NOOSA COUNCIL

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Reference: **Council Submission**

15 May 2014

Submission No. 6
11.1.19
16 May 2014

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

Dear Sir,

Re: SUBMISSION ON THE SUSTAINABLE PLANNING (INFRASTRUCTURE CHARGES) AMENDMENT BILL 2014

In accordance with your invitation for submissions to be made on the abovementioned Bill, please find enclosed Noosa Council's submission relating to the amendments proposed to Part 2, Amendment of Sustainable Planning Act 2009 (SPA).

For items that arise identically in Part 3, Division 1, South East Queensland Water (Distribution and Retail Restructuring) Act 2009, the submission made for the item in Part 2 (SPA) may also be considered as a submission for that identical item for this Part 3, Division 1.

In summary, the primary issues of our submission relate to the following:

1. **Sections 478A, 535A, 658 and 659 - Conversion Applications**
   There is no objection for an application to be made to Council for consideration to convert non-trunk infrastructure to trunk infrastructure as this is accepted practice.

   However, the automatic ability to appeal Council's decision is of major concern. Significant costs could be incurred by the local government and community in defending appeals for unplanned infrastructure offsets for development that is simply unaffordable or in defending appeals that are frivolous and unjustified claims.

   The time for making conversion applications (before commencing construction of the non-trunk infrastructure) appears to be open ended. This will create a great deal of uncertainty for local government since such applications could occur many years after finalising a development approval.

   Conversion applications should be undertaken during the normal negotiation period following the issue of the original approval, where if approved, would be then incorporated with a Negotiated Decision as per normal practice.

   Trunk infrastructure detailed in the LGIP (PIP) has already undergone the full preparation & development process in accordance with statutory guidelines and gained full approval by the State.

   Applications to convert non-trunk infrastructure to trunk should therefore be limited to a decision by the Local government (on behalf of the community who will

ultimately bear such costs) and not be subject to further appeals. To do otherwise, contradicts the intent of the legislation for the sequential planning for future development and trunk infrastructure.

Further, should developments wish to proceed outside the accepted and legislated development and infrastructure planning process, they should fully cater for their individual needs.

2. **Sections 625 and 635 - Development Approvals Allowing Assessment and Issue of Infrastructure Charges**

There is a serious omission in the proposed amendments, which has removed the ability to assess and issue appropriate infrastructure charges relating to Building Approvals issued by private certifiers. This omission, also does not align with:

- SPA section 638 Payment triggers i.e. (b) for Building Work & (d) for other development; and
- SPRP (Adopted Charges) section 2.2 Development for which maximum adopted charges may be levied.

Many developments currently only require a building permit to proceed (i.e. duplexes, expansion of industrial buildings and the like) being self-assessable under a planning scheme.

Cumulatively, these developments significantly increase the cost of and demand on infrastructure networks and therefore should contribute accordingly. To do otherwise, creates an unfair disparity between developments that do have self-assessable status versus those that do not.

This amendment is counterproductive to the State's desire and promotion for planning schemes to reduce the levels of assessment and may result in local governments reviewing and amending the current assessment parameters. This would be counterproductive for all parties involved.

These sections need to be revised to allow Councils to give an infrastructure charge notice for all types of development permits, whether issued by local government or private certifiers, as provided.

3. **Section 626 - Extension of Chapter to Permissible Changes and Compliance Assessment**

The amendments proposed are fully supported, however this section needs to be expanded to also incorporate Extensions to Relevant Periods (SPA 383 to 390) as being in the interests of all parties in reducing:

- Refusal of such application requests; or
- Requiring time consuming Infrastructure Agreements to be entered into to gain an extension approval.

4. **Section 629 - State Planning Regulatory Provision Governing Charges (Indexation)**

The indexation of infrastructure charges still remains a major issue for local government as indexation still remains subject to a discretionary provision.

Indexation of the SPSP Adopted Charge Rates has not occurred during the past 3 years when Adopted charges were introduced on 1 July 2011, yet all local government infrastructure costs have risen significantly and are continuously increasing.

If this issue is not addressed satisfactorily, the proportional cost increases will continue to unfairly transfer from new development to the existing community in providing infrastructure to cater for new development.

