LOCAL GOVERNMENT ASSOCIATION OF QUEENSLAND

16 May 2014

Submission No. 20
11.1.19
16 May 2014

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

Dear Sir / Madam

The Local Government Association of Queensland (LGAQ) welcomes the opportunity to provide a submission on the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014 (the Bill). The LGAQ broadly supports the Bill's policy objective of establishing a long-term local infrastructure planning and charging framework that is certain, consistent and transparent and which supports local government sustainability and development feasibility in Queensland.

The LGAQ commends the Department of State Development, Infrastructure and Planning's efforts to engage with key stakeholders in the development of the reforms process. The LGAQ has contributed significant resources, research, analysis and data to assistant the Department in analysing the potential impacts of the proposed reforms. Although many of LGAQ's concerns on the proposed reform options have been ostensibly recognised, some matters of critical concern remain outstanding and are highlighted in the enclosed submission.

The LGAQ is disappointed with the condensed timeframe to review and importantly test the proposed amendments in the Bill, given the critical importance of providing a functioning and equitable infrastructure funding framework that does not risk local governments' financial sustainability and liability.

The outstanding issues in the Bill present a significant financial risk to local governments and shift costs for development infrastructure to the community. These issues include:

1. Conversion of non-trunk infrastructure with appeal rights, Division 3 – Subdivision 1, poses significant implications for local governments' infrastructure planning, budgeting, capital programming / prioritization and legal costs.
2. The ability to index the maximum charges prescribed under the SPRP remains unchanged since 2011, essentially prohibiting the maximum charges to reflect increasing building and construction costs of providing infrastructure.
3. Removal of building approvals as a mechanism for local government to levy an infrastructure charge in clause 635 is counter-intuitive to the State Government's broader agenda of promoting planning schemes to fast-track development at the lowest level of assessment.
4. Mandatory lawful existing use credits in clause 636 must be amended to remove any doubt credits for existing development approvals that have not yet happened are limited to those for which contributions have been made already.
5. Future statutory and advice guidelines yet to be consulted on will have significant bearing on the operation of the proposed Bill for councils and must be developed and tested in genuine partnership with local government. This will ensure avoidance of any onerous or impractical requirements creating unnecessary costs inadvertently incurred by local government, the development industry and the wider community.

P 07 3000 2222
F 07 3252 4473
W www.lgaq.asn.au

Local Government House
25 Evelyn Street
Newstead Qld 4006

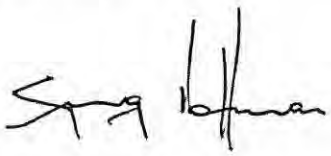
PO Box 2230
Fortitude Valley BC
Qld 4006

Local Government Association Of Queensland Ltd.
**ABN** 11 010 883 293 **ACN** 142 783 917

Given the condensed timeframe and limited information made available regarding the announcements of the broader framework, the comments contained in this submission are limited to the Bill provided and only to those proposed amendments to the *Sustainable Planning Act 2009*.

Please don't hesitate to contact either myself on 3000 2245 or greg_hoffman@lgaq.asn.au, or Mr Luke Hannan, LGAQ Manager Advocacy – Planning, Development & Natural Environment on 3000 2226 or luke_hannan@lgaq.asn.au.

Warm Regards



Greg Hoffman PSM

GENERAL MANAGER – ADVOCACY

LOCAL GOVERNMENT ASSOCIATION OF QUEENSLAND


# Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014

## Submission

**Local Government Association of Queensland Ltd**
**16 May 2014**

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individuals' needs. The LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

## Introduction

The Local Government Association of Queensland (LGAQ) welcomes the opportunity to provide a submission on the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014 (the Bill). The LGAQ broadly supports the Bill's policy objective of establishing a long-term local infrastructure planning and charging framework that is certain, consistent and transparent and which supports local government sustainability and development feasibility in Queensland.

The LGAQ commends the Department of State Development, Infrastructure and Planning's efforts to engage with key stakeholders in the development of the reforms process. The LGAQ has contributed significant resources, research, analysis and data to assistant the Department in analysing the potential impacts of the proposed reforms. Although many of LGAQ's concerns on the proposed reform options have been ostensibly recognised, some matters of key concern remain outstanding and are highlighted in this submission. The outstanding issues in the Bill present a significant financial risk to local governments and will further shift costs for development infrastructure to the community.

