018; with respect to applications lodged prior to the 1 July 2018, Council may in its sole discretion, consider Development Applications approved and not yet constructed, or Development Applications that have been lodged but not yet decided, and

Comment

It should not matter whether the development application is lodged before or after the 1 July as to whether it is eligible for 50% incentives discount. If it is a shovel ready development which is not an excluded use and will generate economic activity then it meets the purpose of policy and should be supported. It is noted Council does has discretion regarding this point and we ask Council to apply it.

2. Are for any land use as defined within SC1.1 Use definitions of the Our Place Our Plan Gladstone Regional Council Planning Scheme V2 other than an Excluded Use as defined herein; and

Comment

The subject approval is for 'Nature Based Tourism' which is a listed land use within SC1.1 of the Gladstone Planning Scheme and is not a 'Excluded Use' under the policy. The proposal fully meets this requirement.

3. Are proposed to be located within a Priority Infrastructure Area.

Comment

This criterion, as highlighted to Council when invited to present to Councilors, is the biggest flaw in the policy which excludes many developments which would otherwise be eligible from qualifying for the discount. Many of the areas excluded are areas within the planning scheme which are set aside for future growth of the City but then this policy discourages development of these areas by excluding them from being eligible for the incentives to promote economic development. This seems to defeat the purpose of the policy intent. Also, there are numerous uses which are not 'Excluded Uses' which are permitted outside a PIA by the planning scheme which clearly promote economic activity in the area and meet the purpose of the policy. This development is a prime example of such.

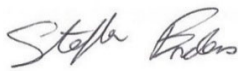
I would ask Council the question why if the same use was approved within a PIA area it would get the 50% incentive discount while this proposal, still being a supported use by the planning scheme, is not eligible for discount because it is not in a PIA area.

It is therefore submit the proposal would meet the purpose of the policy and therefore Council should support this request in the interest of promoting economic activity in the area.

I also attach a submission from the applicant as well in support of the request.

Should you have any queries concerning the above please contact the undersigned on 0427 258 007.

Yours Sincerely



Stephen Enders | Director
ZONE PLANNING GROUP

11 April 2019

Chief Executive Officer
Gladstone Regional Council
PO Box 29
GLADSTONE QLD 4680

Dear Sir/Madam,

**REQUEST INFRASTRUCTURE INCENTIVES SCHEME APPROVAL FOR DEVELOPMENT PERMIT
(DA/32/2017) FOR A MATERIAL CHANGE OF USE FOR NATURE BASED TOURISM AT
2546 ROUND HILL ROAD, ROUND HILL (LOT 19 RP616664)**

This letter is in follow up from our meeting on the 29th of January 2018 where we presented to the Council requesting a discount to the infrastructure charges that have been proposed to be charged for our approved tourism development for 2546 Round Hill Road.

We would like to apply for the Infrastructure Charges Economic Development Incentive Scheme for our property, for a reduction of 50% on our proposed levied charges as noted in the attached document.

It is noted that since the scheme has been implemented in Agnes Water we have been advised that no developments have utilized the incentive, and we have also seen that council is now considering applying the incentive to developments outside of the PIA as per the attached document which is an excerpt from the Gladstone Observer newspaper article.

As such we would like Council to review and reconsider their decision on this incentive scheme to allow our proposed development to utilize this discount on our proposed infrastructure charges, to enable our project to become viable to proceed and to add community benefit and a new tourism venture to the Discovery Coast region.

The proposed development meets the required uses for the incentive, and whilst our application was lodged prior to the 1st of July 2018 it is noted that council may 'in its sole discretion, consider Development Applications approved and not yet constructed,' which our development meets this criteria.

Our development will offer a unique tourism experience for the local region, attracting eco-tourism visitors and offering a totally different nature based experience from what is currently offered, and enhancing the appeal of the Agnes Water & 1770 areas as a tourist destination. We are going to be

employing numerous local businesses and trades in the construction phase of our development and will be employing a local work force once operational to run this business and eco-tourist park.