A basic, straightforward indexation process should be implemented consistent with general practice for most government and private industry supply and construction contracts. This would complement the fair and reasonable tests contained in SPA.

5. **Section 636 - Limitation Of Levied Charge**
The wording appears to contradict the intent of the amendment in what should be taken into account when working out additional demand. There is also a serious misunderstanding of what is established practice in relation to consideration of credits and development approvals that have not happened.

The amendment should be reworded to clarify that in calculating additional demand, the following are taken into consideration:
- Existing lawful uses taking place on a site; and
- Previous demand for which contributions have been made to a trunk infrastructure network.

6. **Future Guidelines**
References are made throughout the Bill to guidelines and regulations that are not yet in place.

As these will have significant bearing for local government, it is requested that consultation be undertaken with local government in their preparation and implementation. This will help ensure any onerous or impractical requirements creating unnecessary costs for local government and the community are avoided.

In reference to the letter dated 17th April 2014 from the Hon Jeff Seeney MP, Deputy Premier and Minister for State Development, it is unclear how the proposed "Fair Value Schedule" will operate in parallel with the legislation. The "Fair Value Schedule" also, does not detail what criteria must be met to secure infrastructure co-funding by the State or provide any guarantees of successfully securing the co-funding.

These are serious issues for the long term sustainability and prosperity for all local governments and their communities.

I trust Council's submission will assist in providing appropriate amendments be made to the Sustainable Planning (Infrastructure Charges) Amendment Bill 2014 prior to its passing by Parliament.

Should you require any further information or clarification on the submission, please contact Council's Priority Infrastructure Planning and Charges Officer, Mr Oddbjorn Ludvigsen directly via telephone on 5329 6449 or alternatively via email: ic@noosa.qld.gov.au

Yours faithfully,

Brett de Chastel
CHIEF EXECUTIVE OFFICER

Noosa Shire Council Submission on: Sustainable Planning (Infrastructure Charges) Amendment Bill 2014

Part 2 - ITEM	ITEM DETAIL	COMMENTS ON AMENDMENT OF SUSTAINABLE PLANNING ACT 2009
94A	(2) In conducting an LGIP review, the local government must consult— (a) the entities that participated in preparing the LGIP, including departments;	It is unclear whether this consultancy with entities extends to consultants that were engaged by local government in the preparation of the LGIP (and former PIP) and/or engaged by the State as a third person peer reviewer. There may be cases where consultancy with these original entities is no longer desired or appropriate for a variety of reasons ranging from levels of expertise to availability of that particular entity in 5 years time. The review should just be required to undertake the designated process with appropriate entities and departments irrespectively of whether they had specifically been involved previously or not.
117	(2) Without limiting the application of subsection (1) in relation to an LGIP, an LGIP or an amendment of an LGIP must be prepared as required under a guideline— (a) made by the Minister; and (b) prescribed by regulation.	As such a guideline will have significant bearing for local government in the way such plans are ultimately prepared and maintained, it is requested that consultation be undertaken with local government in preparation of the guideline. This will help ensure avoidance of any onerous or impractical requirements creating unnecessary costs being inadvertently incurred by local government and the community.
335(1)(e)	(iii) for each condition about infrastructure imposed under chapter 8—the provision under which the condition was imposed;	Although this clause may add to the development assessment workload, it is generally not a major concern. However, it is concerning that the primary intent of the commentary in the explanatory notes appears to be instigating or promoting additional claims for offsets or conversion of non-trunk infrastructure that could add greatly to local government time and costs in responding to uncalled-for and inappropriate claims.
478	(2) (a) the charge in the notice is so unreasonable that no reasonable relevant local government could have imposed it; (c) there was no decision about an offset or refund.	a) This clause appears unnecessary and pointless now since all infrastructure charges and conditions will now relate only to Adopted Infrastructure Charges requirements under the new Legislation & State Regulations by which all local governments must comply. The purpose is unclear for the commentary in the explanatory notes regarding *"apportionment of the cost of the infrastructure between existing or and future users…."* since this has no relevance to the determination of the charge in the notice that is now limited to an adopted charge no longer linked to such matters. c) This clause should be amended to apply only should a negotiated adopted charge notice not include a decision about an offset or refund that was subject of representations made to the original decision and notice. This would avoid unnecessary appeals being lodged prior to undertaking and completion of the proper negotiated process.
478A	(1) The applicant for a conversion application may appeal to the court against a refusal, or deemed refusal, of the application.	**THIS IS A SIGNIFICANT ISSUE FOR LOCAL GOVERNMENT** should applications be **refused** for converting non-trunk to become trunk infrastructure. Significant costs could be incurred by the local government and community in defending appeals for unplanned infrastructure and offsets that is simply unaffordable at the current time. This contradicts the intent of the legislation for the sequential planning for future development and trunk infrastructure. Similarly, it also does not align with section 653 for additional costs outside the PIA for which refunds are not required. As the trunk infrastructure detailed in the PIP or LGIP has already undergone the full preparation & development process in accordance with statutory guidelines and approved by the State, converting non-trunk infrastructure to trunk should be limited to a decision by the Local Government and not be subject to further appeals relating to development that sits outside the accepted and legislated planning process. Such development should completely cater for their individual needs.

