Local government infrastructure framework

Priority infrastructure area – role, determination and application

Purpose

This fact sheet provides advice on the use of the priority infrastructure area (PIA) for both:

1. local governments in determining development applications and applying provisions related to the PIA
2. applicants understanding the role and scope of the PIA when dealing with development applications.

Background

The PIA is part of the local government infrastructure plan (LGIP). Definitions for an LGIP and PIA are included in the *Sustainable Planning Act 2009* (SPA).

Misconceptions of the PIA

Misconception	Discussion	Provisions
Infrastructure charges cannot be levied for areas outside the PIA	The *State Planning Regulatory Provision (adopted charges) 2012* (SPRP) designates maximum charge amounts for different land uses that a local government may levy. The charges can be applied inside and outside the PIA.	SPRP
Infrastructure planning and plans for trunk infrastructure are only limited to areas within the PIA	*Statutory Guideline 03/14 – local government infrastructure plans* (LGIP guideline) outlines a local government may include trunk infrastructure items outside the PIA. Including trunk infrastructure to service the PIA at the desired standard of service is the minimum an LGIP must include. Local governments are required to ascertain the ultimate development capacity of their urban areas and are strongly encouraged to undertake long-term infrastructure planning for their urban areas. Limiting network planning to the PIA may not reflect commitments already made to land use outcomes in the planning scheme which may lie outside the PIA. This does not allow for responsive and prudent management of the overall urban strategy of the local government and may not align with wider local government corporate objectives.	LGIP guideline

Queensland Government

Misconception	Discussion	Provisions
Infrastructure located outside the PIA cannot be trunk infrastructure	The PIA boundary has no impact on whether an infrastructure item is trunk or not. Trunk infrastructure which is identified outside of the PIA or infrastructure which is shown to be consistent with the parameters identified for trunk infrastructure, remains trunk infrastructure.	LGIP guideline
All development outside the PIA must pay additional trunk infrastructure costs	SPA allows for additional trunk infrastructure costs to be applied to a development outside the PIA. However, this does not necessarily mean every development outside the PIA must contribute additional trunk infrastructure costs. Each development must be assessed and considered against the requirements of S650 to 654 of SPA to determine whether additional cost conditions can be imposed.	SPA section 650
Land outside the PIA is not entitled to an infrastructure refund	This perception assumes any development which delivers trunk infrastructure with a value that is greater than the applicable charge, is not entitled to a refund. This is not supported by the legislation which allows for the potential of a refund—just not an automatic refund.	SPA section 650 and 656

The PIA

Role of the PIA

The role of the PIA is to assist in coordinating, prioritising and sequencing the provision of infrastructure across all infrastructure networks to service 10 to15 years of growth. Its aim is to identify the areas where infrastructure can be provided most efficiently to support development.

Urban development is not prohibited outside the PIA boundary and the PIA is not intended to create an absolute regulatory boundary that controls where growth can or cannot occur. It is a local government's responsibility to determine whether development proposed outside of the PIA will be a burden to the community over the medium and longer term or whether it is consistent with long-term planning outcomes. A development's location with respect to the PIA boundary will determine whether some additional assessment requirements, and in some cases additional infrastructure costs, may be applicable where a measured impact can be determined.

Determination of the PIA

The LGIP guideline includes requirements and guidance for the determination of the PIA when drafting an LGIP. Consideration should also be given to the matters outlined below:

- The PIA should make provision for urban growth that appropriately reflects the needs and demands of local communities e.g. detached or attached housing, commercial, industrial and retail development areas.
- Seek efficiencies by utilising existing infrastructure capacity, where available, to meet the immediate needs for growth, and where not, in areas of logical expansion of all infrastructure networks.
- The PIA will not always succeed in perfectly emulating all of the complex considerations in land development which drive the speed, location and type of development. Considerations which may affect growth assumptions about development include:

- availability of land use provisions which facilitate development
- land quality and suitability
- ownership (propensity to develop)
- level of land fragmentation
- market conditions and demand
- infrastructure servicing needs
- costs.

PIA application

The location of development relative to the PIA boundary – i.e. inside, partly outside, or outside PIA – has implications for the conditioning powers for trunk infrastructure under SPA. Development within the PIA that is consistent with the assumptions of the LGIP, e.g. type, scale, location and timing of development will generally not be subject to additional cost conditions.

Where development is inconsistent with the assumptions of the LGIP or is located outside the PIA, provisions under SPA provides for the consideration of additional trunk infrastructure cost conditions.

