SHOPPING CENTRE
COUNCIL OF AUSTRALIA

QUEENSLAND INFRASTRUCTURE PLANNING AND CHARGING FRAMEWORK REVIEW: DISCUSSION PAPER

A submission by the

Shopping Centre Council of Australia

August 2013

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Executive Summary

The Shopping Centre Council of Australia (SCCA) welcomes the opportunity to comment on the *Discussion Paper: Infrastructure planning and charging framework review*. We congratulate the Government on preparing a comprehensive framework and options for consultation. We also welcome the opportunity to be a member of the *Stakeholder Working Group*.

We have highlighted our preferred reform options and responded to the questions outlined in the *Discussion Paper*. Aside from the potential to improve development feasibility (and hence, development activity), many reform options will improve the credibility, transparency and fairness of the framework.

Tax, economic and employment benefits

Our fundamental recommendation is that the review breaks the short-sightedness of the infrastructure charges framework by recognising the taxation, economic and employment benefits of development. This should be a specific reform outcome added to the proposed outcomes listed at section 3. Specific analysis on the taxation, economic and employment benefits of development, prepared by Urbis, will be provided to complement this submission.

It is frustrating that the Government and local councils remain unconvinced that these benefits should be predominant factors in the charges and development assessment framework.

Overcoming the current short-sightedness would also help reinforce the Government's *Property and Construction Strategy* and related initiatives such as the *Small Business Action Plan*.

For one retail development, <u>additional</u> council rate revenue of $4.6 million and state government tax revenue of $50.4 million will be generated over a 2-year construction and 5-year operating period. The difference (or perceived 'shortfall') between the negotiated infrastructure charge (state and local) required to get the project off the ground, and the original charge imposed on the developer (which was proved to be unreasonable), is more than covered by the additional taxation revenue and economic activity generated by the development.

Another retail development provided employment for over 6,800 people during the construction and fit-out phase, across 508 small to medium businesses. For one trade alone (bricklaying), 74% of workers live more than 10km from the project and the highest concentration of workers live greater than 50km from the project; highlighting the regional impact and benefit of construction projects. Another one of our member's projects will create 1,500 construction jobs and 950 permanent retail jobs on completion, in an area with annual employment growth that is more than three times lower than the current state-wide average.

Local government response and implications

In pursuing certain reform options (e.g. reducing infrastructure scope; 'deemed' trunk infrastructure; standard demand methodology), we anticipate local councils will highlight budgetary and financial sustainability implications and the subsequent potential need to increase rates and refuse development applications.

While reforms to improve fairness and transparency should be pursued in any case, we submit such feedback should be considered with the tax, economic and employment benefits of development in mind. This is especially important to the extent that local councils may seek to create an impasse in the reform process, or highlight broader considerations for infrastructure such as efficient planning, sustainable communities and capital works programs.

It is a fact that local councils already get their pound of flesh from our members under the minimum and differential rating framework, with no link or relationship to valuation movements; let alone the cost or provision of infrastructure and services. One of our member's recently experienced successive 78% and 64% annual rate increases (an overall increase of $630,000) for one shopping centre.

The Government also needs to review local government feedback in the full knowledge that the industry is experiencing a new dawn of additional infrastructure requirements that are: (1) well beyond what's reasonable (neither trunk or non-trunk infrastructure) and with no nexus; (2) outside a PIP and possibly deliberately unidentified; and (3) buried in a planning Code to potentially avoid scrutiny.

As an example, Brisbane City Council is proposing under its *Draft new City Plan* that development co-located with public transport must provide free commuter parking. This provision will have a significant impact on shopping centre development if it proceeds. A shopping centre does not generate demand for commuter parking; public transport does. There is no nexus. In many cases, public transport facilities are located on our members' land at a minimal annual license fee. At around $30,000 in construction cost per multi-deck car park, this proposal will have a serious cost impact on development feasibility, in addition to 'trunk' and 'non-trunk' infrastructure.

The Government needs to intervene and stop such blatant cost-shifting and disregard for the legitimate infrastructure planning and charging.

Reform options

We strongly welcome the proposed reform outcome to ensure *Development Feasibility*.

As noted above, we believe the taxation, economic and employment benefits of development should be an additional specific reform outcome.