Part 2 - ITEM	ITEM DETAIL	COMMENTS ON AMENDMENT OF SUSTAINABLE PLANNING ACT 2009
535	(2) (b) there was no decision about an offset or refund.	Refer comments made to item 478 above.
535A	(1) The applicant for a conversion application may appeal to a building and development committee against a refusal, or deemed refusal, of the application.	Refer comments made to item 478A above.
CHAPTER 8 (REPLACEMENT)		
625	(2) Part 2— (a) authorises local governments to do the following for development approvals that they give— (i) for trunk infrastructure, either or both of the following— (A) adopt, by resolution, charges for development infrastructure and levy charges in accordance with the resolution;	**THERE IS A SERIOUS OMMISSION OF WHAT APPROVALS MAY TRIGGER ASSESSMENT & ISSUE OF ADOPTED INFRASTRUCTUE CHARGES** (1) Part 2 – (a) only authorises local governments to issue charges relating to approvals ***"that they give"*** therefore the ability to issue charge notices triggered by Building Works permits issued by Private Certifiers for developments that increase demand on infrastructure networks is missing. This **does not align** with: • SPA section 638 Payment triggers i.e. (b) for Building Work & (d) for other development; and • SPRP (Adopted Charges) section 2.2 Development for which maximum adopted charges may be levied. **This is a serious issue** as more & more developments are becoming self-assessable for MCU applications & only require building permits to proceed i.e. duplexes, expansion of industrial buildings etc. however cumulatively do greatly increase the demand on infrastructure networks & therefore should contribute accordingly. This omission will also create an unfair disparity between developments that do have self-assessable status versus those that do not. In order for the community to not lose out on fair and reasonable infrastructure charges from development that place additional demand on trunk infrastructure networks, local government may have to consider changing self-assessable status in planning schemes which would be counterproductive for all concerned. This section needs to be expanded to include all types of development permits whether issued by local government or private certifiers. The previous section 633 (2) & (3) was much clearer and not a problem. **This issue also occurs in Section 635**

Part 2 - ITEM	ITEM DETAIL	COMMENTS ON AMENDMENT OF SUSTAINABLE PLANNING ACT 2009
626	(1) A reference in a provision of this chapter to a person or matter as follows (the ***subject***) includes a reference to the other person or matter stated for the subject— (a) for a development application— (i) a change request; and (ii) a request for compliance assessment for development;	The commencement of the Adopted Charges legislation caused issues and problems surrounding infrastructure charges applicable to permissible changes to existing approvals. These issues are now being addressed in a straightforward and simple implementation method that was previously available prior to 1 July 2011 and is supported. However, this section needs to be expanded to include **Extension to Relevant Periods** (refer sections 383 to 390 and particularly 388(1)(a)) to help avoid refusal of such application requests or requiring time consuming Infrastructure Agreements to be entered into to gain an extension approval. This would be in the interests of all parties concerned.
627	Definitions for: Development Infrastructure Establishment Cost Trunk Infrastructure (b) development infrastructure that, because of a conversion application, becomes trunk infrastructure.	Ok generally however, the definition for: ***Development Infrastructure*** (a) (ii) re "*dedicated public transport corridors"* should also include "and infrastructure" (i.e. bus shelters) as there is no difference in the purpose when compared to Ferry terminals which are included. (iii) should also include "public amenities" (i.e. toilets) being a necessity for higher order parks. ***Establishment Cost*** (a) (i) Should clarify that the value relates to the "Fair Value Replacement Cost" and not the "Current Depreciated Cost" (ii) need to clarify that the current value is that applying to the current use status of the land i.e. whether it is developed, undeveloped, developable or not developable etc & how it is to be valued. It is unclear as to what the actual purpose now is for including existing infrastructure costs since the adopted charges are not actually linked to the cost of providing a complete infrastructure network. Previously, the ICS charge rates were a function of and derived from the total trunk network value of which existing costs were part, however this is no longer the case under the adopted infrastructure charges regime that has no direct relationship to trunk network costs. ***Trunk Infrastructure*** (b) Concerned with the new inclusion re: conversion applications of non-trunk infrastructure to become trunk (refer comments to sections 478A, 535A and 659) Should only apply if approved by the Local Government and not just because of an application.