We hereby request council agree to an Infrastructure Agreement to reduce the levied charge by 50%. As we have not been able to locate a 'Request – Levied Charge Incentive Form' we have complied this letter, to request this agreement, noting that we are able to meet the Incentive Conditions listed in the Incentive Scheme Council Policy.

I trust that the information in this request is sufficient for you to be able to reach a favorable decision on this matter, however if you require any further information or details, please don't hesitate to contact me on 0428 565 626.

Yours sincerely,

Tim Lawry

1770 Eco Camp

IC 1770 Pty Ltd

2546 Round Hill Road, Round Hill, QLD 4677

1st Apr 2019 12:01 AM

Subscriber only

[2](#)

GLADSTONE Region Mayor Matt Burnett said the council's infrastructure charge discount was working as an incentive to encourage developers to the region.

Introduced in July last year, the Gladstone Regional Council offers a 50 per cent discount on infrastructure charges for non-residential projects within the priority infrastructure area.

Speaking at Future CQ, presented by CQUniversity, earlier this month Cr Burnett said the program was working.

"Now we've introduced incentives for developers ... we're prepared to take a hit on something we need, like aged care and education facilities," he said.

The project was brought in after fees obtained by the council from infrastructure charges for non-residential developments hit a 10-year low of \$89,000 last year.

Cr Burnett said now the council was considering expanding the discount outside the priority infrastructure area.

"It's working," he said.

"Look at what's happening at Tannum Sands with the proposed retirement village where they just recently received bed allocations from the Federal Government."

The Tannum Sands retirement village, proposed for 75 Old Tannum Rd, is one of the projects eligible for the discount.

Ross Humphreys, managing director of Genbridge, a retirement management service involved in the project, said being eligible for the discount made the overall project more viable.



Our Ref: DA/32/2017 FM7.2

23 October 2017

Mr T P Lawry
C/- Mr Stephen Enders
Zone Planning Group
PO Box 5332
GLADSTONE QLD 4680

Dear Sir

ADOPTED INFRASTRUCTURE CHARGE NOTICE
DA/32/2017
MATERIAL CHANGE OF USE - CODE - NATURE BASED TOURISM
2546 ROUND HILL ROAD, ROUND HILL QLD 4677
LOT 19 RP 616664, UXBRIDGE

Reference is made to Council's Decision Notice for Nature Based Tourism at 2546 Round Hill Road, ROUND HILL QLD 4677 which was approved under Delegated Authority on 16 October 2017.

Please find attached an Adopted Infrastructure Charge Notice which details the infrastructure charges applicable for the above mentioned development.

Please note, if paying by credit card a surcharge will apply.

Should you have any queries in relation to this matter, please contact Council's Senior Technical Officer, Mrs Juanita Rodwell on (07) 4977 6830.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jorge El-Khoury'.

JORGE EL-KHOURI
MANAGER TECHNICAL SERVICES



GLADSTONE
REGIONAL COUNCIL

ADOPTED INFRASTRUCTURE CHARGE NOTICE

Sustainable Planning Act 2009 S637 and s638
State Planning Regulatory Provision (adopted charges)

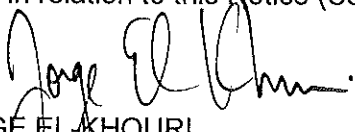
This Adopted Infrastructure Charge Notice relates to Development Application Number: DA/32/2017 approved on 16 October 2017, for Nature Based Tourism (74 sites in 3 Stages) located at 2546 Round Hill Road, ROUND HILL QLD 4677 (Lot 19 RP 616664, Uxbridge), calculated in accordance with the Gladstone Regional Council Adopted Infrastructure Charge Resolution (No. 1) - 2015 - Amendment No. 2.

