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OUR REF: #4363007

15 May 2014

Submission No. 3
11.1.19
15 May 2014

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

Dear Sir / Madam

Cairns Regional Council's submission on the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014

Thank you for the opportunity to submit on the proposed Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014 (the Bill).

Council commends the State Government in its attempts to create a long term infrastructure planning and charging framework that is certain, consistent and transparent and which supports local authority sustainability and development feasibility in Queensland.

Council supports the Local Government Association of Queensland submission on the Bill. However, the following additional comments are provided:

We find ourselves in a unique position at this point in time as we are currently preparing our new planning scheme (currently with State agencies for review). A number of the changes presented in the Bill are pertinent to the process of preparing our new planning scheme. Particularly, the requirement to prepare a Local Government Infrastructure Plan (LGIP). Our comments regarding this aspect and others are discussed in more detail below:

1. Clause 976 - Deferment of the requirement to prepare a Local Government Infrastructure Plan

We note clause 976, which defers the requirement for Local Government with an existing planning scheme that does not include a Priority Infrastructure Plan (PIP) to not include an LGIP until 1 July 2016.

Under the Sustainable Planning Act 2009 (SPA) new planning schemes are required to include a PIP. Our draft planning scheme that is currently with State agencies for review does not contain a PIP.

In light of wholesale reform of the infrastructure planning and charging framework we have been reluctant to include a PIP in the absence of the reform outcomes. Now that the Bill has been introduced to Parliament, there is some degree of certainty regarding infrastructure planning.

It is important to integrate land use and infrastructure planning and PIP's / LGIP's achieve that objective. We are committed to the preparation of an infrastructure plan; however, we would like to be afforded the timeframes allocated to other Local Governments that do not have a PIP.

To this end, we request that clause 976 be amended so that:

The 'saving provisions' be extended to include Local Government's making or preparing a planning scheme.

This would allow the progression of our new planning scheme in the absence of a PIP and give us adequate time to prepare an appropriate infrastructure plan. Should the recommended change not be made, and the requirement for new planning schemes under SPA to include a PIP prevails, this has the potential to delay the progression of our planning scheme significantly and it is envisaged that the time and resources required to prepare a PIP / LGIP are potentially considerable.

2. Clause 635 - Levying charges

Clause 635 limits Local Government's ability to issue an infrastructure charges notice on development approvals where they are an assessment manager or concurrence agency. Currently under SPA Local Governments can issue an infrastructure charges notice upon receipt of a development approval by others (e.g. private certifier for building work).

Limiting the circumstances in which Local Governments can issue infrastructure charges notices reduces our ability to adequately recover costs associated with the infrastructure works required to accommodate the increases in demand placed on networks from development.

There will be a cumulative increase in demand on Local Government's infrastructure networks which will not be accounted for. In addition, by reducing the levels of assessment for development in preparing our new planning scheme we have effectively limited the instances in which development requires a development approval. This development will have an impact on infrastructure networks which will also go unaccounted for should the Local Government's ability to issue infrastructure charges notices be limited as proposed in the Bill. A solution or council would be to increase levels of assessment for development, requiring development approvals to be sought for all development. An outcome which is not supported by Council and is not expected to be received well by the community and development industry.

We request that clause 635 be amended to:

Allow the issuing of infrastructure charges notice triggered by development approval including building permits and operational works approvals.

Clause 626 of the Bill does not allow an infrastructure charges notice to be issued with an approval to a request to extend the relevant period.

To avoid requiring applicants having to reapply for development approvals or appeal a refusal of the request so that an infrastructure charges notice can be issued we request that clause 626 be amended to:

Include the extension of relevant periods.

There are contradictions contained within Clause 635 regarding the levy of a charge on 'the applicant'. Clause 635(2) requires that local government to levy a charge on the applicant. Clause 635(6) (b) provides that a levied charge under the notice is payable by the applicant and Clause 635(6) (c) that the levied charge attaches to the land.

We request Clause 635 be amended to:

Ensure that infrastructure charges bind upon successors in title and run with the land not the applicant.

3. Clause 636 – Mandatory lawful existing use credits

Clause 636 introduces mandatory credits for lawful use rights that are in existence prior to a development approval. This includes development existing on a site and development approved by existing development approvals.

We currently apply credits for demand generated by lawful use rights that are in existence prior to a development approval. However, we do not consider lawful use rights relating to existing development approvals as creditable, as the demand has not been realised.

There may be some circumstances where by existing development approvals are unacted upon and superseded by subsequent applications over the site. Clause 636 allows those lawful use rights relating to the existing development approvals to be considered as creditable demand. If the original development approval was not acted upon and infrastructure charges were never paid, infrastructure charges associated with subsequent approvals must consider the demand generated by the existing development approvals as credit. Council therefore does not recover the original infrastructure charges but has to consider the unrealised demand generated by a development approval as creditable which creates an unbalanced approach to crediting arrangements.

We request that clause 635 be amended to:

Exclude additional demand created development approved by existing development approvals.

4. Challenges allowed to charging methodologies and infrastructure

Clause 657 details the process where an applicant does not agree with the value of the establishment cost. The applicant may require it to use the method under the relevant charges resolution to recalculate the establishment cost for offsets and refunds.

The Bill defines the 'establishment cost' for a provision about future trunk infrastructure to include all costs of land acquisition, and design and construction, for the infrastructure. It excludes financing costs for the infrastructure.

Clause 657 makes provision for the methodology to be confirmed to parameters identified in the SPRP (Adopted Charges) or an alternative guideline prepared by the Minster.

We cannot support these provisions in the absence of the methodology.

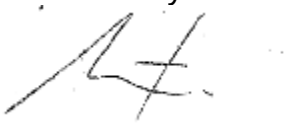
Clause 657 - 662 details the process where an applicant requests to convert infrastructure to trunk infrastructure.

The ability to challenge the nature of infrastructure may have financial implications for Council through the inclusion of non-trunk infrastructure in our trunk infrastructure plan. This may undermine our infrastructure plan integrity in that infrastructure costs will be subject to change and amendment through this process Also financial forecasting (for offsets and refunds) we undertake will be subject to these variations also.

We cannot support these provisions given the unknown financial implications for Council at this point in time.

We look forward to the release of further information and material regarding the infrastructure charging and planning reform and the opportunity to comment on that in the future. Should you have any further enquiries or require additional information, please contact Council's Strategic Infrastructure Planner, Sean Lisle, on the above phone number.

Yours sincerely



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