

17 January 2022

Mr Kerry Doss
State Planner and Deputy Director-General
Department of State Development, Infrastructure, Local Government and Planning
PO Box 15009
CITY EAST QLD 4002

Dear Kerry

Queensland's Infrastructure Planning and Charges Framework

The Property Council understands that the Department of State Development, Infrastructure, Local Government and Planning is developing a discussion paper on potential reforms to Queensland's Infrastructure Planning and Charges Framework.

In 2011, the *Sustainable Planning Act 2009* (SPA) was amended to implement a capped infrastructure planning and charging framework in Queensland. The regulated cap on infrastructure charges was designed to increase cost certainty for industry and deter poor charging practices by local governments. The Property Council was heavily involved in the development of the new charging framework at that time and appreciated the opportunity to represent the development industry in the conversations that led to its implementation.

While the current framework may have imperfections, Queensland's property industry considers the framework as drafted to be satisfactory for the most part, and workable to the day-to-day needs of development. The framework itself provides certainty- noting that most of the industry's concerns revolve around its implementation. The Property Council would therefore advise caution in considering any major changes to the fundamental characteristics of the framework.

Ahead of the release of the anticipated discussion paper, the Property Council offers the following advice on behalf of the state's property industry. These observations reflect the experience of the industry in navigating the current framework and identify opportunities for improvement.

Supporting and strengthening the current framework

The Property Council contends that cultural and implementation issues are a major cause of difficulties with Queensland's infrastructure planning and charges framework.

It is the experience of industry that the focus of the system has moved away from infrastructure planning to become focused on revenue raising. Common practices witnessed by the industry include, denying offsets and applying charges in order to 'double dip' through extra payment conditions, the abandonment of planning principles in approval conditioning and Infrastructure Agreement (IA) negotiation, and instances of 'ultra vires' behaviours that exceed the scope of power given to local governments through the framework.

Property industry participants have noticed a common approach is being taken to exclude significant future growth areas and trunk infrastructure from within the boundaries of Priority

Infrastructure Areas (PIA). This allows local governments to levy infrastructure charges above the regulated amount and places the onus on the developer to undertake infrastructure planning. This is coupled with a significant decline in future infrastructure planning within Local Government Infrastructure Plans, which is necessary to support the growth in regional plans and planning schemes.

It is important to note that only a small percentage of Emerging Communities zoned land within some high growth local government areas is being included within the PIA. This means that the vast majority of prospective development is subject to additional conditioning powers for trunk infrastructure and extra payment conditions under the Act. As an example, within Redland City Council only 3.8% of Emerging Communities land is within the PIA. Within Moreton Bay Council, the figure stands at only 1.6%.

An ongoing concern of the industry has been a lack of end-to-end understanding of the LGIP and infrastructure charges process and implications, prevalent through the spectrum of judges, barristers, lawyers, experts, state and local government policy makers and across the wider community. This typically leads to inefficiency in the delivery of infrastructure at a local government level versus the private sector, seen through time delays for delivery, charging up to 30 per cent and in some cases 50 per cent for contingency items over and above hard cost items, and a general lack of transparency on rates, scope, and costs assumed in delivery of infrastructure.

The Property Council strongly encourages the Department to consider the implementation of programs which would assist in boosting understanding of the current system, increasing transparency and shifting the cultural attitude of local government decision makers towards a focus on infrastructure planning (rather than revenue raising). This coupled with closing out some small but significant loopholes in the legislation and more robust assessment of LGIPs are seen as pragmatic and responsible solutions to these issues.

The regional-scale infrastructure challenge

A major challenge facing the current framework is how regional-scale infrastructure, often the responsibility of the State Government, is planned and funded.

The industry experience has been that a lack of capability to fund major infrastructure upgrades, that are beyond the scope of any individual development project, are holding back significant major new growth fronts and underutilized land within the Urban Footprint. These fronts, such as Caboolture West, are often already identified by regional plans as future areas of urban expansion.

While each Australian jurisdiction has distinctive aspects to the way infrastructure charges are collected for regional-scale purposes, Queensland's challenge in this regard is not unique.

The Property Council would encourage caution in seeking to replicate any interstate model in the Queensland context, particularly the Victorian GAIC. The current infrastructure contribution system in Victoria is the product of many iterations of piecemeal reform and has been heavily criticised by Victorian Auditor-General reports.

The industry would welcome the following principles be considered as a guide to any future infrastructure charges reform agenda:

1. **Affordability:** A system that keeps housing affordable for all Queenslanders

2. Liveability: A system that delivers liveable communities as they grow and evolve.
3. Efficiency: A system that reduces complexity and the regulatory burden.
4. Equity: A system that is equitable and recognises the responsibility of all stakeholders.
5. Accountability: A system that is transparent, consistent and accountable for delivering infrastructure as and when communities grow and evolve.
6. Certainty: The development industry needs certainty in making multimillion dollar decisions in buying and developing land.

Reforms for consideration

The Property Council would welcome the Department's consideration of the following potential points of reform to the Infrastructure Planning and Charges Framework.

