Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023

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Queensland Parliamentary Service
Cnr George and Alice Streets
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Dear Queensland Parliamentary Service

Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023

Logan City Council support the Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023.

The purpose of this submission is to provide support for the Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023. The current Queensland State Governments capped infrastructure charge regime negatively impacts Logan City Council's long term financial sustainability. When viewed in the context of Logan's past, current, and future growth, the current capped infrastructure charge regime is insufficient to fund the infrastructure required to service current and anticipated development.

The proposed changes put forward in the Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023 will allow for Councils to charge for the true cost of infrastructure to provide infrastructure and services that match community needs.

Context

Under the previous *Integrated Planning Act,* a 'cost reflective pricing' concept was introduced as a Priority Infrastructure Plan (PIP) and associated Infrastructure Charges Schedule (ICS), which alongside several State Government subsidies, would have allowed local governments the opportunity to achieve full cost recovery in delivering infrastructure to serve new development.

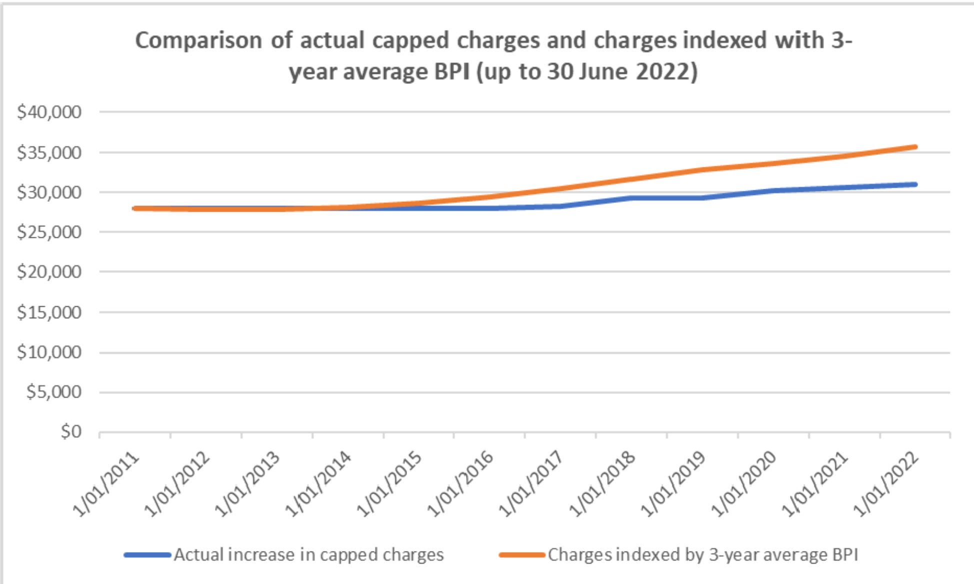
In 2010, the Queensland Government appointed the Infrastructure Taskforce to review the charge regime, and a capped charge regime came into effect on 1 July 2011. The capped charge regime is effectively an average cost model that severs the nexus between the additional demand generated by a development and the actual cost of the infrastructure required to serve the additional demand created.

The combined effect of the termination of State Government subsidies after the 2008 Global Financial Crisis and the introduction of a capped charge regime shifted the financial burden onto local governments. Costs associated with the delivery of infrastructure continue to rise and as the disconnect between the regulated and adopted charges continue to grow, Councils have struggled to keep up. Increasingly, the gap in Councils' ability to charge and the cost of delivery falls to other revenue means such as rates, to deliver infrastructure below the desired standard of service or to delay / remove scheduled infrastructure from Councils' infrastructure plan.

<u>Charges revenue not keeping up with rising construction cost</u>

In July 2016, the State Planning Regulatory Provision (adopted charges) allowed indexation to be applied to charges using the 3-year average Producer Price Index (PPI) (roads and bridges) despite the construction industry more widely accepting the Building Price Index (BPI) as more accurately reflecting changes in construction costs.

The following graph compares the actual increase in the capped charges, with what the charges could have been if charges were indexed using the BPI. It shows the charge indexed by BPI would (as at 30 June 2022) have been $35,810 per dwelling, compared with the actual charge being $31,080. This calculates to a difference of $4,730 per detached dwelling. Applying the annual difference shown in the graph below calculates to an under-recovery of approximately $46.8M since 2011.



The table below shows the difference between the estimate of the establishment cost for a number of water and sewerage items shown in the LGIP, with the actual cost of delivery.

