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

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Committee Secretary
State Development and Regional Industries Committee
Parliament House
George Street
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BY POST/EMAIL – SDRIC@parliament.qld.gov.au

Dear Committee Secretary,

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

The Urban Development Institute of Australia Queensland (the Institute) appreciates the opportunity to provide comment to the State Development and Regional Industries Committee (the Committee) on the inquiry into the Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023 (the Bill). The Bill was introduced to Queensland Parliament on 15 November 2023 by Green's member Michael Berkman MP and referred to the Committee.

The Institute is supportive of reforms that help to address the crippling housing supply and affordability crisis facing Queenslanders, which should be at the forefront of decisions being made to alter or introduce new legislation. The Institute **does not support** the Bill as it fails to understand or consider many realities of delivering housing across Queensland and has the potential to place all the cost of infrastructure **onto new home-owners** and businesses, and thus works against providing new housing that is affordable for Queenslanders to address the housing crisis. The Institute strongly rejects the suggestion that 'infrastructure charges are not passed onto homebuyers' and are instead 'borne by developers'.

The Bill comes after the Greens introduced a separate Bill into Parliament earlier this year, which proposed the gifting of at least 25 percent of each residential development to the Queensland Government for social housing. The Bill was found by the Parliamentary Committee to be 'deeply flawed in regards to impact on housing supply' and 'contained a range of unintended consequences and represented a breach of fundamental legislative principles'. The Institute is concerned that this Bill will have a similar detrimental impact on housing supply.

This Bill's lack of understanding of the complexities of the challenges being faced by the construction industry, and if passed, will increase the cost of housing, and further dampen supply. Queensland is experiencing unprecedented population growth and an acute shortage of housing supply. The Bill will place additional pressure on an already strained market and reduce housing affordability further. The flow on effect is likely to increase the cost of new housing and increased stress and uncertainty within funding markets, inflating interest rates and increasing the cost of

living. Queensland needs creative, innovative and progressive, ideas to move forward from this housing crisis rather than placing all the cost and responsibility onto new homebuyers and businesses.

Introduction

Infrastructure charges have been 'capped' since 2011 when the Queensland Government decided to prescribe maximum adopted infrastructure charges by regulation, in response to inconsistent and excessive charges being imposed by some local governments. Infrastructure charges increase in line with inflation annually.

The Bill proposes to amend s112 of the *Planning Act 2016* to remove powers to make a regulation prescribing the maximum amount for an adopted charge for providing trunk infrastructure in relation to development.

The Explanatory Notes to the Bill states that:

- the objective of the Bill is to give local governments the flexibility to charge developers for trunk infrastructure according to the cost of delivering that infrastructure
- the cap on charges creates a disconnect between the regulated maximum amount and the level of funding that local governments and communities actually need to fund essential infrastructure in growing communities
- it would bring Queensland back into line with other states and territories which give local government control over the levying of infrastructure charges without State Government based limits on the amount of the charge that can be imposed.

The Institute raises the following significant concerns with the Bill which are discussed further in this submission:

1. **The Bill enables local governments and water service providers to unfairly transfer all responsibility for funding infrastructure costs onto renters, new home-owners and businesses**
2. **The Bill fails to recognise that most infrastructure delivered as part of a new development project provides broader community benefits and does not promote cost sharing with existing home-owners and businesses (through rates revenue and other sources)**
3. **The Bill assumes that the capped charge is insufficient to fund the cost of trunk infrastructure, when there is no evidence to support this assumption**
4. **The Bill will remove the incentive for local governments and water service providers to innovate, plan, and deliver more cost-effective trunk infrastructure**
5. **The Bill will create uncertainty around development costs and timeframes**
6. **The Bill will exacerbate intergenerational housing inequity**
7. **The Bill will exacerbate the disproportionate infrastructure charges burden already experienced by regional Queenslanders**
8. **The Bill will enable higher infrastructure charges to be levied but fails to address the key funding challenge faced by local government and water service providers.**

Overall, the cumulative effect of the Bill would be a reduction in the number of new homes built in Queensland and increase the price of new housing, locking more Queenslanders out of the housing market.

1. Unfair transfer of infrastructure cost burden to renters, new homebuyers and businesses

Under the *Planning Act 2016*, infrastructure charges may be levied on development to help fund the cost of shared (trunk) development infrastructure. Development infrastructure is infrastructure that is essential to development and is often provided by developers at the time of development. The *Planning Act 2016* defines development infrastructure to include land and works for water, sewerage and stormwater (excluding state infrastructure); transport and parks networks; or land for local community facilities.