We also welcome the proposed limitation of the scope of infrastructure, which is a good opportunity to lower charges and re-introduce a core focus on critical infrastructure under the charges framework. This has the potential to reduce infrastructure costs by 18-20% for retail development as outlined at section 5.1.4 of the Paper (the smallest reduction of all tested development types).

We also welcome the option of retaining the 'capped charges' regime, which meets another reform outcome of providing certainty for both industry and local government. We note that capped charges will be the subject of further investigation and we would be pleased to be involved in this discussion. We have therefore not recommended any capped charge for retail development in this submission. We would however urge the Government to address this issue before 31 December 2013.

We also welcome the proposed reforms to bring more fairness into the system based on existing framework principles. This includes the proposed 'deemed trunk infrastructure' and 'deemed trunk principles', as well as the proposed offset and refund reforms which would enable the capture of 'actual value' to a developer as opposed to planned value under an infrastructure plan. We have one member where a condition will cost them 30% more than what the local council was willing to recognise/offset due to the application of generic and planned rates and values. Clearer rules and standardisation of offset valuation methods could improve the current situation.

We look forward to continuing discussions with the Government on the review. Our contact details appear at the end of this submission.

1. Tax, Economic and Employment Benefits of Development

On the basis of our fundamental recommendation that the charges framework should recognise the taxation, economic and employment benefits of development, this section provides a snapshot of some relevant and critical factors for the Government's consideration.

$3 billion

Current SCCA member development pipeline across Queensland.

$275 million

Average development value of SCCA member development across Queensland.

$50.4 million / $4.6 million

Expected additional state and local government revenue from one retail development after the first five years of operation.

6.6% unemployment

Latest annual unemployment rate (up 0.6ppt) of location where SCCA member projects proposed – behind state-wide unemployment rate of 6% (Source: OESR, Labour Force Statistics, June 2013).

6,800 people

Number of people employed at recent retail development.

1,200 people

Estimated full-time, part-time and casual centre positions created following completion of a current retail development.

508

Number of businesses contracted at a recent retail development.

Joinery | Cranes | Waterproofing | Traffic Control | Scaffolding | Concrete Pumping | Environmental Fencing | Security | Refrigeration | Painters | Plumbing | Electrical | Sound and Lighting | Signage | Air Conditioning | Steel Fixing | Fire Safety | Doors | Cleaning | Insulation | Guard Rails | IT and Telecommunications | Plastering | Flooring | Brick Laying | Glass and Windows | Landscaping | Asphalting | Tiling | Removalists…

The types of Queensland companies, trades and workers employed at a recent retail development.

60 suburbs / 10km +

The number of SEQ suburbs where workers in one-trade on a recent retail development reside. 74% of workers in one trade live more than 10km away from the project.

RECOMMENDATION

1. **The review needs to recognise the taxation, economic and employment benefits of development, which can significantly outweigh perceived shortfalls from lowering infrastructure charges or other proposed reforms such as 'deemed' trunk infrastructure and offsets and refunds.**
2. **As the principle taxation beneficiary of development is the state government, the Government needs to ensure that state agency conditions are addressed in the spirit of the review.**

3. Reform Outcomes

We note that the four proposed reform outcomes have not been used to test the reform options outlined in the paper.

We also note that a preferred set of reform options will be tested against these outcomes. We support this approach, otherwise it raises the question as to why reform outcomes would be articulated in the first place.

It is critical that *development feasibility* is maintained as a reform outcome.

If infrastructure charges are not feasible, a project will not proceed. In the case of national organisations, project funds could be allocated to other opportunities including projects interstate.

However unlike the proposed reform outcome of long-term *local authority financial sustainability*, the development feasibility reform outcome has a short-term focus and we are concerned this will fail to consider long-term industry issues such as tax, economic and employment benefits.

We therefore believe that a reform outcome should be added which focuses on the tax, economic and employment benefits of development as outlined in the previous section. A final set of reform options should be tested against this outcome.

We believe the addition of this reform outcome is logical and reasonable. Our members have operational and long-held assets. The infrastructure charges framework however, despite being a mid to long-term framework, treats these assets as short-term and as if their only contribution comes at the time of redevelopment (typically around a 5-10 year development cycle).

A critical issue in this regard is the council rates paid by our members.