The LGAQ is disappointed with the condensed timeframe to review and importantly test the proposed amendments in the Bill, given the critical importance of providing a functioning and equitable infrastructure funding framework that does not risk local governments' financial sustainability and liability.

At the time of reviewing the Bill, the State Government has not released the associated and necessary statutory and advice guidelines that will be critical to the operation of the framework. The LGAQ requests genuine consultation and testing be undertaken with local government in the preparation of any respective guideline. This will help ensure avoidance of any onerous or impractical requirements creating unnecessary costs inadvertently incurred by local government, the development industry and the wider community.

Given the condensed timeframe and information made available, the comments contained in this submission are limited to the Bill provided and only to those proposed amendments to the *Sustainable Planning Act 2009*.

## Executive Summary – Recommendations

**8. The LGAQ does not support the proposed conversion process (with decisions subject to appeal) due to the unknown financial implications on local governments and recommends such applications should link directly with the normal development application process through representations made during the negotiation period following the issue of the original approval.**

**9. The LGAQ requests genuine consultation on the regulation prescribing relevant criteria for a decision about a conversion application. The criteria will have a significant bearing for local government in the way costs for infrastructure and offsets are to apply. This will help to avoid any impractical, onerous or unintended implications on development.**

**10. The LGAQ recommends any proposed conversion process must be further developed to limit the application time period to convert non-trunk infrastructure conditions.**

**14. The LGAQ recommends amending clause 629 to include an annual automatic indexation of the current maximum capped charges using the Queensland road and bridge construction index to reflect increasing building and construction costs of providing infrastructure.**

**15. The LGAQ recommends applying a methodology to set a base date and automatically index to the time of issue and then again to the time of approval. Such basic indexation is general practice in most government and private industry supply and construction contracts.**

**19. The LGAQ does not support the offset and refund provisions until genuine consultation and testing is undertaken with local governments regarding the parameters identified in the SPRP (adopted charges) or alternatively a guideline made by the Minister.**

**21. The LGAQ recommends amending clause 94A to remove reference to original consultants. The review should only be required to undertake the designated process with appropriate entities and departments irrespective of whether they had specifically been involved previously.**

**24. The LGAQ recommends amending clause 626 to include the extension of relevant periods.**

**28. The LGAQ recommends clarifying the purpose of including a definition for existing infrastructure as its purpose now appears redundant.**

**29. The LGAQ recommends clarifying 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.)**

**30. The LGAQ recommends amending clause 627(a)(ii) regarding "dedicated public transport corridors" to also include "and infrastructure" (i.e. bus shelters) as there is no difference in the purpose when compared to ferry terminals which are included.**

**31. The LGAQ recommends amending clause 627(a)(iii) to also include "public amenities" (i.e. toilets) being a necessity for higher order parks.**

**33. The LGAQ recommends amending 'PPI index' to 'PPI'.**

**38. The LGAQ recommends clause 635(6)(b) be removed.**

**44. The LGAQ recommends amending clause 635 to allow for the ability to issue charge notices triggered by building work permits as per existing provisions within the SPA.**

**51. The LGAQ recommends amending clause 636(2)(b) to only recognise demand for those contributions that have already been made for the infrastructure network.**

**54. The LGAQ recommends amending clause 647(1) to state "this section applies if the LGIP identifies trunk infrastructure to service the subject premises and the identified infrastructure is inadequate".**

**57. The LGAQ recommends amending clause 478 to provide clarity.**

**58. The LGAQ recommends further clarity be provided on the practical implications of:**

- **clause 637(1)(b) – It is not clear whether this requires inclusion of a copy of the full calculation or just state the development basis on which the charge calculation is based.**
- **clause 637(1)(f) – At the time of issue, the charges notice can advise whether an offset does or doesn't apply, however it may not be possible or practical to determine the precise amount if the offset is to be based on actual costs in providing/constructing the infrastructure.**
- **clause 637(2) – The burdensome requirement to require the infrastructure charges notice to be accompanied by an information notice about the decision to give the notice is simply issuing more paperwork and unnecessary. The infrastructure charges notice already clearly relates to the Decision Notice approving the development and is issued under the powers exercised by the legislation.**