Part 2 - ITEM	ITEM DETAIL	COMMENTS ON AMENDMENT OF SUSTAINABLE PLANNING ACT 2009
629	(2) The Minister may, by gazette notice, change the amount of a maximum adopted charge. (3) Any increase under subsection (2) 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 PPI index for the period of 3 years ending at the start of the financial year.	**REMAINS A SIGNIFICANT ISSUE FOR LOCAL GOVERNMENT** The indexation issue still remains an uncertain issue as it is just subjective to the Minister's discretion. Indexation of the SPSP Adopted Charge Rates have not occurred during the past 3 years when Adopted charges were introduced on 1 July 2011 and it appears it won't occur in the foreseeable future, yet all local government infrastructure costs are continuously increasing. This simply has the effect of just transferring the proportional costs from new development to the existing community to provide infrastructure to cater for new development. Also the indexation methodology is convoluted and over complicated whereby it should be a simple matter of setting the base date and automatic indexation using a specified ABS index applying from a base date, indexed to the time of issue and then indexed to the time of payment. Such basic indexation is general practice in most government and private industry supply and construction contracts.
631	(5) Also, the automatic increase must not be more than the lesser of the following— (a) the difference between the levied charge and the maximum adopted charge the local government could have levied for the development when the charge is paid; (b) the increase for the PPI index for the period starting on the day the levied charge was levied and ending on the day it is paid, adjusted by reference to the 3-yearly PPI index average. (6) In this section— 3-yearly PPI index average means the PPI index smoothed in accordance with the 3-year moving average quarterly percentage change between quarters.	Refer comments made to item 629 above.
633	(2) The method must be consistent with the parameters for the purpose provided for under— (a) the SPRP (adopted charges); or (b) if the parameters are not provided for under the SPRP (adopted charges)—a guideline made by the Minister and prescribed by regulation.	(2) (a) Doesn't make sense???? The SPRP (adopted charges) currently just stipulates maximum charge rates that can be issued and does not relate to any actual costing of trunk infrastructure. Costs of future trunk infrastructure identified works are identified in a PIP (future LGIP) as prepared under other guidelines and not the SPRP. (b) As such a guideline will have significant bearing for local government in the way costs for infrastructure and offsets are to apply, it is requested that consultation be undertaken with local government in preparation of the guideline. This will help ensure avoidance of any onerous or impractical requirements creating unnecessary costs being inadvertently incurred by local government and the community.

