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Submission No. 2

11.1.19

15 May 2014

Date: 15 May 2014

Attn: The Research Director
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

Via: Email (sdiic@parliament.qld.gov.au)

Dear Sir/Madam

RE: SUBMISSION TO THE SUSTAINABLE PLANNING (INFRASTRUCTURE CHARGES) AMENDMENT BILL

We thank you for the opportunity to provide feedback on the *Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014* (the Bill).

RPS is a multi-disciplinary consultancy that operates ten (10) offices throughout Queensland, servicing a broad range of public and private sector Clients. Our geographic coverage, full time planners and clientele means RPS is one of the largest town planning consultancies in the State. Based upon our extensive practical experience working within the current infrastructure charging framework, we have reviewed the proposed reforms and identified for your consideration opportunities for improvement to the Bill.

The Bill forms one half of a two part infrastructure reform agenda, the other being the proposed incentives for local governments to adopt 'fair value charges'. RPS has significant concerns about the latter, however this submission focuses on the Bill that is currently before the committee.

As an overview, RPS supports the Bill's proposed amendments which are considered to provide increased accountability, certainty and consistency to the imposition of infrastructure charges. The following is a non-exhaustive list of key improvements:

- Grounds to appeal infrastructure charges broadened/clarified (s478);
- The proposed 'conversion application' process to seek infrastructure be 'deemed trunk' (s658);
- Requirement for existing use credits (s636);
- Changes to ensure a permissible change allows the generation of a new charges notice (s626); and

- Clarifying that a condition cannot require entering into an infrastructure agreement (s347(2)(f)).

Whilst the Bill will deliver substantial improvement to the current infrastructure charges framework, we have provided below our suggested improvements to ensure the Bill delivers the outcomes intended and does not result in any unintended consequences. These suggested improvements are described below under separate headings.

Conditions for additional trunk infrastructure costs

Section 650 provides the power to impose conditions for additional infrastructure costs where development exceeds the assumed type or scale of development under the Local Government Infrastructure Plan (LGIP). We are aware of examples where planning scheme amendments aren't necessarily accompanied by a review of the LGIP (or PIP in current terminology). In such a circumstance the developer should not be liable for additional charges. For this reason we suggest that additional charges should only be imposed on development that is inconsistent with the assumptions of both the LGIP and the planning scheme.

The levying of a charge where not appropriate

The explanatory notes provide the following commentary against Section 478(2)(b)(i)), being an example of an error in applying an adopted charge;

“levying a charge where a charge is not appropriate (e.g. imposing a charge where the development does not result in additional demand on the infrastructure networks).”

RPS is aware of numerous examples of Councils imposing inappropriate charges as described above (e.g. imposing a sewer charge on development that does not connect to municipal sewerage network).

The above example is one of four (4) in the explanatory notes, however only two (2) have been included in the Bill.

We consider this example the most significant and prevalent in the industry at present and for this reason request it be included as an italicised note under Section 478 of the Bill.

Cross-crediting

It is our understanding from industry briefings and discussion with Department of State Development Infrastructure and Planning (DSDIP) that the Bill is intended to introduce mandatory 'cross-crediting' (although cross-crediting between Council and SEQ distributor-retailers is not intended). It is understood that this is intended to operate under Section 649(2). However, our review concludes there is effectively no change from the current provisions (s649(7)). The proposed wording will not enforce cross-crediting and additional clarification and strengthening is required under the Bill.

Existing use credits

Under Section 636, the term “already taking place on the premises” narrows the scope under which an existing use credit can be applied. Brownfield redevelopment sites are frequently unused or abandoned at the time of seeking a development approval or changed approval. We suggest that existing use credits should be applied where it can be evidenced that a lawful use has previously occurred on the land. We also consider that prior infrastructure charge payments should be reflected in Section 636. Suggested revisions to Section 636 (2) are presented below;

In working out additional demand, the following relating to the premises must not be included—

- a) existing uses that are lawful and already taking place on the premises;*
- b) a previous lawful use that has taken place on the premises;*
- c) other development that may be lawfully carried out on the premises without the need for a further development permit;*
- d) previous payments for trunk infrastructure.*

We trust the content of this submission will be fully considered as part of the ongoing review of the Bill.

Should you require any further details or wish to discuss the submission content, please do not hesitate to contact Tom Salmon, Senior Planner, by telephone on (07) 3124 9378 or the writer on (07) 3124 9364.

Yours sincerely

RPS



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