**60. The LGAQ recommends amending the period 10 business days for consistency with all the other infrastructure charging timeframes and to provide an adequate response timeframe.**

**62. The LGAQ recommends amending clause 637(2) to allow for more than one negotiated decision notice.**

**65. The LGAQ recommends removing or clarifying the application of clause 679.**

**67. The LGAQ recommends including an amendment to ensure that local governments currently preparing planning schemes (i.e. having commenced under MALPI) but will take effect after 30 June 2014 will be a LGIP for the purposes of the amended SPA.**

## Key Concerns for Local Government

### *Conversion of non-trunk infrastructure – Division 3 – Subdivision 1*

1. Applicants will have the ability to apply to convert non-trunk infrastructure to trunk infrastructure. The Bill does not include any detail of what a local government must consider when deciding a conversion application. However, it does foreshadow considerations or criteria relevant to a decision being identified in a regulation. Should the State prescribe any criteria, it could curtail councils' discretion in deciding conversion applications. Such criteria would also be relevant to the court's consideration of the matter in an appeal.

2. Without a clear assessment on how these decisions will be adjudicated, councils will need to closely consider the financial ramifications of having non-trunk infrastructure converted to trunk infrastructure under their PIPs/LGIPs, given the offset and refund implications and the fact that such converted infrastructure is unlikely to have been planned for. This poses **significant** implications for local governments' infrastructure planning, budgeting, capital programming / prioritization and legal costs.

3. The proposed conversion process is ostensibly unnecessary and adds an additional layer of duplicative red tape. The IDAS process already provides for these matters to be dealt with during the application stage or an applicant can challenge conditions during the negotiated decision notice phase of IDAS. This is the most appropriate time to change the status of an infrastructure item, not through a duplicated regulatory process. The detailed cost estimates of the infrastructure item can then be determined post the issue of a development permit.

4. Converting non-trunk infrastructure conditions to trunk should be limited to a decision by the council and not be subject to further appeals relating to development that sits outside the accepted and legislated planning process as the trunk infrastructure detailed in the PIP or LGIP has already undergone the full preparation and development process in accordance with statutory guidelines and approved by the State Government.

5. Further details are necessary in Subdivision 1 regarding process to limit unintended consequences, particularly regarding the timing of valuation and claims. It is inequitable to allow a situation where developers are able to 'bank' their offset in the knowledge that construction values are increasing greater than CPI. They could easily choose to delay making a claim in order to extract a financial return on infrastructure they contributed (potentially) years earlier.

6. 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.

7. 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.

8. **The LGAQ does not support the proposed conversion process (with decisions subject to appeal) due to the unknown financial implications on local governments and recommends such applications should link directly with the normal development application process through representations made during the negotiation period following the issue of the original approval.**

9. **The LGAQ requests genuine consultation on the regulation prescribing relevant criteria for a decision about a conversion application. The criteria will have a significant bearing for local government in the way costs for infrastructure and offsets are to apply. This will help to avoid any impractical, onerous or unintended implications on development.**

10. **The LGAQ recommends any proposed conversion process must be further developed to limit the application time period to convert non-trunk infrastructure conditions.**

*Indexation of maximum charges – Clause 629*

11. Clause 629 retains the ability to index the maximum charges prescribed under the SPRP at the discretion of the Minister.

12. Since the introduction of the maximum capped charges framework in 2011, charges have not been escalated in line with construction cost indices. Charges have dropped in value by approximately 8% in real terms (2011-2013) already since introduction in 2011. This simply has the effect of transferring the proportional costs from new development to the existing community to provide infrastructure to cater for new development.