The rating framework is highly discriminatory against shopping centres under the minimum and differential approach to rating. Despite the 'capacity to pay' approach to rating being over-turned in the court (i.e. land cannot be rated based on the perceived 'capacity to pay' of its owner), our members have continued to see significant increases in rates with no link to:

- Valuation increases;
- The impact on infrastructure;
- The cost or provision of infrastructure and services.

Specifically, some of the reforms options which relate to local government sustainability needs to ensure that the assessment of current and future rate payments from an existing asset / proposed development is a fundamental consideration. We intend to provide a follow-up submission on this issue, specifically to form part of the investigation on capped charges.

RECOMMENDATIONS

3. **The reform outcome of development feasibility should be maintained in the final framework.**
4. **A reform outcome titled 'Development benefits' which includes the results areas of the tax, economic and employment benefits of development, should be added.**
5. **The Government needs to review the council rating framework as it applies to retail property to prevent rate gouging and ensure a more transparent link with infrastructure.**

3. Framework Fundamentals

3.1 Infrastructure Scope

The scope of infrastructure is a critical issue as it forms the basis of charges and conditions.

In this regard, we strongly welcome the introduction of an "essential infrastructure with reduced infrastructure scope" (as outlined at Appendix 4) and therefore endorse Option 2. We note that this reduced infrastructure scope could result in an 18-20% reduction in infrastructure costs as outlined in Table 3 in section 5.1.3. In supporting this option, we note that other 'desirable' but non-essential infrastructure can be funded through alternative sources such as rates. It does also not preclude the use of infrastructure agreements in relation to non-essential infrastructure (and in this regard, we welcome Option 2 in relation to reforming the current infrastructure agreement process – see our comments at section 7.5.2).

It is also critical that there is a nexus between a development and its demand on infrastructure.

In this regard, fundamental questions need to be raised about if there is a nexus between non-residential development, such as retail development, and infrastructure such as parks and community facilities.

The demand for parks and community infrastructure is generated by residents, as opposed to shoppers or workers within a shopping centre. For this reason, we believe that *Serviced land for parks and community facilities* should not be applicable to retail development.

Nexus – neither trunk nor non-trunk infrastructure

The Government needs to intervene in other areas of the planning process where councils are seeking to impose additional infrastructure requirements (that are neither trunk or non trunk infrastructure) through planning codes.

A case in point is the proposal under Brisbane City Council's *draft New City Plan* to require the construction of commuter car parks where co-located with public transport facilities. This is clearly public infrastructure but the demand is generated by the public transport facilities; not development such as a shopping centre. There is no nexus. It is highly unreasonable that a developer would be required to provide such infrastructure in addition to trunk and non-trunk infrastructure.

RECOMMENDATIONS

6. **Option 2 should be implemented to reduce the scope of infrastructure.**
7. **Retail development should not be charged for parks and community facilities as there is no nexus.**
8. **The Government should ensure councils do not impose additional infrastructure requirements through planning codes.**
9. **The Government should intervene and remove Brisbane City Council's proposed commuter parking requirements.**

3.2 Identification of trunk and non-trunk infrastructure

We support the categorisation and identification of trunk (i.e. high level infrastructure shared between developments) and non-trunk infrastructure (i.e. not shared with other development).

But it requires a clear, consistent and fair approach.

While we acknowledge there can be difficulties in the identification and allocation of trunk infrastructure in plans, the issues raised in the discussion paper in relation to the deeming of all unidentified infrastructure as non-trunk infrastructure (which means a developer is not entitled for an offset) are consistent with some of our members' experiences.

We therefore support Option 2 to introduce the concept of 'deemed trunk infrastructure' to address the current issue whereby infrastructure not identified in a plan is considered non-trunk. We believe the deemed infrastructure test should apply from 1 July 2014.

We specifically welcome the balance in the proposal through a trunk-infrastructure test process, included in the Regulations, to determine which unidentified infrastructure is trunk infrastructure. We also welcome the ability for an applicant to appeal for conditioned infrastructure to be deemed trunk infrastructure and therefore eligible for an offset or refund. The set of tests to determine whether unidentified infrastructure is trunk or non-trunk would be based on:

- Infrastructure identified in a LGIP or Netserv Plan
- State specifications for trunk infrastructure (e.g. minimum pipe diameter for water reticulation)
- Principle-based evaluation.