By removing reference to the prescribed maximum infrastructure charges stated in the *Planning Regulation 2017*, the Bill will enable local governments and water service providers to impose higher infrastructure charges on new home-owners.

Whilst infrastructure charges are paid by developers, the Bill erroneously assumes that these charges are not passed onto homebuyers. It is noted that in Mr Berkman's explanatory speech to the Bill, he states that "economic research shows that infrastructure charges are not generally passed onto homebuyers. They are borne by developers, reducing their profit margins…".

The Institute is concerned that this comment is misleading and incorrect. Infrastructure charges are one of many input costs to a development project which are passed through to the purchaser through the price of the land, house, or other development.

Research undertaken by the Queensland University of Technology provides empirical evidence of the impact of developer charges on house prices in Australia. This research provides evidence that not only are developer charges passed through to new homebuyers but also to buyers of existing homes, resulting in increased mortgage repayments by close to $1,000 per month.[1] This research proves that developer contributions **are passed onto the homebuyer** and do have a considerable impact on housing affordability over the long term.

Whilst new homebuyers have previously accepted these costs and are paying the resulting higher prices for land and homes, further increases may be strongly resisted given recent interest rate rises and overall cost of living increases. If sufficient numbers of homebuyers are no longer able to pay a price for land and housing that includes input costs, it will not be feasible to undertake such development. The consequence will be a further reduction of the supply of land and housing to the market. Less new housing reduces rental stock and limits choice for people renting homes. This results in increased rents for people who may not have the ability to choose to purchase a home.

The Institute is concerned that under either scenario, the Bill will have a catastrophic and irresponsible impact on housing affordability at a time when thousands of Queenslanders are experiencing deepening levels of homelessness and housing stress.

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[1] Developer charges and housing affordability in Brisbane, Australia, 2015

2. Equitable cost sharing where infrastructure benefits the wider community

The Bill assumes that the full cost of trunk infrastructure that is needed by communities should be funded by infrastructure charges. This ignores the fact that much trunk infrastructure is a response to heightened levels of service which are often the consequence of increased public safety and environmental requirements. The infrastructure which provides these increased levels of service often benefits existing home-owners and businesses as much as new home-owners and businesses. Given these dispersed benefits, it is not equitable to only recover the cost of such infrastructure through infrastructure charges as this funding mechanism only applies to new home-owners and businesses.

Despite this, the Bill will enable local governments and water service providers to recover the **full cost** of trunk infrastructure from new home-owners and businesses through the imposition of higher infrastructure charges on development. This represents a paradigmatic shift from the current regime, which appropriately shares the funding burden and benefits between existing as well as new home-owners and businesses. For infrastructure that provides benefits to the wider community, funding from a broad-based revenue source is considered more appropriate than increasing the infrastructure charges imposed on new development.[2]

The Institute does not support an approach that requires renters, new home-owners, and businesses to be wholly responsible for funding infrastructure, particularly where it benefits the wider community.

3. No evidence that capped charge is insufficient

The Bill assumes that infrastructure charges revenue being collected from developers under existing capped charges is insufficient to fund the cost of trunk infrastructure being delivered. This assumption is not supported by any analysis of actual infrastructure charges revenues received by Queensland local governments against the cost of the trunk infrastructure that has been delivered over the same timeframe. There is also no clear evidence available from local governments to support this assumption.

The Institute has undertaken research on the amount of infrastructure charges revenue and expenditure reported by four South East Queensland local government areas and found that all four had **significant unspent revenue** at the end of the 12 month period. Of the four local governments researched, the cumulative total of unspent revenue (i.e. surplus) for the 12 month period was around $64 million (refer table below).

