

16 May 2014

Our ref: SUB(IC)2014

The Research Director

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

Submission No. 26

11.1.19

16 May 2014

Dear Sir,

SUBMISSION RE: Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014 (the Bill)

This submission has been prepared by Somerville Consultants regarding the proposed Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014 (the Bill).

Generally the intended changes are seen as favourable as compared to the current legislation.

Our submission will be a concise comment on several specific areas of the proposed bill.

Clause 478 Appeals about infrastructure charges notice

(3) *To remove any doubt, it is declared that the appeal must not be about-*

(b)(i) the establishment cost of infrastructure identified in an LGIP; or

(ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

We have identified that Councils have used incorrect methodologies to create infrastructure costs in current Priority Infrastructure Plan (PIP). For instance they have understated acquisition costs for proposed parks by many millions of dollars as compared to fair market value.

Whilst the new Local Government Infrastructure Plan (LGIP) will have to include a method that identifies how the cost of infrastructure has been decided, current PIP do not contain this justification.

This undervaluing could cause the true value of an asset not being reflected in the reduction (or refund) of an infrastructure notice.

By way of an example Logan City Council via their PIP calculation recently valued a 2700m² plot of prime developable land in Marsden at around \$76,000 and intended to reduce the Infrastructure Charges Notice (ICN) by that amount. A valuation of the property (and later agreed by Council) was for \$250,000.

The above clause would give Councils the ability to reject 'fair market value' for infrastructure based on current PIPs.

Therefore the above clause should be amended to only come into force upon the implementation of a new LGIP which has undergone the requirements of the method used to create the actual cost of infrastructure.

Clause 638 Payment triggers generally

1) *A levied charge becomes payable-*

a) *If the charge applies for a reconfiguring a lot – when the local government that levied the charge approves the plan of subdivision for the reconfiguration;*

This clause although similar to the current clause in SPA still creates the same ambiguity.

Some Councils interpret this clause to mean that infrastructure charges become due upon approving the development which includes a plan of development, while other have a stricter interpretation of only allowing payment upon Council sealing the survey plan. This clause should be clarified to clearly articulate the exact timing of when an infrastructure contribution can become due in the instance of a reconfiguration of a lot.

Clause 649 Offset or refund requirements

4) *Timing of the refund is subject to terms agreed between the payer and the local government*

A fundamental problem has occurred under the current structure of PIPs. Councils have imposed the need for infrastructure agreements if the value of the infrastructure sought by the local government is greater than the cost of the infrastructure contribution. Currently some Councils are insisting that an infrastructure agreement is signed prior to the issuance of a development approval. Part of this 'agreement deferred payment of the refund based on the timing shown within the various AIC resolutions. Furthermore Council have split infrastructure chargers according to the infrastructure stream and hence will only partially reduce infrastructure contributions prior to that time.

By way of example, again using Logan City Council, a development application establishes that Council requires approx. half the site for park. The fair market value of this park area is in the vicinity of \$1,000,000.00. The remaining site can be reconfigured with a total infrastructure contribution of \$420,000.00. Of this the parks component is approx. \$100,000.00. Council currently will discount the infrastructure contributions due by \$100,000.00 thus expecting the developer to pay \$320,000.00 now and reimburse him the refund of \$900,000.00 at some time in the future. For the privilege of the delayed refund the developer is expect to pay for and sign an infrastructure agreement. Currently this agreement is prepared by Council Solicitors with no input from the developer.

We suggest some guidance in relation to the steps required to obtain 'agreed terms'.

We look forward to the adoption of this new bill, albeit with some minor changes, to better clarify and respond to both Councils and developers regarding infrastructure charges as a consequence of development.

Yours faithfully,

SOMERVILLE CONSULTANTS



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