The test would be:

1. Is the infrastructure included in a local authority's infrastructure plan?
2. Does the infrastructure meet the minimum specification for trunk infrastructure?
3. Where the infrastructure does not meet the minimum specification, does it provide a trunk function?

We believe that infrastructure that meets 1 or 2 of the above tests should be deemed as trunk infrastructure.

Although Option 2 will have an impact on local authorities it needs to be noted that there are current adverse impacts on developers – and the benefits of development – under the current system. This includes the lack of fairness in being unable to seek offsets for legitimate trunk infrastructure, as well as the impact of unidentified infrastructure on development feasibility.

RECOMMENDATIONS

10. **Option 2 should proceed to introduce the principle of deemed trunk infrastructure.**
11. **We would welcome further development of the test for determining deemed trunk infrastructure to ensure a balanced outcome.**
12. **The deemed infrastructure test should be applied from 1 July 2014.**

3.3 Infrastructure planning

We support the role of infrastructure planning by local councils and distributor-retailers including the need for the incorporation of transparent and credible information, assumptions and projections. This is particularly the case if the proposed planned charge regime is adopted. There needs to be appropriate transparency and rigour about how costs and charges are calculated.

As noted in the paper, infrastructure plans are critical as they form the basis of infrastructure charges and conditions, offsets, credits and refunds, and supporting other local authority processes such as financial plans, asset management plans, budget cycles and capital works programs.

We support Option 2 of the reforms to introduce and support standardisation of the format and content within a PIP, as well as a third party review process.

A significant issue our members have faced is the demand generation rates particularly in relation to transport conditions. We also have members that have experienced issues whereby technical analysis and modelling that has demonstrated a diminishing demand (e.g. where the increasing size of an asset reduces the traffic demand on parts of the network) has been acknowledged by council officers but ultimately not accepted for the purposes of negotiation.

In terms of the proposed standardisation for the infrastructure planning process, we welcome the proposed three key elements: (1) standard methodology for apportioning costs, (2) standard schedule of works model and (3) standard demand generation rates.

We support the average cost methodology as it provides a more equitable approach by considering total demand (including existing and future demand) within an infrastructure network. The concern with the incremental cost methodology is that it places the burden on future demand (i.e. future users). This is a concern to the extent that new developers are paying for previous under investment in infrastructure.

We support the proposed standard schedule of works model. This was not discussed during the stakeholder workshops, however we would hope that this would be discussed at future workshops following local council testing and feedback during the consultation process.

As outlined above, there are issues with demand generation rates particularly in relation to traffic demand for retail development. In a number of retail projects, the most critical point of contention is often related to traffic demand generation rates. We therefore support the proposal for a standard demand generation table based on average rates of demand for different uses, and/or guidance material to improve consistency. The current approach of applying local factors such as traffic counts has not always ensured a fair and equitable approach. Standardisation would help bring improved credibility and transparency. We note this will require specialist input and we recommend the use of consultants to provide input and advice.

We also support the proposed third party review process, and agree with the views outlined in the paper about the resource consuming process of the previous approach. Part of this process should include the ability for a reviewer to question the foundation of inputs and assumptions, rather than just the application of inputs and assumptions. The new process would also benefit from a simplified amendment process.

We welcome the maximum two-year process to transition existing PIPs and Netserv Plans to updated plans which comply with the new framework. However, these plans should be completed to provide industry review and familiarisation at least 3-months ahead of their formal commencement. We also support the additional option of councils included an approved infrastructure plan within a planning scheme within a year of the planning scheme's adoption.

RECOMMENDATIONS

13. **The average cost methodology should be adopted as the best methodology for equitable apportionment of costs.**

14. **The proposed standardisation should proceed.**

15. **In development the standard generation tables, the Government should engage external traffic consultants to understand systematic traffic demand issues with retail development.**

16. **Third party review of infrastructure plans should enable the review of the foundation of inputs and assumptions rather than merely their application.**

17. **Councils should be provided with a maximum two-year period to finalise new infrastructure plans.**

4. Framework Mechanism Options

4.1 Capped Charges

We strongly support the retention of a capped charges regime, which includes a maximum capped charge.

We note that the charges will be influenced by the potential reduction in the scope of infrastructure and other reform options.