Map reference	Trunk infrastructure	Establishment cost shown in LGIP	Actual cost	Difference
Water supply				
W0104	Logan North Water Supply - Kimberly Park HLZ and Underwood LLZ/HLZ Metering	$151,797	$203,305	-$51,508
W0002	Logan East PLMP and Fire Flow Project	$7,409,621	$9,053,980	-$1,644,359
W0127	Round Mountain Reservoir Chlorinator	$3,010,480	$6,326,154	-$3,315,674
W0203	Installation of Flow Meters for the Potable Water Network	$637,618	$1,137,411	-$499,793
W0191	Woodhill Water Supply Zone & Greenbank Reservoir Chlorinators	$1,655,094	$2,275,898	-$620,804
Sewerage				
LW082	Slacks Creek Sewer Optimisation	$14,910,000	$16,420,475	-$1,510,475
S0075	East Street, Jimboomba Wastewater Conveyance	$2,297,278	$5,743,228	-$3,445,950
S0122	Bahrs Scrub Wastewater Conveyance Project - Stage 2B	$7,190,624	$16,038,679	-$8,848,055
S0181	Bahrs Scrub Wastewater Conveyance Project - Stage 2A	$1,004,447	$4,385,191	-$3,380,744
S0145	SPS134 (Spanns Rd - BE 47) WWPS Diversion to Loganholme WPCC - Stage 1	$5,482,253	$10,791,597	-$5,309,344
S0157	SPS107 (Carl Heck Blvd) Rising Main Augmentation	$384,398	$763,529	-$379,131
S0185	Heritage Park Trunk Wastewater Infrastructure	$4,555,990	$6,017,277	-$1,461,287
S0301	River Hills SPS Upgrade	$3,500,000	$4,871,999	-$1,371,999
S0324	Loganholme WWTP Stage 8 Upgrade	$35,400,000	$62,928,553	-$27,528,553
Total		**$87,589,600**	**$146,957,276**	**-$59,367,676**

From this limited example, an average cost difference of 68 per cent across these projects added more than $59 million to expenditure.

Additionally, an example of recent development applications where the offsets exceeded the charges levied, as shown in the following table, resulted in refunds totalling $23 million which will be payable by Council over the next few years.

Description	Charges	Offsets	Refund	Value of offsets not shown in LGIP
Residential RoL (1 into 173)	$8,896,330.00	$12,697,944.56	-$3,801,614.56	$12,307,703.56
RoL (1 into 3) and MCU (Shopping Centre, Food and Drink Outlet)	$1,892,512.68	$9,285,412.80	-$7,392,900.12	$9,285,412.80
Non-res RoL (14 into 24)	$17,000,415.00	$28,926,438.63	-$11,926,023.63	$13,048,955.13
Total	**$27,789,257.68**	**$50,909,795.99**	**-$23,120,538.31**	**$34,642,071.49**

In all three above examples, the LGIP does not show all the infrastructure conditioned as ‘necessary’ trunk, as that would make the LGIP unaffordable. As a result, part of the offsets and the full refund of $23 million are ‘unplanned’ (i.e. unbudgeted) expenditure.

These limited examples of under-recovery of charges due to indexation ($46M), actual construction cost exceeding LGIP estimates ($59M) and refunds exceeding the calculated charge ($23M) add up to a cost difference of over $128 million. The reality is that these examples are only a limited sample, and the actual cumulative difference far exceeds this figure.

<u>Extra payment condition as provided for in the Planning Act</u>

The Planning Act provides local government with the ability to impose an extra payment condition on development that will generate more infrastructure demand, infrastructure demand that is earlier than anticipated or for development outside of the identified priority infrastructure area (PIA).

Legal advice commissioned by Council to specify the requirements to impose the extra payment condition highlighted the need to accurately calculate the following:

- The establishment cost of the infrastructure made necessary by the development, and the infrastructure necessary to serve the rest of the area
- The cost relating to the decommissioning, removal, and rehabilitation of temporary infrastructure (if applicable), and
- The maintenance and operating cost for up to 5 years of the future and temporary infrastructure

In addition, the extra payment condition must specify the details of the infrastructure to be provided to the same level of detail as required in a standard infrastructure condition. This requirement also comes into play in the event of the applicant wanting to deliver the infrastructure in lieu of paying the extra payment.

The above requirements can only be achieved with detailed planning, design and costing of the infrastructure, which is both time consuming and costly. Given the large geographic size of Logan which is not included in the priority infrastructure area, in particular our Emerging Communities (EC) zone, it is difficult to predict the spatial sequence in which development is likely to occur and then plan, design and cost the infrastructure required to serve this future demand. It is not feasible for Council to commission this (design) work upfront just to be available when applications are submitted for development that may require an extra payment condition. Moreover, the optimal engineering solutions for some networks, specifically water and sewer, may change over times depending on the location and sequencing of development in the area. Lastly, the costings will have to be regularly revised and updated to remain current, which will be a further cost to Council.

Based on the above, the extra payment provision provided for in the Planning Act in its current format does not offer Council the ability to utilise the extra payment condition, leaving the financial risks to Council intact.