Part 2 - ITEM	ITEM DETAIL	COMMENTS ON AMENDMENT OF SUSTAINABLE PLANNING ACT 2009
635		**(as per 625) THERE IS A SERIOUS OMMISSION OF WHAT APPROVALS MAY TRIGGER ASSESSMENT & ISSUE OF CHARGES**
	(1) This section applies if— (a) a local government has given a development approval; And (3) The local government may give the notice only— (a) generally— (i) if it is the assessment manager—on, or as soon as practicable after, the giving of the development approval; or (ii) if it is a concurrence agency—within 10 business days after it receives a copy of the development approval;	(1) (a) and (3) (a) (i) only allows charges to be issued if the local government gives the approval. Therefore the ability to issue charge notices triggered by Building Works permits issued by Private Certifiers for developments **that increase demand** on infrastructure networks is missing. This **does not align** with: • SPA section 638 Payment triggers i.e. (b) for Building Work & (d) for other development; and • SPRP (Adopted Charges) section 2.2 Development for which maximum adopted charges may be levied. **This is a serious issue** as more & more developments are becoming self-assessable for MCU applications & only require building permits to proceed i.e. duplexes, expansion of industrial buildings etc. however cumulatively do greatly increase the demand on infrastructure networks & therefore should contribute accordingly. This omission will also create an unfair disparity between developments that do have self-assessable status versus those that do not. In order for the community to not lose out on fair and reasonable infrastructure charges from development that place additional demand on trunk infrastructure networks, local government may have to consider changing self-assessable status in planning schemes which would be counterproductive for all concerned. This section needs to be expanded to include all types of development permits whether issued by local government or private certifiers. The previous section 633 (2) & (3) was much clearer and not a problem.
	(2) The local government must give the applicant an infrastructure charges notice.	(2) The charge is issued to the applicant but the charge is levied on the Development and Property on which it occurs. As the infrastructure charge is a rate on the property & the recovery purposes if not paid by the applicant is then from the property owner (being the real beneficiary of the development), the property owner should really be the one to whom the charge is issued but if not, should at least be given a copy with advice that they are ultimately responsible to ensure that payment of charges for the development is made by the due time. Also, if the charge is nil, is it still necessary to issue a charge notice for no amount?
	(6) (b) it is payable by the applicant;	(6) (b) The charge is issued to the applicant and is generally in most cases paid by the applicant. However in reality, there are also many instances where the applicant is a builder, consultant or other person acting on behalf of a developer or owner whereby if not paid, recovery is from the property owner. In real practice, payments are made by a number of various parties and are not limited to the actual applicant who lodged & received an approval in the first place. Typical real life examples are: • A developer or owner who engaged the applicant to act on their behalf; • A new property owner who purchased a property with an existing approval who then undertakes and completes the development & pays the charge. Therefore, this clause cannot be limited to the applicant alone. Refer also to comments to clause (2) above.

Part 2 - ITEM	ITEM DETAIL	COMMENTS ON AMENDMENT OF SUSTAINABLE PLANNING ACT 2009
636	(1) A levied charge may be only for additional demand placed upon trunk infrastructure that will be generated by the development. (2) 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) other development that may be lawfully carried out on the premises without the need for a further development permit.	**THIS IS A SIGNIFICANT LOCAL GOVERNMENT ISSUE** (2) Unsure how this is meant to be interpreted & appears contradictory to (1) as it stipulates that (2) (a) & (b) must not be included when working out the additional demand (charge)? (2) (b) Assuming all permits have been issued, then there is no trigger for issuing an infrastructure charge. The Explanatory Notes for sections 478 & 636 provides commentary that appears unfounded and totally incorrect i.e." *Explanatory Note 478:* *"where there is a development approval for a site however the development approval has **not** been acted on and a new development approval is issued for the site, in working out the infrastructure charge **it must be assumed** that the development the subject of the original approval **is existing** on the site."* The original approval can only become existing once it has met all its obligations per the approval including charges. *Explanatory Note 636:* *"The recognition of the existing lawful use of a site or the existing **(uncommenced)** rights to develop a site through a discounted infrastructure charge is an established practice…."* This is incorrect. It is completely absurd to think that a developer could lodge and have approved multiple different development proposals on a site and each time the credit expands to include all the previous proposals approvals yet only the last approval will actually be acted on and progress to completion. What is established practice is that credits take into account contribution payments that **have** been made for the specified networks under an earlier approval. **No** credit should be simply given for approvals that have been issued but not acted upon and/or **not** having made the appropriate charges towards the applicable trunk networks as this would be a double dipping and compounding of unpaid of credit by development. How is this meant to apply to preliminary or primary MCU or Lot Reconfiguration Approvals previously issued that require subsequent approvals for each stage as the development progresses? This section should be reworded to the following: (2) In working out additional demand, the following relating to the premises must be included— (a) existing uses that are lawful and already taking place on the premises; and (b) previous demand for which contributions have been made for the infrastructure network.