We have not made a recommendation on a capped charge rate for retail development, as a replacement for the current $180/m2 incremental GFA rate, as this is subject to further investigation for completion by 31 January 2014. We assume this investigation will also include indexation. As noted previously, we look forward to further discussions on this issue.

While we support the six general terms for the analysis of the capped charges – particularly the consideration of the transport demand apportionment methodology for non-residential development - we submit that the tax, economic and employment benefits of development should also be a relevant factor. The consideration of 'development feasibility' is welcome however.

We also strongly concur that the current retail charge is too high, which could relate to the existing methodology which apportions a high degree of traffic generation to non-residential development.

Charge unit

We believe that the existing structure of the retail development rate – as a dollar charge based on added Gross Floor Area - is appropriate and should be retained. We believe this is the best proxy for demand.

In the previous review, we recommended the use of Gross Lettable Area of Retail as the best measure, as this is the direct function of retail space within a new development, as opposed to common mall areas, storage areas and utility areas. There is a well-accepted standard industry definition of GLAR – which is used in retail tenancy legislation - which the Government could adopt.

From a risk perspective, it would also prevent potential changes to the definition of GFA – or related definitions such as storey – from having an unintended consequence on the charges regime.

Charge differentiation

While the differentiation of charges to be either statewide, location based (e.g. urban, rural) or development type based (e.g. infill, greenfield) will be considered further, the capped charge should be a maximum statewide charge regardless of location. We do not support the differentiation of infrastructure charges by location or infill/greenfield development. This would remove simplicity.

Charge categories

We have no comment on the proposed refinement of charge categories, except to the extent that no retail use should be able to be defined as a 'warehouse'. We are concerned that some retail formats – such as those that have a built form akin to industrial development - will seek to use the warehouse definition and gain a competitive advantage over other retail formats under the charges framework.

We submit that consideration should also be given to a new charge category for large shopping centres, particularly in the case where an increase in retail area has proven to create less demand from a traffic generation perspective (i.e. a diminishing demand curve). Similar to the points above, we will raise this in the capped charges investigation.

RECOMMENDATIONS

18. The capped charges regime should be retained.

19. The development of capped charges should factor in the broader tax, economic and employment benefits of development to the state and local governments.

20. The consideration of the transport demand apportionment methodology for non-residential charges should be retained.

21. The capped charges investigation should be completed by 31 December 2013.

22. There should be no differential based on location or infill/greenfield development.

23. Gross Lettable Area of Retail should be the charge unit for retail development instead of Gross Floor Area (GFA).

24. In determining a charge unit for retail, the current council rating framework should also be considered given there is no relationship between valuation or the application of rates to demand or the cost or provision of infrastructure or services.

25. Any charge differentiation for a 'warehouse' should ensure that no retail format can be defined in such a manner.

26. A new charge category should be considered for large shopping centres where it has been proven that increased retail area results in less demand from a traffic generation perspective.

4.2 Planned Charges

In line with our principal recommendation above to retain the capped charges regime, we do not support the reintroduction of a planned charges regime.

Specifically, we do not support a mechanism through which a local authority can adopt infrastructure charges that exceed the capped charges.

The previous planned charges regime is where our members experienced 1,300% increases in charges across a four-year period and lead to lobbying of the former Government to introduce reforms to lower the charges. This scenario is well described in the Paper. Even though local governments had other levers, they decided to allocate unreasonable costs on retail development.

In some cases, we had members that experienced charges requests of over $900/m2, which resulted in the infrastructure charges being almost as high as the construction value of a project. The previous Government's Major Projects Office initiative was well aware of the some of these projects and issues.

We also believe that the issues presented at section 6.2.1 again highlight the short-term focus of the charges framework.

Aside from existing rates – whereby our members already pay substantial rates and have experienced excessive increases well beyond land valuation increases, measures such as CPI, or the cost or provision of services – the Paper articulates alternative funding options. The onus should be on the council to investigate these options, particularly given they can still ensure local government financial sustainability.

While we appreciate a 'sustainability test', with Ministerial determination, has been proposed which includes the 'dual outcomes' of local government sustainability and development feasibility analysis, we are concerned about the narrow focus of such analysis.

We strongly object to the proposal that the development feasibility test and process, including appeal rights, is limited when compared to the equivalent local government sustainability test. It is unreasonable that a developer – particularly in a specialised property asset class like retail property – would not be able to submit their own development feasibility for consideration, or have it reviewed by an appropriate expert, as part of this process particularly given the proposed reform outcomes.