13. Conversely, the State Government currently applies a 3.5% annual indexation to its own fees and charges.

14. **The LGAQ recommends amending clause 629 to include an annual automatic indexation of the current maximum capped charges using the Queensland road and bridge construction index to reflect increasing building and construction costs of providing infrastructure.**

15. **The LGAQ recommends applying a methodology to set a base date and automatically index to the time of issue and then again to the time of approval. Such basic indexation is general practice in most government and private industry supply and construction contracts.**

*Working out cost for required offsets and refunds – Clause 633 & 657*

16. Clause 633 is a new clause which has no equivalent under SPA. It requires a local government to include in its charges resolution a methodology for working out the cost of infrastructure the subject of an offset or refund pursuant to clause 657 of the Bill. The clause makes provision for the methodology to be confined to parameters identified in the SPRP (adopted charges) or alternatively a guideline made by the Minister. Without the benefit of the relevant parameters, it is not possible to advise upon the magnitude of the effect of this change.

17. 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.

18. Based on current drafting, clause 657 essentially provides the ability for the proponent to require the local government to use the methodology under the charges resolution if it disagrees with the details of the offset or refund. As such, the obvious problem is that an applicant will always select the option which provides the highest return. If the actual cost is less than the planned cost, then the planned cost will be selected. If the actual cost is higher than the planned cost, the actual cost will be selected. This clause removes the relied upon 'unders and overs' balance and could actually result in all costs to be offset being equal to or greater than the planned cost, resulting in greater infrastructure cost to the community.

19. **The LGAQ does not support the offset and refund provisions until genuine consultation and testing is undertaken with local governments regarding the parameters identified in the SPRP (adopted charges) or alternatively a guideline made by the Minister.**

*Consultation for review of LGIPs - Clause 94A*

20. It is understood existing PIPs will be taken to be LGIPs from 1 July 2014 and local governments must review their LGIPs every 5 years (i.e. by 1 July 2019). In reviewing LGIPs, a local government will have to consult with entities that participated in preparing the LGIP, including government departments. At a practical level, it is not clear whether this means that a local government must consult with its original consultants that were engaged to prepare the LGIP in addition to government departments. In some cases, local governments may not wish to consult with its original consultants for a variety of reasons.

21. **The LGAQ recommends amending clause 94A to remove reference to original consultants. The review should only be required to undertake the designated process with appropriate entities and departments irrespective of whether they had specifically been involved previously.**

*Amended charges for extending relevant periods – Clause 626*

22. While the Bill clarifies that a local government may give an infrastructure charges notice for a permissible change request or a request for compliance assessment, it does not enable infrastructure charges to be levied where a local government decides to approve a request to extend the relevant period for a development approval under section 387 of SPA.

23. In many instances, local governments feel obliged to refuse a request to extend the relevant period for no reason other than that the infrastructure charges to be paid in reliance upon the existing approval are grossly inadequate having regard to current charging rates. If local governments are afforded a simple method of re-issuing infrastructure charges notices for such applications, it would enable them to approve a request to extend the currency period and avoid applicants having to reapply for development approvals or appeal a refusal of the request.

24. **The LGAQ recommends amending clause 626 to include the extension of relevant periods.**

*Definition – Establishment costs – Clause 627*

25. The definition has changed. It is now no longer possible to include the financing costs for the infrastructure as part of the establishment costs. Similarly, for existing infrastructure, it is no longer possible to include the residual financing cost of the infrastructure.

26. For existing infrastructure, the cost of that infrastructure is now determined by reference to the value of it as reflected in a council's asset register. This is a change from the current position which values existing infrastructure based upon the cost of reconstructing the same works using contemporary materials, techniques and technologies.

27. It is also 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.

28. **The LGAQ recommends clarifying the purpose of including a definition for existing infrastructure as its purpose now appears redundant.**

29. **The LGAQ recommends clarifying 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.)**

*Definition –Development Infrastructure– Clause 627*

30. **The LGAQ recommends amending clause 627(a)(ii) regarding "dedicated public transport corridors" to also include "and infrastructure" (i.e. bus shelters) as there is no difference in the purpose when compared to ferry terminals which are included.**

**31. The LGAQ recommends amending clause 627(a)(iii) to also include "public amenities" (i.e. toilets) being a necessity for higher order parks.**

*Definition –PPI Index– Clause 627*

32. Apparent drafting error.

**33. The LGAQ recommends amending 'PPI index' to 'PPI'.**

*Whether infrastructure charges are only payable by the "applicant" – Clause 635 (6)(b)*

34. While the intention appears to be that infrastructure charges will run with the land, it is arguable that the Bill only requires charges to be paid by an "applicant" and (not be binding upon successors in title).

