

DEFERRED PAYMENT OF LEVIED CHARGES

- Intent** To establish the circumstances where Council may accept a limited extension of time for the payment of levied charges and the conditions which apply to such deferment.
- Scope** This policy details the circumstances when Council, at its discretion, may agree to the payment of levied charges at a later date than those otherwise established in section 122 of the *Planning Act 2016* (Qld) ('the Act').

PROVISIONS

BACKGROUND

Council levies infrastructure charges by issuing infrastructure charges notices under the Act for development. The timing for the payment triggers for infrastructure charges are set out under section 122 of the Act (the **Statutory Payment Date**).

The recipient of an infrastructure charges notice, and the Council may agree whether the levied charge may be paid other than as required under section 122 of the Act. Section 150 of the Act provides that an Infrastructure Agreement (**IA**) give effect to matters stated in section 123 of the Act. An IA can set out the terms for deferred payment of infrastructure charges.

The recipient of an infrastructure charges notice may approach Council to enter into an infrastructure agreement for the deferred payment of levied charges. Council is not obliged to enter into an IA and is entitled to protect its legal and financial position. Council will only enter into an IA where the legal and financial risks are appropriately mitigated through:

- For Applicants meeting the conditions for deferred payment of levied charges and requests to defer payment of levied charges for up to 60 business days – enforceable terms of an IA that protect Council's and the community's interests.
- For Applicants meeting the conditions for deferred payment of levied charges and exceeding 60 business days but no longer than 250 business days – enforceable terms of an IA that protect Council's and the community's interests and the provision of appropriate 'security'.

DEFINITIONS

The terms used in this policy are extracted from the Act. Their meaning is therefore derived from the Act.

CONDITIONS FOR DEFERRED PAYMENT OF LEVIED CHARGES

1. For proposals to defer payment of levied charges for up to 60 business days from the Statutory Payment Date.

Council will only consider the deferred payment of levied charges where all of the following criteria are established:

- a) A development approval has taken effect;
- b) An infrastructure charges notice has been given for the development approval;
- c) The Applicant meets the following eligibility criteria:

- i. the Applicant must submit evidence of the individual's or entity's credit worthiness including disclosure of information that a reasonable person or entity has that may prevent the individual or entity from meeting the financial obligations under the IA.

(Note: Council may take reasonable steps to verify the consumer's financial situation).

- d) An Application for Deferred Payment of Levied Charges is made in the Approved Form and made at least 60 business days prior to the Statutory Payment Date;
 - e) The deferred payment date by which the levied charge will be payable is no longer than 60 business days from the Statutory Payment Date; and
 - f) On application and thereafter, the Applicant and Landowner agree to the terms of the Council's Infrastructure Agreement for Deferred Payment of Levied Charges (template).
 - g) The Applicant / Developer acknowledges that, until the Levied Charges are paid to Council, the Council may, pursuant to section 105(1) of the LG Reg, include the amount of the Levied Charges on any Rate Notice for the Land as an amount payable to Council; and
 - h) The Applicant and/or the Owner of the land the subject of the development approval, are willing to enter into an IA reflecting the Council's agreement to apply this policy and defer the payment of the levied infrastructure charges.
2. For proposals to defer payment of levied charges for a period exceeding 60 business days and not longer than 250 business days from the Statutory Payment Date.

Council will only consider the deferred payment of levied charges where all of the following criteria are established:

- a) A development approval has taken effect;
- b) An infrastructure charges notice has been given for the development approval;
- c) The Applicant meets the following eligibility criteria:
 - i. the applicant must submit evidence of the individual's or entity's credit worthiness including disclosure of information that a reasonable person or entity has that may prevent the individual or entity from meeting the financial obligations under the IA.

(Note: Council may take reasonable steps to verify the consumer's financial situation).

- d) An Application for Deferred Payment of Levied Charges is made in the Approved Form and made at least 60 business days prior to the Statutory Payment Date;
 - e) The deferred payment date by which the levied charge will be payable more than 60 business days but no longer than 250 business days from the Statutory Payment Date;
 - f) On application and thereafter, the applicant and landowner agree to the terms of the Council's Infrastructure Agreement for Deferred Payment of Levied Charges (template); and
 - g) The Applicant has provided Council with appropriate 'security' in the form of an irrevocable and unconditional bank guarantee or insurance bond:
 - i. upon which Council will be entitled to rely upon in order to cover the levied charge; and
 - ii. to at least the amount of the levied charge (in accordance with the automatic increase provision of the Act, where applicable).
 - h) The Applicant / Developer acknowledges that, until the Levied Charges are paid to Council, the Council may, pursuant to section 105(1) of the LG Reg, include the amount of the Levied Charges on any Rate Notice for the Land as an amount payable to Council; and
 - i) The Applicant and/or the Owner of the land the subject of the development approval, are willing to enter into an IA reflecting the Council's agreement to apply this policy and defer the payment of the levied infrastructure charges.
3. For proposals to defer payment of levied charges that do not meet the conditions for deferred payment of levied charges, the matter may be eligible for consideration by the full Council on a case by case basis.

DECISION MAKING PROCESS

1. Requests for deferred payment of levied charges must be made at least 60 business days prior to the Statutory Payment Date.
2. The Council may request additional information at any time to assist in the decision-making process.
3. Requests for the deferred payment of levied charges will be decided within 30 business days of the request being made and extended as appropriate to align with internal and Council's published meeting dates.

Note: The decision-making process for agreements to defer the payment of levied charges will be in accordance with the delegations and formal processes applicable at the time the request is made.

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This policy is to remain in force until otherwise determined by Council.

Director responsible for Review:

Director - Planning, Growth and Sustainability

ORIGINALLY ADOPTED: 30/5/2022
CURRENT ADOPTION: 7 June 2023
DUE FOR REVISION: 7 June 2027
REVOKED/SUPERSEDED: N/A



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CHIEF EXECUTIVE OFFICER