Local government sustainability test

The proposed 'key elements' of analysis (at page 43) required to determine the impact of charges on local government financial sustainability need to be broadened. As an example, the proposed element of cost recovery relates only to the level of cost recovery through the charges regime, as opposed to other existing and potential funding sources. The elimination of these elements – particularly the existing the future rate contribution from the retail asset / development – is too narrow.

The analysis should include the existing and future rate contribution from the asset/development. Further, it should include the investigation and potential funding from the 'Alternative funding and financing' methods outlined at section 8 of the report.

Development feasibility test and process

We believe the proposed development feasibility test is broadly reasonable but it requires further consideration.

We believe that industry should be involved in further developing the methodology. We do not support the proposal for the Department to develop the methodology with Queensland Treasury Corporation with no external involvement. The best people to determine a development feasibility methodology are developers and their expert consultants. This is particularly the case for retail development whereby – like retail valuation and leasing – it is an area of property which requires specific expertise. There are also fewer organisations involved in certain retail property markets. As an example, the number of organisations who own, manage and develop 'regional' shopping centres (i.e. with Department Stores) is merely a handful such as Westfield, AMP, QIC, Lend Lease and Colonial First State. Making assumptions on development feasibility for such projects, which have their own markets and capitalisation rates applied, would be problematic without the industry's involvement.

A further critical issue worth noting is the risk involved with a project.

As an example, whilst there can be assumptions about future revenue from rent, this needs to factor in issues such as incentives which are commonly provided to retail tenants in the form of rent-free periods and/or contribution to fit-out. Inherent in this is the risk of achieving this rent revenue.

We also believe an additional element is needed for the proposed development feasibility analysis which factors in Government risk. As an example, Brisbane City Council is proposing a new framework to more easily enable retail development outside of the activity centre hierarchy. Such development will increase the risk to existing shopping centres given that historically it is reasonably well known where retail development can occur.

In terms of proposed process, we do not support local authorities undertaking an assessment of the development feasibility. This should be done by with industry involvement and then subject to an independent assessment. Where retail development is involved this could be done by specialist companies that understand retail development and feasibility, similar to process how the Government (through the Valuer-General) undertakes land valuation for large retail properties.

RECOMMENDATIONS

27. A planned charges regime should not be introduced in any form.

28. Councils should required to investigate alternative funding methods.

29. If a planned charges regime proceeds, it should include dual tests of local government financial sustainability and development feasibility to determine the appropriateness of a planned charge.

30. The planned charges regime must include the ability to impose council rate limitations on the council given the problems with the existing framework.

31. The local government sustainability elements must include existing and future rate contributions from the land/asset subject of the development proposal.

32. The local government sustainability elements must include alternative funding methods as outlined at section 8 of the report.

33. The development feasibility test needs to have an additional element which relates to Government risks, such as the potential for out-of-centre retail development.

34. The development feasibility methodology – particularly for retail development - should not be refined solely by the Department and Queensland Treasury Corporation. It should include the development industry.

35. The development feasibility assessment process should not be undertaken by a local authority and should enable individual projects to be considered.

36. The development feasibility assessment should be undertaken with industry participation and then reviewed by independent experts, similar to how the Valuer-General undertakes valuations for large retail properties. Consideration should be given to establishing an expert advisory panel to ensure the process is efficient.

5. Framework Element Options

5.1 Conditions

Infrastructure conditions need to be imposed in a fair and consistent manner.

We agree with the broad principles that conditions relate to infrastructure to directly service a development or connect to existing infrastructure networks, amongst other factors.

We support the view expressed in the Paper regarding the cost shifting through the application of infrastructure conditions. This can result in a developer paying a charge for infrastructure while at the same time being conditioned to provide infrastructure, with no prospect of offsetting the costs.

We therefore endorse Option 2 to introduce 'deemed trunk' principles which would enable an offset or refund. This option relates obviously to the earlier reform proposal (at section 5.1 and 5.2 of the Paper) to introduce 'deemed trunk infrastructure' in relation to infrastructure that is not identified in plans.