Part 2 - ITEM	ITEM DETAIL	COMMENTS ON AMENDMENT OF SUSTAINABLE PLANNING ACT 2009
637	(1) (b) how it has been worked out; (e) (ii) how the increases are worked out under the provision; (f) whether an offset or refund under this part applies and, if so, details of the offset or refund. (2) The infrastructure charges notice must also include, or be accompanied by, an information notice about the decision to give the notice.	(1) (b) Does this simply mean to include a copy of the full calculation or just state the development basis on which the charge calculation is based? (e) Refer previous comments on section 629. (f) At the time issue, the IC notice could easily advise whether an offset does or doesn't apply in accordance with the Council resolution, however it may not be possible to determine the precise amount if the offset is to be based on actual costs in providing/constructing the infrastructure. Refer to current Noosa & SCRC resolutions detailing how offsets are applied. These are located on the respective council websites & copies forwarded to the State. However, if for consistency for all local governments, all offset costs are to be based on the planned cost of the infrastructure item as detailed in the PIP as approved by the State, then there should be no difficulty to work out and detail the offset in the charge notice at the time of issue. (2) This is just issuing more paperwork and unnecessary as the infrastructure charges notice clearly relates to the Decision Notice approving the development and is issued under the powers exercised by the legislation. If this is required, the State should supply a standard information notice for all councils to include with charge notices to ensure consistency throughout the State.
638	Payment triggers generally	This section remains identical to previous SPA requirements which remain appropriate and is supported. However, refer comments made to sections 625 and 635 that do not align with this section.
643	(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). (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. (2) The local government may give only 1 negotiated notice.	(1) & (4) the period should be extended to 10 business days for consistency with all the other infrastructure charging timeframes and to give local governments a bit of breathing space. (2) Why limit to only 1 negotiated notice. Following issuing an initial negotiated notice, there may be further information provided later by the applicant that could legitimately support amending the charge again and hence resolve an issue rather than having to go through the appeals process. I.e. better for all parties concerned.

Part 2 - ITEM	ITEM DETAIL	COMMENTS ON AMENDMENT OF SUSTAINABLE PLANNING ACT 2009
650	(2) However, an additional payment condition must not be imposed for a State infrastructure provider.	(2) It is accepted that this clause may apply to development that is trunk infrastructure, but it is not understood why an additional payment condition should not be imposed for a State infrastructure provider if the reasons for additional payments are identical as for any other private development which causes additional costs to be incurred to the local government?
652	(2) The additional payment condition may require a payment only as follows— (a) for trunk infrastructure to be provided earlier than planned in the LGIP, the difference between— (i) the establishment cost of the infrastructure made necessary by the development; and (ii) the amount of any charge paid for the development;	(2) (a) (i) & (ii) This does not make sense??? For providing infrastructure earlier than planned, the additional cost involved would generally only be the "bring forward costs". There is no current correlation or link between the establishment cost of infrastructure and the adopted charge to be paid by the development. **The following Scenario Examples may assist to explain:** • Infrastructure item planned cost = $500,000 planned for year 2020 • Infrastructure due to development causes works to be brought forward by 5 yrs to 2015 & will add $50,000 to Council to undertake the works due to additional financing & acceleration costs etc. Example A) Adopted Infrastructure Charge **less than** establishment cost of infrastructure item • Adopted infrastructure charge amounts to $300,000. • Under section 652 the development would pay $500,000 i.e. its adopted charge for the whole network being $300,000 PLUS $200,000 being difference in infrastructure cost & development charge (i.e. 500-300) • Under section 654 the refund to the developer becomes $150,000 (i.e. $200,000 – $50,000 that should not be passed onto others). • End result is ok as Council receives the $50,000 additional cost incurred from the development that caused the works to be brought forward. Example B) Adopted Infrastructure Charge **greater than** establishment cost of infrastructure item • Adopted infrastructure charge amounts to $700,000. • Under section 652 the development would pay $700,000 i.e. its adopted charge for the whole trunk network is $700,000. However since the adopted charge is more than the cost of the infrastructure works to be brought forward earlier than planned, an additional payment might not apply under this clause? • Under section 654 the refund to the developer is therefore also $Nil • End result is that Council incurs the additional $50,000 cost due to bringing forward the infrastructure works caused by the development?

