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Mr Bruce Young MP  
Acting Chair  
State Development, Infrastructure and Industry Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Via email: [SDIIC@parliament.qld.gov.au](mailto:SDIIC@parliament.qld.gov.au)

Dear Sir,

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

The Planning Institute of Australia (**PIA**) thanks you for the opportunity to provide a submission to the Queensland Government on the *Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014 (Bill)*. As the peak body representing the town planning profession, PIA supports legislative and administrative reform that assists planners, governments, the development industry, and local communities to achieve good planning and development outcomes.

As PIA has a diverse membership base, whose interests lie across the whole development cycle, this submission is intentionally broad. We have limited to brief comments upon the policy objectives of the Bill. We appreciate that the infrastructure charging is a complex matter however reasonableness, fairness and context should be paramount to any proposed new regime. Brief comments in respect of each objective are provided below.

**Objective 1:** Establish a long-term local infrastructure planning and charging framework that is certain, consistent and transparent and which supports local authority sustainability and development feasibility in Queensland

The adopted infrastructure charges regime (current charging mechanism) was introduced as a temporary measure whilst a more sustainable and 'fair' infrastructure charges regime was formulated. The charging regime in the Bill is an evolution of the adopted infrastructure charges regime, and whilst it addresses some of the issues currently experienced (see comments in respect of Objective 2 below), it does not revolutionise the funding of local government trunk infrastructure.

The policy intent of providing State contributions towards local government trunk infrastructure is supported, however PIA considered that the proposed implementation in the Bill falls short of the outcome anticipated by all industry participants.

PIA's notes the following:

1. information on the proposed State contributions to local governments who elect to participate in the 'fair charges' regime is scant, remains at a policy level only, and is not specifically provided for in the Bill;
2. fair value charges will only work if local governments elect to participate; there is insufficient information for local governments to make a sound and rational decision (i.e. balance risk and rewards) to participate (or not) in the fair value charging regime prior to the commencement of the next financial year (given local government budget planning processes and timeframes), and commencement of the fair charges regime;
3. the fair value charges regime can not succeed if it is not supported by local government, and does nothing to encourage development beyond the caps that were introduced on 1 July 2014;
4. the fair value charges regime will not result in consistency between participating and non-participating local government areas and may have adverse impacts on where development does or does not occur;
5. the name 'fair value charges' suggests that those local governments who do not adopt them are not playing fair, and that those who do are deemed to be 'fair', even where a fair result (that is, a balance between local government and development proponents);
6. the link between the adoption of the fair value regime and other existing programs is not supported. Programs such as the *Royalties for the Regions* provide critical and important infrastructure specifically in our rural and regional communities. Funding for measures such as flood mitigation is vital to the ongoing prosperity of the state and building the resilience of these communities in a changing world. The proposal to tie the programs together is not considered fair nor reasonable.

**Objective 2:** Simplify, streamline and clarify the operation of Chapter 8 of SPA and the supporting appeal and dispute resolution processes for infrastructure charges matters within SPA.

This objective is strongly supported and the Bill goes some way to achieving it.

The adoption of an essential infrastructure list, mandatory cross crediting between infrastructure networks and clarification of financial contribution variations (i.e. credits, offsets and refunds) along with allowing an infrastructure charge notice (or amended notice) to be given in respect of permissible change applications is applauded, and directly addresses many criticisms of the current day to day issues inherent in the charging regime. The introduction of trunk conversion applications is also welcome, but could do with some fine tuning.

Some recommended alterations to assist the further achievement of this objective include:

1. enable trunk conversion applications to be made after construction of infrastructure, so that development is not delayed (but the proponent bears the risk the conversion application will not be approved) to facilitate timely development;
2. include the trunk conversion and assessment criteria and decision making process in the supporting regulation, and make it available for public consultation;
3. new ICN's are required to include full details of offsets, however the detail is usually not confirmed until operational works stage. This could introduce delay or uncertainty in development assessment at MCU or RaL stages of development of an ICN can not be later modified to reflect detail design requirements at OPW stage;
4. the criteria for determining financial contribution variations (i.e. credits, offsets and refunds) should be confirmed, and required to be consistent with the methodology under which charges are imposed (i.e. planned estimate, actual cost and the like);
5. appeals against the establishment of trunk infrastructure identified in a LGIP are not permitted, which could lead to unintended consequences or mistakes not being able to be addressed;
6. the Bill does not stop excessive infrastructure requirements (including infrastructure standards) being included in an LGIP;
7. the Bill does not address the risk of appropriate land areas being excluded from priority infrastructure areas in a LGIP intended to avoid the application of capped charges and the benefit of financial contribution variations intended to permit the exercise of broader conditioning powers which could require infrastructure contributions which exceed the financial contributions that would otherwise be payable;

8. it is impossible to enforce a requirement for parties to negotiate an infrastructure agreement in good faith, and this requirement should be reviewed and or clarified.
9. timing, commencement and transitional provisions need to be tightened up to provide certainty and clarity.

**Objective 3:** remove superseded and redundant provisions from Chapter 8 of SPA.

This objective is strongly supported and the Bill is considered to substantially achieve this objective.

**Objective 4:** Align the distributor-retailer infrastructure charging and planning arrangements under the South East Queensland Water (Distribution and Retail Restructuring) Act 2009 (SEQ Water Act) with the local government framework under SPA

This objective is strongly supported and the Bill is considered to substantially achieve this objective.

### **Integration with proposed Planning and Development Bill**

PIA notes that the Bill forms part of the broader planning reform agenda and the infrastructure charges reform is intended to 'plug in' to the Planning and Development Bill (PAD). PIA understands that PAD will simplify the number of State planning instruments which exist, and that State Planning Regulatory Provisions (**SPRP**) will not exist under or be acknowledged by the PAD.<sup>1</sup> If that is correct, it will be essential to ensure there are appropriate mechanisms in place for transition from the SPRP regulating infrastructure charges to PAD, such as including the maximum and any fair value (or other) charges in a regulation and other consequential amendments. To the extent possible, it is suggested that these transitional matters be dealt with as part of the Bill, to avoid the need for further administrative changes with the implementation of PAD in the foreseeable future.

If you would like any further information or wish to discuss any part of this submission in more detail, please do not hesitate to contact PIA Queensland on 07 5465 7331.

Yours faithfully,



**Kate Isles MPIA**  
Queensland President

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<sup>1</sup>

See for example, sections 329 and 336 of the draft Bill dated 8 April 2014.