Statutory provisions

Conditions for additional trunk infrastructure costs – application of SPA sections 650 to 656	
Inside PIA – a local government may impose a condition for additional payment only for the following circumstances:	**Outside PIA –** a local government may impose a condition for additional payment only for the following circumstances:
Development generates infrastructure demand that is greater than the LGIP assumptions about the type or scale of development – s650(1); **or** development requires new infrastructure at an earlier date than the date identified in the LGIP for that infrastructure – s650(1); **and** development would impose additional trunk infrastructure costs on the local government after taking into account: • charges levied for the development Trunk infrastructure provided or to be provided by the applicant under 'this part' [part 2 of SPA (s28A to s665)] – s650(1).	Development generates infrastructure demand that is greater than the LGIP assumptions about the type or scale of development – s650(1); **or** development requires new infrastructure at an earlier date than the date identified in the LGIP for that infrastructure – s650(1); **and** development would impose additional trunk infrastructure costs on the local government after taking into account: • charges levied for the development Trunk infrastructure provided or to be provided by the applicant under 'this part' [Part 2 of SPA (s628A to s665)] – s650(1).
Exception: An additional payment condition may not be imposed for a state infrastructure provider – s650(2).	**Exception:** An additional payment condition may not be imposed for a state infrastructure provider – s650(2).
A condition for the payment of additional costs must identify: • why it is imposed • the amount of the additional payment • details of the trunk infrastructure for which the payment is required • when it must be paid • that the applicant can provide the trunk infrastructure instead of making the payment • if the applicant choose to provide the infrastructure, the condition must identify the requirements for providing it and when it must be provided – s651(1).	A condition for the payment of additional costs must identify: • why it is imposed • the amount of the additional payment • details of the trunk infrastructure for which the payment is required • when it must be paid • that the applicant can provide the trunk infrastructure instead of making the payment • if the applicant choose to provide the infrastructure, the condition must identify the requirements for providing it and when it must be provided – s651(1).
For trunk infrastructure to be provided earlier than the date identified in the LGIP, the amount of any additional cost is limited to the additional establishment cost incurred by the local government to provide the trunk infrastructure earlier than planned – s652(2).	
For infrastructure associated with a different type or scale of development from that assumed in the LGIP—the establishment cost of any additional trunk infrastructure made necessary by the development – s652(2).	
The infrastructure is necessary but not yet available, to service the development – s650(3).	The infrastructure is necessary but not yet available, to service the development – s650(3).

Conditions for additional trunk infrastructure costs – application of SPA sections 650 to 656	
Inside PIA – a local government may impose a condition for additional payment only for the following circumstances:	**Outside PIA –** a local government may impose a condition for additional payment only for the following circumstances:
The additional payment condition may also include the establishment costs of the additional infrastructure, e.g. capacity that is necessary to service other development in surrounding areas that will be dependent on the same infrastructure – s650(4).	
The local government must refund the payer the proportion of the establishment cost of infrastructure, which is the subject of an additional cost condition, that can be apportioned reasonably to other users – s654(2).	
The local government must refund the payer the proportion of the establishment cost of infrastructure that is or will be the subject of a levied charge – s654(2).	
	The additional payment condition applies to the establishment cost of infrastructure that is made necessary by the development – s653(2).
	The additional payment condition may also include the establishment costs of the additional infrastructure, e.g. capacity that is necessary to service other development in surrounding areas that will be dependent on the same infrastructure – s653(2).
	The establishment cost and future removal and rehabilitation costs of temporary infrastructure made necessary by the development – s653(2).
	The maintenance and operating costs for up to five years for temporary or permanent infrastructure made necessary by the development – s653(2).
If a development approval ceases to have effect and an additional payment has been made, the local government must refund the applicant the amount of the payment that has not been spent to provide trunk infrastructure – s655.	If a development approval ceases to have effect and an additional payment has been made, the local government must refund the applicant the amount of the payment that has not been spent to provide trunk infrastructure – s655.

Conditions for additional trunk infrastructure costs – application of SPA sections 650 to 656	
Inside PIA – a local government may impose a condition for additional payment only for the following circumstances:	**Outside PIA –** a local government may impose a condition for additional payment only for the following circumstances:
An additional payment condition does not prevent a local government from doing the following: a) adopting charges for trunk infrastructure and levying charges b) imposing a condition for non-trunk infrastructure c) imposing a necessary infrastructure condition – s656.	An additional payment condition does not prevent a local government from doing the following: a) adopting charges for trunk infrastructure and levying charges b) imposing a condition for non-trunk infrastructure c) imposing a necessary infrastructure condition – s656.

Cost impact determination

Should a local government seek to impose an additional payment condition, it must be able to appropriately quantify the impact, as set out under SPA firstly under section 650 and then to report this in detail under 651 of SPA.

In simple terms, SPA sets out the 'cost impact' as being the additional cost to a local government to deliver the necessary trunk infrastructure required for the development.

For a large proportion of trunk infrastructure, it is delivered by the development industry as a consequence of development and not the local government.

Given trunk infrastructure is delivered in these cases, offsets will apply to the charges in order to determine a net position. This results in one of two outcomes:
1. Where the charges exceed the total cost of any trunk infrastructure being contributed, there is no quantifiable cost impact.
2. Where total cost of any trunk infrastructure exceed the required charges, then a cost impact is more likely to be occasioned. The greater the exceedance of the charge by trunk infrastructure delivered, the higher the propensity there is for a cost impact through inefficient and/or underutilised assets. This test should be used as a general guide to warrant further investigation of the costs and efficiencies of the proposed development. This can be mitigated through an infrastructure agreement which requires the developer to hold that investment risk.

Distributor-retailers

Infrastructure conditioning for water infrastructure within a water distributor-retailer area is regulated by the *South East Queensland Water (Distribution and Retail Restructuring) Act 2009*. For further information on infrastructure charges or planning for distributor-retailers please visit the Department of Energy and Water Supply website dews.qld.gov.au.

More information

For more information on local government infrastructure charges and planning matters, please visit the Department of Infrastructure, Local Government and Planning website dilgp.qld.gov.au.