We also welcome the proposal that clear, justifiable and challengeable reasons are provided in relation to infrastructure conditions

It is critical that under this reform, if infrastructure is found to be trunk, then the local authority is bound to offset the cost of infrastructure.

To the extent that the reforms deliver increased fairness and transparency, they could lead to decreased cost impacts on development.

RECOMMENDATIONS

37. Option 2 should proceed to introduce 'deemed trunk' principles.

38. Infrastructure conditions should be clear, justified and subject to challenge.

5.2 Offsets and Refunds

We support Option 3 which proposes clearer rules about offsets and refunds, including for both identified and (proposed) deemed infrastructure.

There also needs to be certainty that offset and refunds are provided for infrastructure not identified within a planning scheme. Whilst this can occur in practice, industry requires more certainty.

This includes providing standardisation to the offset valuation methods and we would welcome being involved in the establishment of the new standard for land valuation. We note there are some concerns with the proposed standard valuation process insofar it would increase the level of state oversight. While this is true, it would provide fairness. The Valuer-General oversees a specific valuation process for large retail property, which flows from relatively new legislation and years of litigation. This includes a 'return phase' process which effectively enables an agreement of key assumptions and a proper negotiation.

We welcome the feature of Option 3 whereby an applicant can seek to establish the 'actual value' (versus the planned value/establishment cost) of infrastructure subject to an appropriate procurement process.

We have one member where a condition will cost them 30% more than what the local council was willing to recognise/offset due to the application of generic and planned rates and values. Clearer rules and standardisation of offset valuation methods could improve the current situation

While we accept it will be controversial, we welcome the proposed cross crediting across networks.

RECOMMENDATIONS

39. **Option 3 should proceed to provide clearer rules on offsetting and refunds.**

40. **The ability to determine actual value, versus planned value, is supported principally as it instils fairness into the offset and credit system.**

41. **The Government should develop a standard valuation process, which could modelled (at least for retail development) on the Valuer-General's process for large retail property.**

5.3 Credits

We support Option 2 to develop a consistent, transparent and mandatory crediting methodology.

The issues raised by industry during the workshop process highlights that councils can seek payments from developers that have made previous payments. The fact that some councils have actively altered crediting approaches to reduce the value of credits recognised is highly questionable.

This is a reason why the the charge unit for retail development must be based on additional Gross Floor Area to ensure that only the additional floor space is the subject of charges and conditions, even if existing parts of the shopping centre form part of the redevelopment. In most cases, the existing floor space would have been the subject of infrastructure charges and conditions under a previous development.

While we believe the establishment of a credits register could be an administrative burden for local authorities, we believe there needs to be some form of transparency and record of the credit. In the case of our members, whereby the asset is often under long-term ownership and management, while we would welcome a credits register – and the payment of a small administrative fee – we do not believe it is critical for the reforms to be effective.

RECOMMENDATIONS

42. **Option 2 should proceed to develop a consistent, transparent and mandatory crediting methodology.**

43. **A credits register should be established so long as it is cost-effective and has a minimal administrative burden.**

5.4 Appeals and Dispute Resolution

The current approach to appeals and dispute resolution needs amendment given the current mechanisms are time and resource intensive. Appeals and dispute resolution is a critical element of providing people bound by government decision procedures with procedural fairness. This principle forms part of the Queensland Ombudman's *Good Decision Making Guide*.

We endorse both Options 2 and 3 given that a mediation process through the Planning and Environment Court prior to the lodgement of formal appeal would generally provide a lower cost mechanism. We also welcome the widening of appeal rights, particularly to the methodology used to calculate planning and capped charges, which will improve the transparency and fairness of the current system.

RECOMMENDATION

44. Options 2 and 3 should proceed to provide a lower cost mediation process and broaden appeal rights.

5.5 Infrastructure Agreements

We support the retention of infrastructure agreements and endorse Option 2.

Infrastructure Agreements provide flexibility and enable site-specific negotiations on issues such as contributions, offset and refund arrangements, and deferred payment arrangements. We do however concur with the view outlined in the Paper that Infrastructure Agreements can be expensive and complex to prepare.

We share the concern where they are required as a condition of development approval. A critical issue is that a developer should not a forced or compelled into negotiating an infrastructure agreement. Further, there should be conditions as to their use so they do not become a convenient mechanism to avoid the capped charges regime (or the proposed planned charges regime).

