

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

Explanatory Notes

Short title

The short title of the Bill is the Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023 (the Bill).

Policy objectives and the reasons for them

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.

Infrastructure charges are levied by local governments on developers to account for the additional pressure placed on pedestrian crossings, parks, flood mitigation, public and active transport and other community services and facilities as the local population increases.

The *Planning Act 2016* gives the State Government power to make a regulation prescribing a maximum amount for infrastructure charges levied by local governments. This cap on infrastructure charges creates a disconnect between the regulated maximum amount and the level of funding that local governments and communities actually need, and limits the amount of revenue that can be gained from charges to fund essential infrastructure in growing communities¹. It also gives local governments limited flexibility to respond to higher costs of providing infrastructure during inflationary periods in the construction industry or real estate market.

Given the significant profits made by developers, especially in an inflated housing market, the current caps do not allow for appropriate infrastructure charges to be levied to account for additional pressure on existing local infrastructure.

Achievement of policy objectives

The Bill achieves its policy objectives by amending the *Planning Act 2016* and the *South-East Queensland Water (Distribution and Retail Restructuring Act) 2009* to remove references to maximum adopted charges for providing trunk infrastructure for a development.

¹ James, B. (2017). 'Maximum Infrastructure Charges: Implications for Urban Transport Planning'. *Australasian Transport Research Forum 2017*

Alternative ways of achieving policy objectives

There is no alternative method of achieving the policy objectives.

Estimated cost for government implementation

There are no significant cost impacts from these amendments.

Consistency with Fundamental Legislative Principles (FLPs)

The amendments are consistent with fundamental legislative principles.

Consultation

The Member has developed the Bill based on stakeholder and community feedback.

Consistency with legislation of other jurisdictions

In Australia, only Victoria and New South Wales have also introduced State Government-imposed regulations or caps on infrastructure charges which can be levied by local governments. Victorian local governments are required to seek State Government approval for Development Contributions Plans to collect infrastructure charges, and standard charges are applied to greenfield growth areas and strategic development areas as determined by the Planning Minister. New South Wales caps local development contributions for both special and local infrastructure charges. The Bill would bring Queensland back in line with other states and territories which give local governments control over the levying of infrastructure charges without State-based limits on the amount that can be charged.

Notes on provisions

Part 1 Preliminary

Clause 1 Short Title

Clause 1 provides that when enacted, the Bill may be cited as the *Planning and Other Legislation (Make Developers Pay) Amendment Act 2023*.

Part 2 Amendment of Planning Act

Clause 2 Act Amended

Clause 2 states that this part amends the Planning Act 2016.

Clause 3 Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023

Clause 3 amends s112 of the Act to remove powers to make a regulation prescribing the maximum amount for an adopted charge for providing trunk infrastructure in relation to development.

Clause 4 Amendment of s 114 (Contents—general)

Clause 4 amends s114(1) of the Act to remove the requirement that an adopted charge be no more than the maximum adopted charge set by regulation. It also amends s114(5) to remove reference to the maximum adopted charge from limits on automatic increases to levied charges, while retaining the requirement for the automatic increase to be no greater than increases proportional to the construction producer price index for roads and bridges.

Clause 5 Amendment of s 115 (Provisions for participating local governments and distributor-retailers)

Clause 5 amends s115 of the Act to remove reference to maximum adopted charges.

Clause 6 Amendment of sch 2 (Dictionary)

Clause 6 removes references to maximum adopted charges.

Part 3 Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

Clause 7 Act Amended

Clause 7 states that this part amends the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009.

Clause 8 Amendment of s 99BRCG (Matters for board decision)

Clause 8 makes consequential amendments to s99BRCG to remove reference to the maximum adopted charge for trunk infrastructure prescribed by regulation under the Planning Act.