Local government	Year	Charges revenue collected ($)	Charges offset (infrastructure provided by developer) ($)	Charges revenue spent ($)	Charges refunded ($)	**Total unspent revenue ($)**
Logan	2021/22 (22/23	86,237,000	31,561,000	21,263,000	1,878,000	**31,535,000**

[2] 210831-research-paper-developer-contributions-how-should-we-pay-for-new-local-infrastructure-final.pdf (housingaustralia.gov.au)

	not available)					
Redland	2022/23	13,526,181	533,944	14,532,321	144,762	**1,150,901**
Ipswich	2022/23	25,411,000	1,032,000	47,230,000	1,821,000	**23,640,000**
Moreton	2022/23	44,703,000	1,314,000	36,819,000	263,000	**7,621,000**
TOTAL		169,877,181	34,440,944	119,844,321	4,106,762	**63,946,901**

The cumulative total of unspent revenue being held by local governments was not clear and if it was being held separately from other revenue, specifically for the purposes of providing trunk infrastructure. Therefore, there is no way of knowing how much revenue has been carried forward, held by local government, or how much is being spent on items that are not trunk infrastructure.

The Institute is very concerned with the lack of detail required in the reporting on infrastructure contributions being collected, spent, and held by local government. Increased reporting transparency requirements would allow home-owners and businesses to understand where their infrastructure charges have been invested. Local governments should be held to account for the amount of infrastructure funds being held, the distribution of funds to projects / areas, and be required to provide a detailed quarterly report for greater transparency and accountability.

In the UK, collected contributions must be spent within the time limit and any monies not spent are then returned to the developer [3]. The Institute recommends that there be more regular reporting on infrastructure contributions and spending and that similar to the UK, funds be returned to the developer if not needed for the infrastructure it was intended to fund.

4. Overengineering of infrastructure

Removing the current cap on infrastructure charges will remove the incentive for local governments to innovate, plan, and deliver more cost-effective trunk infrastructure. It will also encourage more trunk infrastructure to be included in an infrastructure plan than may ever be delivered by the local government if it serves to increase the quantum of the resulting infrastructure charge.

The Institute does not support changes to legislation that will result in the ability for local governments to 'gold plate' infrastructure standards which results in significant additional and unnecessary costs for new home-owners, thus locking more Queenslanders out of private home ownership.

5. Loss of certainty

The Bill assumes that it is possible to calculate infrastructure charges to have an accurate nexus with the cost of the trunk infrastructure being delivered. It is not. This is because an infrastructure charge must be calculated using assumptions about the type and timing of future development over a period of many decades. It also relies on assumptions about the type, timing, and estimated cost of future infrastructure necessary to service the predicted development. History demonstrates that these assumptions are rarely accurate and that the nexus between infrastructure costs and infrastructure charges is typically low.

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[3] 210831-research-paper-developer-contributions-how-should-we-pay-for-new-local-infrastructure-final.pdf (housingaustralia.gov.au)

The capping of infrastructure charges since 2011 has made the administration of infrastructure charges much quicker and easier for local government. Prior to 2011, infrastructure charges calculated by a local government had to be approved by the Queensland State Government after a review by the Queensland Competition Authority. This process was expensive and extremely time-consuming. The removal of the cap on infrastructure charges will inevitably result in the Queensland State Government having to re-establish a process for the approval of infrastructure charges calculated by local government, with consequent time delays and higher administration costs for all.

The capping of infrastructure charges has also provided greater certainty and simplicity for the property development industry. According to Housing Australia (formerly National Housing Finance and Investment Corporation) in its August 2021 paper *Developer Contributions: how should we pay for new local infrastructure*, whilst developer contributions may (in theory) help ensure developers factor in and contribute to the cost of new infrastructure around housing developments, these contributions are typically complex to estimate and costly to administer. If developer contributions are unpredictable, poorly scoped or administered inefficiently, they have the potential to impede new housing supply and unnecessarily increase the cost of new housing.

The use of capped infrastructure charges has made the estimation of infrastructure charges much easier for those undertaking development. The greater consistency between charges across local governments has also greatly enhanced certainty, providing a more predictable environment for investment in new housing across the state.

6. Exacerbation of intergenerational equity

With the cost of housing outstripping wages growth at a speed never seen before in Australia, the likelihood of escaping the trauma of the rental market by achieving private ownership is receding rapidly for thousands of young Queenslanders. Increases in developer charges will only exacerbate the severe intergenerational inequity currently seen in our housing market, as explained by Housing Australia:

> *Traditionally, state and local governments used general taxation and rates revenue to fund infrastructure. But these budgets are increasingly constrained and stretched, putting pressure on governments to find other ways to fund new infrastructure that meets community expectations. Nowadays, developer contributions mean new homebuyers are shouldering more of the costs relative to previous generations, who purchased when costs were more broadly shared amongst taxpayers and ratepayers. In this sense, the increasing use of developer contributions to fund local infrastructure reduces intergenerational equity.*[4]

7. Exacerbation of the disproportionate infrastructure charges burden for regional Queenslanders

Land values vary significantly between areas of regional Queensland and the south-east corner. As a result, infrastructure charges already represent a greater percentage of the cost of a new home in regional Queensland compared to metropolitan areas as illustrated in Chart One. Any increase

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[4] 210831-research-paper-developer-contributions-how-should-we-pay-for-new-local-infrastructure-final.pdf (housingaustralia.gov.au)

to infrastructure charges would exacerbate the already disproportionate burden infrastructure charges placed on regional Queenslanders compared to their south-east counterparts.