We support Option 2 given the proposal to improve clarity and transparency, prevent conditions in a development approval requiring an infrastructure agreement and the preparation of advisory guidelines to support infrastructure agreement negotiation. This could potentially result in a more timely and transparent negotiation of infrastructure requirements, and reduce compliance costs.

While we see merit in there being a time frame in place, this could be an unwelcome barrier.

The proposed guidelines should potentially mirror the planned charges regime if it proceeds to ensure that appropriate tests are in place, particularly in relation to development feasibility.

RECOMMENDATION

45. Infrastructure agreements should be retained however the Option 2 reforms should proceed.

5.6 Deferred Payments

We support Option 2 and 3 to provide that payment should occur later in the process.

However it is worth noting that deferred payments should acknowledge the difference of retail development which generally doesn't transact like it does for residential development.

Payment could be deferred under legislation once the development opens and starts to fully derive rental and other income. This would reduce risk and improve feasibility and cash flow.

The ability to negotiate deferred payments through infrastructure agreements should be continued.

RECOMMENDATIONS

46. Option 2 and 3 should be considered to enable a deferral of payments.

47. For retail development, payment should be deferred to the stage of the development being completed.

6. Other Framework Issues

6.1 Alternative Funding and Financing

We support the investigation of alternative financing methods, including some of the methods outlined in the Paper.

However, we believe the Government should facilitate a trial or pilot of one of these methods to ensure potential uptake by local governments into the future. Otherwise, the mechanisms, many of which are known, will not be advanced by local government and pressure will continue on the charges framework.

We do not however support value-capture levies, particularly if there is no corresponding policy to ensure compensation to private land-owners and developers where values go down.

We are also opposed to such levies given that value increases are already captured under the council rating and land tax framework. Further, the council rating framework enables rates to be increased even where land value decreases.

We would support a pilot of growth area bonds, special purpose levies and business improvements districts.

RECOMMENDATIONS

48. **The Government should facilitate a pilot for an alternative financing method through (for instance) QTC, LGAQ, COMSEQ and the development industry, focussing on special purpose levies, growth area bonds and business improvement districts.**

49. **Value capture levies should be ruled out for consideration.**

6.2 Resolutions and Distributor-Retailer Board Decisions

Like all government policies and regulation, there is a strong need to ensure that there is transparency and proper compliance. This is particularly the case where charges and taxes are being imposed.

We therefore support the introduction of a third party review and endorsement process for local authority resolutions and distributor-retailer board decisions. Critical to this is ensuring that the justification for increasing charges above existing rates is credible and transparent.

RECOMMENDATIONS

50. **A third party review and endorsement process should be introduced for local authority resolutions and distributor-retailer board decisions.**

6.3 Transitional Arrangements

We support the preparation of transitional arrangements in consultation with the development industry.

While we support the proposal that development applications approved prior to the commencement of the new charges framework will be subject to the existing framework, there should be a process introduced to enable such projects to be fast-tracked under the new framework.

Critical to the transition is the need to ensure that the framework is finalised by 31 December 2013. For this reason, the proposed timeframe for the capped charges framework needs to be brought forward from 31 January 2014 which will be the subject of further investigation.

RECOMMENDATIONS

51. Transitional arrangements should be prepared in consultation with the development industry.

52. For projects with existing approvals, the Government should introduce a fast-track process to enable re-lodgement under the new charges framework.

53. The final framework should be completed by 31 December 2013 to enable industry and local government to prepare for the new framework.

54. The capped charges framework timeframe of 31 January 2014 should be brought forward to 31 December 2013.

7. Shopping Centre Council of Australia

The Shopping Centre Council of Australia represents the major owners and managers of shopping centres. Our owners own and manage more than 11 million square metres of retail space around Australia, in more than 500 shopping centres.

Our members are AMP Capital Investors, Brookfield Office Properties, Charter Hall Retail REIT, Colonial First State Global Asset Management, DEXUS Property Group, Eureka Funds Management, Federation Centres, GPT Group, ISPT, Ipoh Management Services, Jen Retail Properties, Jones Lang LaSalle, Lend Lease Retail, McConaghy Group, McConaghy Properties, Mirvac, Perron Group, Precision Group, QIC, Savills, Stockland, Westfield Group and Westfield Retail Trust.

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