35. Clause 635(6)(b) provides that a levied charge under the notice is payable by the applicant. This statement is, however, contradicted by the statements in clause 635(6)(c) that the levied charge attaches to the land and clause 664(1) that for the purpose of recovery, charges are taken to be rates. Currently, section 648F of SPA states that council must give the infrastructure charges notice to the applicant or person who requested compliance assessment. However, it does not state who is responsible for paying the charge.

36. In 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.

37. Therefore, this clause cannot be limited to the applicant alone.

**38. The LGAQ recommends clause 635(6)(b) be removed.**

*When an infrastructure charges notice can be given – Clause 635*

39. Clause 635(3) specifies the time within which an infrastructure charges notice can be given. It specifies three instances where such notices can be given, being where a local government is:

    (a) the assessment manager;
    (b) a concurrence agency; or
    (c) in receipt of a deemed approval notice.

40. However, the LGAQ is aware that there are currently circumstances where adopted infrastructure charges notices are issued by local governments without any of these things applying (although we appreciate that some do not do so). One example that we are aware of is where a building approval is issued by a private certifier and the council issues an adopted infrastructure charges notice for the building work within 10 business days of receiving the private certifier's decision notice. This could no longer occur under clause 635 of the Bill.

41. This interpretation is supported by clause 635(1)(a) as it states that the clause only applies if a local government has given a development approval. The way clause 635(3) is currently drafted, a local government effectively cannot issue an infrastructure charges notice on development approvals where it is not an assessment manager or concurrence agency. The position under SPA is different. Clause 648F(3)(b) provides for a local government issuing an infrastructure charges notice after it receives a copy of the approval, permit or deemed approval notice (e.g. from a private certifier for building work).

42. Clause 635 will effectively limit councils from giving an infrastructure charges notice to circumstances where they are an assessment manager or a concurrence agency. Presently under SPA, councils have the ability to give an infrastructure charges notice upon receipt of a development approval by others (e.g. a private certifier for building work).

43. This limitation is counter-intuitive to the State Government's broader agenda of promoting planning schemes to fast-track development at the lowest level of assessment. This omission will 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 removing self-assessable status from the planning schemes which would be counterproductive for all concerned.

44. **The LGAQ recommends amending clause 635 to allow for the ability to issue charge notices triggered by building work permits as per existing provisions within the SPA.**

*Mandatory lawful existing use credits – Clause 636*

45. Clause 636 is a new clause which has no equivalent under SPA. It provides for a levied charge to only be for additional demand placed upon trunk infrastructure that will be generated by the development. In working this out, the following must not be included:

    (a) existing uses that are lawful and are already taking place on the premises; and
    (b) other development that may be lawfully carried out on the premises without the need for a further development permit.

46. The explanatory note for clause 478 states:
    "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."

47. The explanatory note for clause 636 states:
    "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...."

48. With these statements in mind and having regard to clause 636(2)(b), if a proponent for a development has in place all of the approvals needed to lawfully carry out that development without the need for further approvals, and it later makes a new application for a development that places a greater demand on trunk infrastructure, in working out the additional demand, a local government would have to ignore the demand generated by the earlier approval. Effectively, the local government could only charge for the difference in demand between the earlier approval and the later approval. Should the earlier approval never be exercised, the local government would have no mechanism for recovering the shortfall in the charges. To allow for credits for existing rights to develop a site (as opposed to actual development of the site) in such a manner results in a lack of certainty for local government as there is no guarantee that those rights will ever be exercised and the necessary charges being paid.