ISSUED TO (APPLICANT):	Mr T P Lawry C/- Mr Stephen Enders Zone Planning Group PO Box 5332 GLADSTONE QLD 4680
LAND TO WHICH THE CHARGE RELATES:	Lot 19 RP 616664, Uxbridge
LAND OWNER:	Agnes Street Developments Pty Ltd
CALCULATION BREAKDOWN:	<ul style="list-style-type: none">• Charge Area 6• 74 sites – 24 @ \$8,900 + 1 @ \$6,350• Credit \$17,800 (Stage 1)
AMOUNT OF THE CHARGE:	\$202,150 Stage 1 - \$106,800 Stage 2 - \$53,400 Stage 3 - \$41,950 (indexation will be applied as per Section 629 of the <i>Sustainable Planning Act 2009</i>).
OFFSET:	Not Applicable to this development.
WHEN THE CHARGE IS PAYABLE:	The charge is payable before the abovementioned authorised use commences on the land (as per Section 638 of SPA).
PAYMENT OF CHARGE:	Payment of this charge must be made to:- Gladstone Regional Council. PO Box 29 GLADSTONE DC QLD 4680 Note: If paying by credit card a surcharge will apply.

This notice will lapse if the development approval stops having effect.

APPEAL RIGHTS

Attached is an extract from the *Sustainable Planning Act 2009* which details your appeal rights in relation to this Notice (Sections 478, 535, 640-644).



JORGE EL-KHOURI
MANAGER TECHNICAL SERVICES

23 October 2017

639 Agreements about payment or provision instead of payment

- (1) The recipient of an infrastructure charges notice and the local government that gave it may agree about either or both of the following—
 - (a) whether the levied charge under the notice may be paid other than as required under section 638 including whether it may be paid by instalments;
 - (b) whether infrastructure may be provided instead of paying part or all of the levied charge.
- (2) If the levied charge is subject to an automatic increase provision, the agreement must state how increases in the charge are payable under the agreement.

Subdivision 5 Changing charges during relevant appeal period

640 Application of sdiv 5

This subdivision applies to the recipient of an infrastructure charges notice (the *original notice*) given by a local government.

641 Submissions for infrastructure charges notice

During the relevant appeal period, the recipient may make submissions to the local government about the original notice.

642 Consideration of submissions

The local government must consider the submissions.

643 Decision about submissions

- (1) If the local government decides it agrees with a submission, it must, within 5 business days after making the decision, give

the recipient a new infrastructure charges notice (a *negotiated notice*).

- (2) The local government may give only 1 negotiated notice.
- (3) A negotiated notice—
 - (a) must be in the same form as the original notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the original notice.
- (4) If the local government decides it does not agree with any of the submissions, it must, within 5 business days after making the decision, give the recipient a notice stating the decision.
- (5) Despite another provision of this Act, the relevant appeal period for the infrastructure charges notice starts again when the recipient is given the notice under subsection (4).

644 Suspension of relevant appeal period

- (1) If the recipient needs more time to make submissions, the recipient may give the local government a notice (a *suspension notice*) suspending the relevant appeal period.
- (2) The recipient may give only 1 suspension notice.
- (3) If the submissions are not made within 20 business days after the giving of the suspension notice, the balance of the relevant appeal period restarts.
- (4) If submissions are made within the 20 business days and the recipient gives the local government a notice withdrawing the suspension notice, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

- (3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

478 Appeals about infrastructure charges notice

- (1) The recipient of an infrastructure charges notice may appeal to the court about the decision to give the notice.
- (2) However, the appeal may be made only on 1 or more of the following grounds—
- (a) the charge in the notice is so unreasonable that no reasonable relevant local government could have imposed it;
 - (b) the decision involved an error relating to—
 - (i) the application of the relevant adopted charge; or
 - (ii) the working out, for section 636, of additional demand; or
 - (iii) an offset or refund;
 - (c) there was no decision about an offset or refund;
- Examples of possible errors in applying an adopted charge—*
- the incorrect application of gross floor area for a non-residential development
 - applying an incorrect ‘use category’ under an SPRP (adopted charges) to the development
- (d) if the infrastructure charges notice states a refund will be given—the timing for giving the refund.
- (3) To remove any doubt, it is declared that the appeal must not be about—
- (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of infrastructure identified in an LGIP; or

- (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.
- (4) The appeal must be started within 20 business days after the day the recipient is given the relevant infrastructure charges notice.