Potential changes to legislation, guidelines and departmental implementation, include:

- Transparent collection of charges, along with accountability of municipalities that collect charges to openly report on where they are being spent.
- Proactive compliance monitoring of local governments by the Department based on level of appeals, inconsistent reporting or substantiated complaints.
- Stronger action from the Department on non-compliance by local governments including charging and conditioning suspensions for non-compliance.
- Improving the LGIP reviewer framework to be more quantitative and accountable, including improving the current checklist to ensure it reveals the level of compliance.
- Creating an incentive model or rating mechanism to improve the quality of LGIPs, such as a 'gold', 'silver', and 'bronze' ranking and developing some incentivised grant funding to drive improvement.

Potential improvements to plan making, include:

- Establishing a clear and consistent determination of development constraints and documentation of the impact on yield.
- Creating better documentation of growth timings and expected 'take up rates' which reflect the localised conditions and market drivers.
- Planning assumptions must be required to ensure that ultimate demand is defined from the planning scheme land use outcomes to ensure infrastructure planning is aligned.
- Providing better clarity on processes underpinning any PIA, including:
 - determining growth assumptions by zone and dwelling type.
 - assessing market drivers for demand to determine capacity needs.
 - feasibility of development yield versus cost to service based on DSS; and
 - a 'reality check' on land availability based on statutory or land owner considerations.
- All of these analyses should be supported by policy and guidelines to achieve improved outcomes.
- Desired Standards of Service to be provided in a statutory guideline, defined by urban density/regional considerations and can be amended by design manuals which justify variances. These should include response to climate resilience, floods, droughts, bushfire and sea level considerations.

- Infrastructure requirements in Plans for Trunk Infrastructure (PFTI) to reflect ultimate demand outcomes with staging considerations determined by expected growth rates.
- PFTI must clearly identify how all the land use outcomes in the planning scheme are being serviced consistent with the DSS in order to have evidence base for decision making in capital delivery and conditioning.
- Trunk infrastructure in the PFTI and SOW should be nominated by the likely delivery entity as developer, council or either to clarify expectations and ensure improved alignment to the Long Term Financial Forecasts of local government.
- Costing approaches/assumptions for networks need to be supported by background reports to meet a guideline template.
- The current replacement cost approach in existing networks should be removed and should reflect equivalent cost to initially construct the asset.
- Due consideration of the existing assets' ability to meet the DSS must also be considered and discounted where relevant.
- Grants and revenue sources must be taken into account through the framework, as failure to do so leads to inaccurate assessment of revenue needs.
- Achieving better guidance on planning, delivery and costing of upgrades (i.e. change to DSS) and augmentation (i.e. change to capacity) to ensure the balance of renewal versus infrastructure charge funding is appropriately considered.
- Creating minimum requirements for financial reporting around any PIA, including assessment from wider PFTI work, establishing the costs of extent of trunk infrastructure and the value to be delivered by both council and the developers.

Potential improvements to plan implementation, include:

- Creating a new provision in the *Planning Act* regulations (i.e. Minister's Guidelines and Rules) to require a statement of trunk definitions to drive councils to acknowledge and plan for trunk infrastructure and to underpin conditions made under 128 (2) and conversion applications.
- Reflect the findings of some case law which removes the ability to charge if no infrastructure planning exists to service the development.
- The explicit regulation of the default conversion criteria, so that it is no longer left to interpretation. This has resulted in significant inconsistency and inclusion of new criteria which defeat many conversions (e.g. conversions cannot be requested for infrastructure or development outside the PIA).
- There is a need to re-analyse the regulated charges based on detailed evidence, similar to what was undertaken in 2010.
- Council charges resolutions need to have greater consistency and clarity around what the planning assumptions require for the type, scale, location, or timing of development.
- The 'timing of development' test needs to be refined and should be based on a fair and reasonable approach ensuring an appropriate level of weight is given to this assessment. Currently the timing is considered indisputable despite it being based on a series of qualitative and quantitative assumptions fixed in time to represent a dynamic market and delivery process over time.
- Government should institute an 'in delivery' audit and review process of LGIPs during implementation to provide guidance, improvement strategies, funding

and support to ensure the planning, funding, delivery and risk management of local government is optimised and learnings are used for best practice and reform activities.

Through the adoption of these recommendations, Queensland's infrastructure charges framework stands to benefit from improved financial efficiency and sustainability, creating less risk to council, ratepayers, developers and the wider Queensland community.

Any reforms that could be considered that will create less opportunity for third party intervention in the process will result in enhanced planning outcomes, greater certainty and a higher level of evidence-based decision making. Ultimately, this will improve affordability and the quality of life for Queenslanders. It is critical to recognise that increases to infrastructure charges come at a very real cost to new homebuyers.

As always, the Property Council would welcome any opportunity to be involved in potential reform of policy and regulations that affect the development industry. We look forward to providing further input once the discussion paper has been released, however would be happy to meet with you and your team to further discuss the above opportunities for positive reform of the infrastructure charges framework at any time.

Yours sincerely,

A handwritten signature in black ink that reads "Jen W". The signature is written in a cursive, flowing style.

Jen Williams
Queensland Executive Director