49. Example:
    - a developer has all approvals in place for 10 units but does not act upon it and has not paid any infrastructure charges for the 10 units
    - the developer decides to apply for 20 units instead
    - the council, in deciding to approve the 20 units, may only charge for the additional demand created by the second approval (i.e. 10 units) because of clause 636 (i.e. the 10 units may lawfully be carried out without the need for further development approvals)
    - if the developer proceeds to develop the 20 units and never acts on the approval for 10 units, the council loses the charges payable for 10 units.

50. Credits should only be taken into account for contribution payments that have been made for the specified networks under an earlier approval. However, 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. This would be double dipping and compounding of unpaid credit by development.

**51. The LGAQ recommends amending clause 636(2)(b) to only recognise demand for those contributions that have already been made for the infrastructure network.**

*Conditions about necessary trunk infrastructure – Clause 647*

52. The way clause 647(1) is currently drafted is subject to a number of interpretations that appear to be unintended.

53. Further, we are of the opinion that the way subclause (1) is currently drafted, it is subject to a number of interpretations. One possible interpretation is that the clause only operates where the trunk infrastructure is identified in an LGIP but it is inadequate. The other interpretation is that it also applies to the situation where an LGIP does not identify an item of trunk at all and therefore the LGIP does not identify adequate trunk infrastructure. As SPA currently operates, it is the former interpretation which councils have conditioning powers for. We suspect that it is unlikely that the State intended to move away from this position.

**54. The LGAQ recommends amending clause 647(1) to state "this section applies if the LGIP identifies trunk infrastructure to service the subject premises and the identified infrastructure is inadequate".**

*Appeals about infrastructure charge notice – Clause 478*

55. Clause 478(2)(a) appears redundant since all infrastructure charges and conditions relate only to Adopted Infrastructure Charges requirements by which all local governments must comply.

56. The purpose of this clause is unclear in the explanatory notes stating "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.

**57. The LGAQ recommends amending clause 478 to provide clarity.**

*Requirements for infrastructure charges notice – Clause 637*

**58. The LGAQ recommends further clarity be provided on the practical implications of:**

- **clause 637(1)(b) – It is not clear whether this requires inclusion of a copy of the full calculation or just state the development basis on which the charge calculation is based.**

- **clause 637(1)(f) – At the time of issue, the charges notice can advise whether an offset does or doesn't apply, however it may not be possible or practical to determine the precise amount if the offset is to be based on actual costs in providing/constructing the infrastructure.**

- **clause 637(2) – The burdensome requirement to require the infrastructure charges notice to be accompanied by an information notice about the decision to give the notice is simply issuing more paperwork and unnecessary. The infrastructure charges notice already clearly relates to the Decision Notice approving the development and is issued under the powers exercised by the legislation.**

*Decision about submissions – clause 643*

59. Clause 643(1) and (4) provide local government 5 business days after making its decision to respond to the recipient accordingly. This timeframe is inconsistent with all other infrastructure charging timeframes.

**60. The LGAQ recommends amending the period 10 business days for consistency with all the other infrastructure charging timeframes and to provide an adequate response timeframe.**

61. Clause 637(2) only limits to one (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.)

**62. The LGAQ recommends amending clause 637(2) to allow for more than one negotiated decision notice.**

### *Trunk infrastructure not identified – Clause 679*

63. This section purports to apply where the definition of trunk infrastructure under section 627 does not apply and includes where a local government does not have a LGIP. The implication of this section is that non-trunk infrastructure is development infrastructure for any of the purposes stated in section 665(2) and development infrastructure for any other purpose is taken to be trunk infrastructure.

64. The LGAQ is concerned with the application of this section given the unclear and ambiguous nature of its drafting. For example, would it apply outside the PIA where the local government has not identified trunk infrastructure?

**65. The LGAQ recommends removing or clarifying the application of clause 679.**

### *Transitional Provisions – Part 11*

66. Many local governments have commenced the process of making a SPA planning scheme as prescribed in the Statutory Guideline for Making and Amending a Local Planning Instrument (MALPI). However, a number of these planning schemes will not be take effect prior to the 30 June 2014.

**67. The LGAQ recommends including an amendment to ensure that local governments currently preparing planning schemes (i.e. having commenced under MALPI) but will take effect after 30 June 2014 will be a LGIP for the purposes of the amended SPA.**