Part 2 - ITEM	ITEM DETAIL	COMMENTS ON AMENDMENT OF SUSTAINABLE PLANNING ACT 2009
657	Process (for Working out cost for required offset or refunds) (1) (b) the applicant does not agree with the value of the establishment cost. (2) The applicant may, by notice to the local government, require it to use the method under the relevant charges resolution to recalculate the establishment cost. (3) By notice to the applicant, the local government must amend the existing infrastructure charges notice. (4) The amended infrastructure charges notice must adopt the method to work out the establishment cost.	(1) (a) (i) & (ii) Refer comments made to item 637 (f) (1) (b) & (2) (3) (4) These sections appear confusing and unclear as to its purpose. Section 633 requires a resolution to include the method for working out the cost of the infrastructure subject of the offset or refund, and section 637 (1) (f) requires the charge notice to include details of the offset or refund. Therefore as the process for giving an offset or refund should have already been undertaken in accordance with the local government resolution, it appears of no practical use or pointless to require this to be carried out again in exactly the same way as originally undertaken simply because an applicant may be dissatisfied?
658	Application of sdiv 1 (b) the construction of the non-trunk infrastructure has not started.	658 (b) The period allowing a conversion application to be made appears open ended as construction of the non-trunk infrastructure may occur many years (i.e. 4+ years) after a development permit has been approved. This will create a huge period of uncertainty and administration of approval for all parties involved but particularly for local government. Such applications should link directly with the normal development applications process through representations made during the negotiation period following the issue of the original approval. Any application and changes approved would then occur and be incorporated with the Negotiated Decision.
659	Application to convert infrastructure to trunk infrastructure	**IS A SIGNIFICANT ISSUE FOR LOCAL GOVERNMENT** Refer comments made to 478A & 535A should applications be **refused** for converting non-trunk to become trunk infrastructure. This contradicts the intent of the legislation for the sequential planning for future development and trunk infrastructure. Similarly, it also does not align with section 653 for additional costs outside the PIA for which refunds are not required. This item should only be decided by the Local Government and no appeal rights should apply as the trunk infrastructure detailed in the PIP or LGIP has already gone through the full preparation & development process and approved by the State. Under the previous SPA legislation, the process allowed that should infrastructure become included as additional trunk, local governments had an ability to amend the PIP and in particular the ICS charge rates to include the additional cost to the network (taking into account the additional demand as well) on which the charge was based. This allowed recouping of some of the additional costs from remaining future development however, this is no longer the case with adopted charges that have no link to the actual network cost and cannot be altered as such.

Part 2 - ITEM	ITEM DETAIL	COMMENTS ON AMENDMENT OF SUSTAINABLE PLANNING ACT 2009
660 661 662	Deciding conversion application Notice of decision Effect of and action after conversion	Refer comments to 658 (b) i.e. Such applications should link directly with the normal development applications process through representations made during the negotiation period following the issue of the original approval. Any application and changes approved would then occur and be incorporated with the Negotiated Decision. 660 (2) Refer comments made to 633 (b) and 979 i.e. As such a guideline will have significant bearing for local government in the way costs for infrastructure and offsets are to apply, it is requested that consultation be undertaken with local government in preparation of the guideline. This will help ensure avoidance of any onerous or impractical requirements creating unnecessary costs being inadvertently incurred by local government and the community.
679	Trunk infrastructure not identified (1) This section applies if the trunk infrastructure for a local government is not identified because neither paragraph (a) nor (b) of the definition trunk infrastructure under section 627 applies.	(1) For clarity, this section should be reworded as to when this would occur. The commentary in the explanatory notes appears to suggest that this would only apply should a local government **not** have a LGIP.
CHAPTER 10 Part 11 (NEW SECTION)		
979	(3) If the existing resolution does not include a method for working out the cost of infrastructure the subject of an offset or refund, the existing resolution is taken to include a method as set out in a guideline— (a) made by the Minister; and (b) prescribed by regulation.	Refer comments made to 633 (b) and 660 (2) i.e. As such a guideline will have significant bearing for local government in the way costs for infrastructure and offsets are to apply, it is requested that consultation be undertaken with local government in preparation of the guideline. This will help ensure avoidance of any onerous or impractical requirements creating unnecessary costs being inadvertently incurred by local government and the community.