Figure One: infrastructure charges as a percentage of median Land Price (April 2023)

SEQ vs Regional

- SEQ average (6%) vs Regional average (14%)
- SEQ highest Ipswich (11%) vs Regional highest Rockhampton (26%)
- Lowest regional percentage is Cairns (10%), only slightly lower than SEQ max Ipswich (11%)

8. Higher infrastructure charges will not address key funding challenges

The proposal to remove the infrastructure charges cap will not address the key challenge associated with the delivery of trunk infrastructure by local governments and developers. The key challenge for both local governments and developers is funding the large upfront capital cost of the trunk infrastructure that they are responsible for delivering, which is essential to unlock new housing supply. This includes trunk infrastructure such as arterial roads, water and wastewater treatment plants, citywide sports parks etc. An increase in the amount of infrastructure charges is unlikely to resolve this issue as revenue from infrastructure charges is received in increments over a long period of time.

The Institute acknowledges that the funding and delivery of trunk infrastructure poses significant challenges for local governments and that more could be done by the State and Federal governments to assist by providing a funding mechanism to support the delivery of this infrastructure. Changing the existing capped infrastructure charges regime will not address the current funding challenges and will likely make matters worse.

Recommendations to the Queensland State Government

The current Queensland Housing Crisis can only be solved by delivering more new homes. When considering how to boost the supply of housing in Queensland, a range of options are available across the areas of regulation, planning, and critically, infrastructure funding. In respect of infrastructure funding, the Institute has provided the following recommendations to the Queensland Government, which are better, more powerful alternatives than those proposed in the Bill and will boost the supply of new homes, rather than curtail it:

1. Address the current housing-specific infrastructure backlog with a $2 billion spend on housing related infrastructure to allow new homes to be built immediately and make inroads on the Queensland Housing Crisis.

    I. Dedicate $500 million each year for four years to an upgraded Building Acceleration Fund/Catalyst Infrastructure Program to provide direct funding as well as repayable infrastructure investment for housing related investment by the private sector, local government, and agencies across the state

    II. Provide $500 million in fast tracked funding and facilitation of specific high need infrastructure which unlocks housing potential in growth areas

    III. Establish a new $1 billion Queensland Government Trunk Infrastructure Co-payment Fund to assist local government deliver new trunk infrastructure to unlock development potential and get more new homes on the ground sooner.

2. Support multi-residential typologies to provide homes to more people. The Queensland Government's South East Queensland Regional Plan draft Update calls for a significant boost to the number of homes built in multi residential typologies. This is at a time when the feasibility of building these types of projects as fallen to new low due to, among other things, rapidly escalating construction costs. The Institute recommends that the Queensland Government create a $500 million fund to re-imburse local governments which offer a 100% discount on infrastructure charges for multi residential projects.

Conclusion

For the reasons outlined above, the Institute remains supportive of the decision to cap infrastructure charges, which was a decision that took a great deal of political courage at the time. The fact that few other states or territories have shown similar courage is not a reason to revert to the situation that existed prior to 2011.

The Institute is particularly concerned that removing the capped charge regime will result in the full the cost of infrastructure being passed on to renters, new homebuyers, and businesses. This will have a catastrophic and irresponsible impact on housing affordability at a time when thousands of Queenslanders are experiencing deepening levels of homelessness and housing stress. Any changes to legislation should carefully consider the impacts on the price and supply of housing and should not have a detrimental impact on housing affordability.

The Institute welcomes the opportunity to speak to the points raised in this submission at the State Development and Regional Industries Committee public hearing. Thank you for considering the Institute's submission.

Please contact Principal Policy Advisor, Marianne Hocking ( ) on should you have any questions.

Yours sincerely,
Urban Development Institute of Australia Queensland

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