478A Appeals against refusal of conversion application

- (1) The applicant for a conversion application may appeal to the court against a refusal, or deemed refusal, of the application.
- (2) The appeal must be started within the following period—
 - (a) if the applicant is given written notice of the refusal—20 business days after the day the applicant is given the notice;
 - (b) otherwise—20 business days after the end of the required period under section 660(5) for the application.

479 Appeals from building and development committees

- (1) A party to a proceeding decided by a building and development committee may appeal to the court against the committee's decision, but only on the ground—
 - (a) of an error or mistake in law on the part of the committee; or
 - (b) that the committee had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.
- (2) An appeal against a building and development committee's decision must be started within 20 business days after the day notice of the committee's decision is given to the party.

- (a) a work, if the enforcement notice states the entity believes the work is a danger to persons or a risk to public health; or
- (b) stopping the demolition of a work; or
- (c) clearing vegetation on freehold land; or
- (d) the removal of quarry material allocated under the *Water Act 2000*; or
- (e) extracting clay, gravel, rock, sand or soil, not mentioned in paragraph (d), from Queensland waters; or
- (f) development the assessing authority reasonably believes is causing erosion or sedimentation; or
- (g) development the assessing authority reasonably believes is causing an environmental nuisance.

Division 7 Appeals about particular charges

535 Appeals about infrastructure charges decisions

- (1) The recipient of an infrastructure charges notice may appeal to a building and development committee about the decision to give the notice.
- (2) However, the appeal may be made only on 1 or more of the following grounds—
 - (a) the decision involved an error relating to—
 - (i) the application of the relevant adopted charge; or
 - (ii) the working out, for section 636, of additional demand; or
 - (iii) an offset or refund;
 - (b) there was no decision about an offset or refund;

Examples of possible errors in applying an adopted charge—

- the incorrect application of gross floor area for a non-residential development

[s 535A]

- applying an incorrect 'use category' under an SPRP (adopted charges) to the development
- (c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund.
- (3) To remove any doubt, it is declared that the appeal must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of infrastructure in an LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.
- (4) The appeal must be started within 20 business days after the day the recipient is given the relevant infrastructure charges notice.

535A Appeals against refusal of conversion application

- (1) The applicant for a conversion application may appeal to a building and development committee against a refusal, or deemed refusal, of the application.
- (2) The appeal must be started within the following period—
 - (a) if the applicant is given written notice of the refusal—20 business days after the day the applicant is given the notice;
 - (b) otherwise—20 business days after the end of the required period under section 660(5) for the application.

Contact Officer: Helen McLaren-Greiss
Our Ref: DA/32/2017

12 March 2018

Mr T P Lawry
C/- Mr Stephen Enders
Zone Planning Group
PO Box 5332
GLADSTONE QLD 4680

Dear Sir

NEGOTIATED DECISION NOTICE
SUSTAINABLE PLANNING ACT 2009 S362 & 363

DA/32/2017 MATERIAL CHANGE OF USE - CODE
NATURE BASED TOURISM - (74 SITES IN 3 STAGES)
2546, 2590 & LOT 21 ROUND HILL ROAD AND
LOT 900 UNNAMED ROAD, AGNES WATER QLD 4677
LOTS 19, 20 & 21 RP 616664 AND LOT 900 SP 264882, UXBRIDGE

Reference is made to the above development application and to your request to make representations in relation to certain matters within Council's Decision Notice dated 17 October 2017.

I wish to advise that your request was assessed under Delegated Authority on 8 March 2018 where it was decided to agree to the representations in part as set out in the following Negotiated Decision Notice. The Negotiated Decision Notice replaces the Decision Notice previously issued and dated 17 October 2017.

Should you have any questions or require further clarification in relation to any matters raised in the Decision Notice, please do not hesitate to contact Council's Planning Officer Helen McLaren-Greiss on (07) 4977 6851.

Yours faithfully



T R MCDONALD
PLANNING SERVICES COORDINATOR