

Rockhampton Regional Council Submission to the State Development, Infrastructure and Industry Committee

This submission provides comments on the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014 on behalf of Rockhampton Regional Council.

General:

- Council values the opportunity to comment on these amendments because of their potentially significant impact on Council operations and local development. The time provided to comment does not allow time to properly canvass the views across the whole of Council which is unfortunate. For changes of this weight it would be beneficial for all if the major stakeholders had an opportunity to be consulted more fully.
- RRC is a member of the Local Government Association of Queensland 'Think Tank' committee. The committee has the role of representing Local Governments views on infrastructure charging matters, in particular those of Councils experiencing significant growth. The infrastructure charging regulatory landscape has been constantly changing in recent years so the committee has been very active and is therefore very well informed about the substance of the amendments. The LGAQ through the 'Think Tank' is making a detailed submission on the Bill. RRC fully supports that submission and would refer the Committee to it as Council's detailed representations on the proposed Amendments Bill.
- Not contained within the Bill, but directly related is the proposition that Councils consider 'Fair Value' discounts on adopted charges on the basis that it will open up the opportunity for the co-funding of some Priority Development Infrastructure with the State Government. While this is welcomed it is not possible for Council to assess the merits of this proposition without the details of how Priority Development Infrastructure will be assessed and the amount of any State contribution.
- RRC is offering targeted incentives for development in the region for a fixed term. This incentives policy should not be viewed as any lack of determination by Council that the underlying infrastructure charges arrangements should represent a reasonable and effective mechanism for ensuring new development properly contributes to the construction of new trunk infrastructure over the medium to longer term. Rather this is an immediate term response to the economic downturn and is therefore unlikely to be sustained over the long term. Council is extremely supportive of the intent of encouraging and enabling quality development and would suggest that the State continue to consider means by which Local Governments could be supported in this role. In particular Council is anxious to secure greater flexibility in its capacity to pursue priority development of local importance by means of various targeted financial or other inducements.
- The matters dealt with here focus on matters of concern to Council. For the sake of space the submission does not deal with the many aspects that Council supports such as retaining the role of the Priority Infrastructure Area, removal of Local Function charges and allowing notices to be issued as part of a permissible change.

Specific Comments:

Although the LGAQ 'Think Tank' is comprehensive RRC would take this opportunity to highlight some areas that are of particular concern for our region. In particular where it seems that the Bill as drafted may result in some unintended consequences, areas where Council believes the goal of the amendments to simplify the process has not been achieved or where the changes unreasonably shift risk back to Council.

Clause	Comment	Recommendation
117	Provides for the preparation of a Statutory guideline for preparing a LGIP. Without being able to review the Statutory Guideline for preparing the Local Government Infrastructure Plan (LGIP) it is not possible for Council to comment. In particular any consideration of reviews by third parties is of concern to Council because of the cost and risks associated with resolving an agreed LGIP.	That the Statutory guideline for preparation of the LGIP be constructed in a way that does not result in additional costs, risks or delays to Council and its clients. Any third party review should be included as part of the State costs for reviewing new planning instruments. DSDIP should provide sufficient time to enable full consultation with local government on the Statutory guideline.
633, 657	Deals with the methodology for valuing works. Again without the guideline or SPRP to provide the proposed methodology for valuing works this change contains indeterminant risks for councils.	This matter is dealt with in detail in the Think Tank submission. Further genuine consultation on the methodology is required to ensure risk is not transferred unreasonably to Council directly or in any unintended way.
629	RRC believes it is unreasonable and not consistent with the State Government expectation of prudent financial management to not provide for automatic annual indexation of the maximum charges in accordance with an appropriate index.	629 include annual automatic indexation of the maximum charges.
627	The definition of 'development infrastructure' does not include major public amenities such as toilets.	'public amenities' (i.e. toilets) should be included in (a)(iii).
635(2) and 635(6)(b)	These clauses indicate that the ongoing liability for the charge remains with the Applicant. We believe and it makes sense that the liability is carried by the land.	Remove the words "on the applicant" from these clauses to prevent any conflict with the intended operation of 635 (6)(c) and 664 (1)
635(3)	The current effect of parts of 635 is that Council would not be able to issue a charges notice for building works in the event it is privately certified. It is hoped that this is unintended. A perverse outcome of this would be to encourage councils	Modify 635 to allow Councils to issue charge notices triggered by building works irrespective of who is certifying the works as per the current arrangements in SPA.

	to trigger more development for assessment simply to enable them to issue a charges notice. The new clause 638 now includes the final building certificate as a trigger for payment of charges. This would suggest that it is still intended that building works can trigger a charge notice.	
636	A new clause which seeks to mandate credits for existing lawful use rights. Unfortunately as drafted it can result in a situation where the assessment of charges for a new approval, where there is already an existing unexercised approval must ignore the demand generated by the existing approval. In effect councils could only charge for the difference. This is clearly unreasonable and probably unintended.	The 'Think Tank' submission provides a more complete explanation of this situation. 636 should be modified to ensure credits are only recognised where contributions have been made.
535	This expands appeal rights to include decisions on offsets and refunds and the trunk infrastructure conversion process.	As with all matters that escalate to an appeal process Council is concerned about the uncertainty and further transfer of risk that results. The appeal rights should be reviewed and limited.
659,660	Allows an applicant to apply to have infrastructure converted to trunk infrastructure. Council must consider the application. As above Council's decision may be appealed. At this stage there is no detail around what Council must consider in determining its position. In particular the definition of trunk infrastructure does not seem to have been advanced by the changes. It is assumed it is intended to provide this certainty in the Statutory guideline or SPRP.	There is full and genuine consultation about the development of instruments to give effect to these clauses.