



ALL CORRESPONDENCE TO BE 11 May 2007

ADDRESSED TO:

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Review of DEUS Developer Charges Guidelines
Independent Pricing and Regulatory Tribunal
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Dear Sir

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Submission to IPART Review of DEUS Developer Charges Guidelines

Thank you for the opportunity for Council to provide a submission to the IPART review of the DEUS Developer Charges Guidelines for Water Supply, Sewerage and Stormwater.

Clarence Valley Council is a Local Water Authority operating under the Local Government Act and thus regulated by the Department of Water and Energy (formerly Department of Energy Utilities and Sustainability - DEUS).

Council currently operates three independent water supply systems and eight independent sewerage schemes, and is undertaking a \$90 million sewerage augmentation program over the next four years which will consolidate the existing sewerage schemes to five schemes, and also add one new sewerage scheme. In addition, Council is building a major water supply storage to service both Clarence Valley and Coffs City Councils.

These new works will provide significant spare capacity for future development over the next 30 years, and thus Council has a major stake in the outcomes of any review of the guidelines.

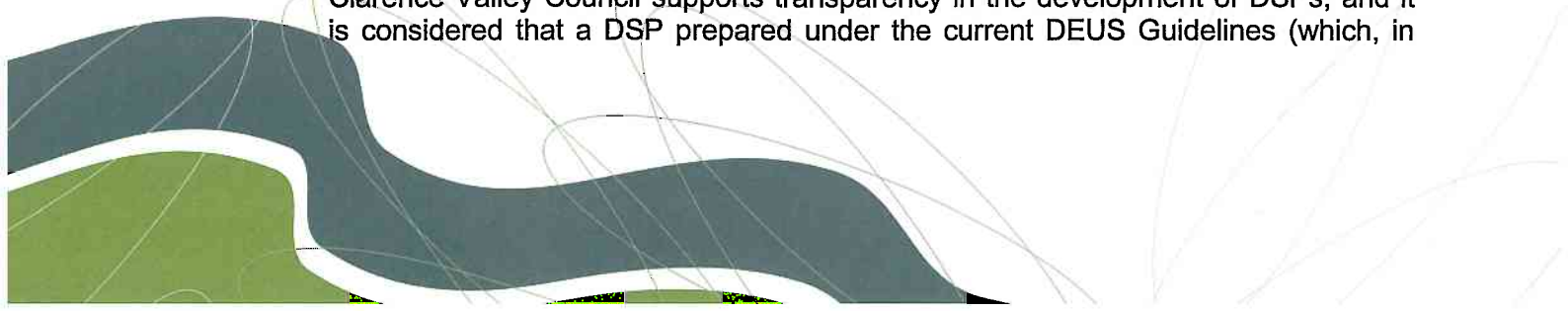
Council implemented Sewer and Water Development Servicing Plans (DSP), prepared in accordance with the guidelines, commencing on 1 July 2005. Council applied a single water Developer Charge across its area (by agglomeration), and two sewer Developer Charges. Council saw advantage in agglomerating the independent schemes as it provides consistency and certainty to the development industry. In accordance with the guidelines, the Plans are due for review in 2010.

The following comments are provided in response to specific issues raised in the IPART *Water -Issues* paper dated April 2007, which potentially impact on Clarence Valley Council:

Section 3.2 – Transparency

The issues paper notes that some authorities have allegedly not provided sufficient background information for calculating the developer charges, and have allegedly denied stakeholders access to this information.

Clarence Valley Council supports transparency in the development of DSPs, and it is considered that a DSP prepared under the current DEUS Guidelines (which, in



addition to specifying the information required in the DSP, includes a public exhibition process and approval by DEUS) provides transparency to the process.

A DSP prepared in accordance with the Guidelines (and its required background paper) are public documents and are required to contain sufficient information to give the process transparency. Therefore, there is no reason why a utility would deny stakeholders the access to information cited as examples in the issues paper.

The claims regarding transparency may be related to a stakeholder requesting significant levels of additional information from the utility free of charge. The provision of significant additional information can be a cost impost in terms of staff time to provide copious amounts of detailed documentation (particularly in utilities with small staff numbers), and it is reasonable that stakeholders making such additional requests pay an appropriate fee.

In summary, a DSP prepared in accordance with the current Guidelines (and the public exhibition process) would meet the requirements of transparency.

Section 3.5.1 Treatment of Cross Subsidies from existing development

Clarence Valley Council chose to adopt developer charges lower than the calculated amount as it was deemed the calculated charges would be too high for the development industry. The cross subsidies are transparent in that they are disclosed in the DSPs, and in effect are being used by Council to encourage development within the Council area.