Local Government Infrastructure Plan

Council has prepared a third interim amendment to its LGIP (LGIP v1.3) to reflect updated planning assumptions and the infrastructure required to serve the anticipated development and meet dwelling targets. While LGIP v1.3 has a longer time horizon than the operative LGIP v1.2 (15 years compared to 12 years), the provisional cost estimate to service anticipated growth at the desired standard of service (DSS) exceeded $2 billon which was not affordable for Council and communities.

Several infrastructure items had to be removed from the schedule of works (SoW) to bring LGIP v1.3 closer to feasibility despite these items being necessary to serve future growth at the desired standard of service (DSS). The removal of these items will have long term impacts, reducing the functionality of the future of Logan's parks, community facilities, roads, water and sewer networks. The final cost for LGIP v1.3 is approximately $1.2 billion, which is more than double the cost estimate in LGIP v1.2 ($513M).

Furthermore, having to remove items from the LGIP have the following implications:

- It limits Council's ability to serve future development and support the SEQ Regional Plan dwelling targets.
- As the LGIP does not show all the infrastructure required to serve future demand, Council will have to condition some infrastructure as 'necessary trunk' which means the associated offsets will be 'unplanned'.

This highlighted the unaffordability of the LGIP which is essentially caused by the maximum charge allowed by the capped charges regime being too low and having to apply indexation at a 'capped' rate (PPI) which does not reflect actual cost increases in the construction industry.

Conclusion

In combination with State government subsidies and a cost-reflective pricing concept, full cost recovery for infrastructure delivery for local government was achievable. However, the termination of these State subsidies and the introduction of the capped charge regime effectively reversed this position. The combined effect of this effectively shifted the financial burden onto local government, but without the ability to recover the full cost of delivering infrastructure. It is therefore recommended that the State revert to its original position supporting development through appropriate mechanism such subsidies, funding catalyst infrastructure and an appropriate cost-reflective charging regime.

The cumulative effect of the matters below poses a significant risk to Council's long-term feasibility:

- The cost increase of infrastructure items shown in the LGIP far exceed the capped rate (PPI) at which local government is allowed to index charges, thereby increasing the funding gap between the cost of delivering infrastructure and the charge revenue. Moreover, the PPI (roads and bridges) index does not accurately reflect the actual increase in construction cost, and it is recommended that a more appropriate index such as the BPI be used.
- Despite the efforts from Council to revise and update the cost estimates through interim amendments of the LGIP, the cost of actual delivery still exceeds the (revised) cost estimates shown in the LGIP.
- Not including infrastructure in the LGIP to meet the feasibility test effectively has the following implications:
    - It forces Council to impose necessary trunk conditions as allowed for under S 1298(2) of the Planning Act. Funding the offset of 'unplanned' infrastructure then

consumes the charges revenue that should have funded the infrastructure shown in the LGIP.
    - It limits Council’s ability to serve current and future demand at the DSS.
- Much of the current and future development in Logan will occur outside of the identified priority infrastructure area where the cost of infrastructure far exceeds revenue from the capped charge regime.
- Although the *Planning Act* allows local governments the ability to impose an extra payment condition, it is not feasible or practical for Council to undertake the detailed design and costing required to meet the requirements to trigger this condition.

Logan is a high-growth area and has traditionally carried much of the dwelling growth for South-East Queensland. As a result, Logan is currently ahead of dwelling targets set in ShapingSEQ as well as being allocated significant dwelling targets in the draft ShapingSEQ 2023.

Given the financial risk as detailed in this submission, to ensure infrastructure funding and delivery needs are met, a collaborative and multi-pronged approach between all levels of government is required to achieve a balance between mitigating the financial risk to local government and supporting development, of which, removing the cap on infrastructure charges is only one facet. Furthermore, the following should also be given consideration to improve consistency, fairness, and efficiency in the delivery of infrastructure for utilities, local councils and communities:

- Streamline conditioning powers associated with trunk infrastructure under the *Planning Act* to enable more efficient negotiations of Infrastructure Agreements.
- Address uncertainty regarding the treatment and definition of trunk infrastructure.
- Respond to the need to fund "community benefit" infrastructure, such as community facilities and amenities vital for safe, sustainable, and thriving communities.
- Opportunities for streamlining statutory requirements to reduce costs for local government, such as simplifying planning scheme amendments and enhanced flexibility of LGIP updates.
- Ensure equity within the charging system and remove disparities between various development jurisdictions, such as Priority Development Areas and Priority Infrastructure Areas.

Logan City Council’s efforts in advancing the understanding and possible solutions to the currently unsustainable infrastructure charging regime have been sustained over recent years and therefore we trust that the information provided in this submission assists in advancing the Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023.

Yours sincerely

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