It is considered an impact of removing cross subsidies could be that development preferentially occurs within utilities with cheaper developer charges. This would have significant financial impact on utilities like Clarence Valley, which have undertaken significant capital investment to provide spare capacity for future development.

If the full developer charges were higher than other utilities (which may have spare capacity from existing infrastructure where loans have been fully repaid), they could act as a disincentive to development with the impact that significant capital investment to provide spare capacity for possible future development is then borne through existing ratepayers rather than developers.

Cross subsidies permit a utility to encourage development to use the spare capacity within its infrastructure by effectively "competing" for development with other utilities which have lower charges.

The other issue with cross-subsidies is the differing charges within a utilities' service area, as the use of cross-subsidies provides price signals for developers regarding where a utility would like development to occur.

It is therefore considered that cross-subsidies from existing development should be permissible under the Guidelines.

Section 3.7 – Developer Charges for Non-Residential Developments

It is agreed that a standard statewide calculation method based on Equivalent Tenements (ET) for non-residential development is required. However, it is difficult for a "one size fits all" approach to calculating non-residential ETs as every development is subtly different.

An issue that Clarence Valley Council has had with developer charges for non-residential developments is whether a development application for a specific activity on a site should be assessed for the specific activity or for the landuse.

“Exempt and complying” planning provisions frequently permit a change of use to a higher sewer and water generating development (e.g. through sale of an industrial building) without submission of a further development application (and hence opportunity for the utility to collect appropriate contributions).

For example, a development application may be received for a Class 7 building in an industrial zone with the application specifying “machinery storage” and therefore having little water or sewerage demand. Under “Exempt and Complying” planning provisions, the class 7 building may be used for a variety of permissible purposes with possibly higher sewer and water requirements.

The general planning approach which has been applied to issues such as parking is that the requirements be based on the highest level use permissible on the site, and it is considered that a similar approach should be used for sewer and water contributions. It is suggested that the review of the guidelines consider this issue and give guidance to utilities in this area.

Section 4.1.1 Pre 1970 Assets

The issues paper indicates the preferred IPART methodology is that pre-1970 assets be excluded from developer charges on the basis that “the cost of these assets is assumed by the Tribunal to have already been recovered”.

Clarence Valley Council is currently constructing major sewerage and water infrastructure with spare capacity for up to 50 years.

While the cost of the infrastructure will be recovered in 25 years through full repayment of loans, the repayments for providing the spare capacity for future development in the period from year 25 to year 50 are actually paid by existing development through higher water and sewer rates than would otherwise apply (if no spare capacity for this period were provided).

Applying the same philosophy, it is considered that assets constructed prior to 1970 which have been designed to provide spare capacity to 2007 and beyond should be included in the calculations on the basis of inter-generational equality.

Section 4.1.2 - Future Assets

The DEUS Best Practice Guidelines require authorities to adopt Strategic Business Plans with 30 year financial models, which includes planning for assets over at least the next 20 years. Five years is therefore considered far too short a timeframe for including future assets in the model, and a minimum of twenty years is more appropriate.

It should also be noted that the development industry is generally able to stage developments to suit market conditions, while utilities have to provide the capacity for future development “up front” and are therefore not always able to defer major capital works when there is a downturn in development.

Section 4.1.3 - Definition of System Assets

The issues paper notes that development industry stakeholders have alleged that some authorities are including reticulation mains in their calculations, and thus increasing the developer charge.

The DEUS Guidelines are clear that only headworks and system assets should be included, and this allegation may be based on the size of pipeline used in the calculation rather than their function.

For example, Clarence Valley Council has several outlying villages where the water supply reservoirs are serviced by the same sized pipeline as is normally used in reticulation mains. The function of the pipelines serving these villages (which are up to 20 km in length) is clearly a headwork or system assets.

The DEUS Guidelines are therefore considered adequate in this area.

Section 4.3 – Agglomeration of DSPs

Council chose to agglomerate its DSPs by adopting a single Council wide developer charge for water and two developer charges for sewer (Upper River and Lower River).

This approach was chosen to provide administrative simplicity, with the adoption of two (2) sewerage charges chosen to send price signals to developers. Implementing separate charges for each service area would be extremely complex, and substantially increase administrative requirements.

It should be noted that the cost of any increased administration is not able to be included in the developer charges as it is not capital related, and therefore is cost shifted onto existing development through water and sewer charges.

It is therefore considered that the Guidelines should permit agglomeration of DSPs.

General

The short timeframe provided for submissions did not allow a formal report to be adopted by Council as it did meet Council's reporting cycle. Should further additional issues be raised by Council in response to the review, Council requests the opportunity to make a further late submission.

If you require further information please contact Council's Manager Water and Wastewater, Mr Greg Mashiah, on 6645-0244.

Yours faithfully



Stuart McPherson
GENERAL MANAGER