

Existing SPA /SP(IC)OLA provision as at 1 October 2014	Issue	QHOLA Clause	Proposed amendment under QHOLA Bill	Effect of Change
s 637 (1)(f)	Under current provisions, Local governments must provide “details” of offsets and refunds within the ICN by stating the establishment cost of the conditioned works.	81H	Omission of ‘details of’ from current s 637 (1)(f) and insertion of ‘information about’.	Improved by reworded provisions. A Local government must provide the best available information about the establishment cost. This is used to determine the nett positions between the trunk infrastructure cost and charges to arrive at an offset or refund in an ICN. In our view, the stated establishment cost cannot reasonably be provided as a final definitive position and is indicative only given that the exact nature and design of the infrastructure is typically unknown at DA approval stage. In order to provide certainty and clarity on the process required post ICN to arrive at the final value the resolution should set out the sensible and reasonable steps in the subsequent design and approval timeframe. This is particularly around the operational works approvals and plan sealing timelines.
s 647	Under current provision Local governments are unable to condition trunk infrastructure that is not identified within the LGIP and located outside of the PIA.	81I	Omission of current s 647 (3) and insertion of reworded provision.	Resolved by reworded provision. A Local government may impose conditions for trunk infrastructure outside the PIA even if the trunk infrastructure is not Identified in the LGIP. This aligns with previous practice.
S 636	The current provisions set out the circumstances when the levied charges can be reduced through the existence of infrastructure demand credits being available on the site.	81G	Inclusion of additional provisions concerning availability of credits.	An additional provision has been included under QHOLA attempting to clarify where credit is available when additional development is proposed on land that: <ul style="list-style-type: none"> • has existing approvals that contain ‘infrastructure requirements’; and • do not require any additional development permits to allow for other development (i.e exempt of self-assessable under SPA) The new provisions are not expressed clearly but in essence state that where existing approvals had an infrastructure requirement that has been complied with these may be used as credit. This is only the case if the infrastructure requirement was for a development of a lower scale or intensity than the newly proposed development. (E.g Where charges had been paid on the land under the infrastructure requirement of the approval but the use never commenced) In other cases if the existing completed infrastructure requirement exceeds the proposed use then no charge would be payable.
s 649	The current provisions create a confused and variable refund process requiring calculation of proportion of establishment cost that can be attributed to the proposed development based on its use of that infrastructure item. This method provided for highly variable and adversely distorted refund outcomes based on the development’s scale versus the size and capacity of the infrastructure item conditioned.	81J	Omission of current s 647 (3)(b) and insertion of reworded provision.	Resolved by reworded provision. A Local government must now refund the difference between the establishment cost of the trunk infrastructure provided and the adopted charge. This is now a more straightforward process for determining refunds and is generally aligned with previous common practice.
s 652	Current wording incorrectly describes the circumstances where a payment is required for “additional establishment costs” to be paid by the applicant.	81K	Omission of current s 652 (2)(a) and insertion of reworded provision.	The proposed wording in our view is still not definitive in determining when and how these ‘additional establishment costs’ are determined. There needs to be clarity around what is ‘additional’ and how that crystallises as a cost to the Local Government. In our view any amending provisions drafted must not rely on the notion that LGIP assumptions (e.g timing, location scale etc) are precise and final. This erroneous position has lead to and will continue to lead to unfair and unreasonable claims in the calculation of ‘additional cost’. Furthermore the provisions must not be written on the assumption that in all circumstances the Local Government will build and fund the trunk infrastructure. This assumes local government is always incurring cost when in reality many of the conditions for building trunk infrastructure require the applicant to fund the delivery of the infrastructure.
s 976B	The SP(IC)OLA provisions state that the unamended Act (i.e pre 14 July, 2014 applies to any existing development approvals given prior to 4 th July, 2014.	81O	Insertion of new provisions.	The new provision clarifies that a local government can now apply the new Act and issue an infrastructure charges notice in response to a change request application that increases or extend the previous approval. However the application is limited only to net change of development demand between the existing development approval and the changed approval. In this way there is certainty with the old approval and its rights and obligations versus and ‘new’ aspects of the changed parts of the change request approval.
s 979 (5)	Current provision relate to an ‘saved provisions’ for an	81P	Omission of ‘2016’ and insertion of ‘2015’.	The new provisions limit an “existing resolution” only to be one that exists up until 30 June 2015 or earlier if a new resolution is adopted prior.

	existing resolution prior to <i>SP(IC)OLA</i> that included the definition of trunk infrastructure, standards of service and establishment cost could remain until 1 July 2016 if a Local government did not have a PIP.			(N.B This must be read with the following two amendments)
s 979 (6)	Current provision allows for Local governments to make charges resolutions including saved provisions with no limitation on time.	81P	Insertion of new provisions for timing.	QHOLA has clarified that a new resolution can contain a “saved provision” which allows for existing definitions of trunk infrastructure, standards of service and establishment cost to be used up until these are replaced by the LGIP by 1 July 2016.
S 979 (8)	Current provision identifies that any saved provision ceases to have effect on 1 July 2016.	81P	Insertion of new wording.	Clarifies that any saved provisions within a charges resolution made by a Local government under section (6) will cease to have effect on 1 July 2016. All of these changes are focussed on allowing local government to use these ‘saved provisions’ if they reside in a resolution, rather than a PIP, in a variety of forms up until they are rolled into the LGIP on the 1 July 2016.

OTHER AMENDMENTS

Proposed Change to SPA	QHOLA Clause	Effect of Change
Omission of s 88 (1)(e)	81B	Removal of the LGIP as being a mandatory part of all planning scheme. An LGIP is still required by 1 July 2016 should local governments wish to levy charges, condition infrastructure and make charges resolutions.
New Provision	81Q	New provision which clarifies that Local governments without a PIP or LGIP prior to the 4 th July can still make charges resolutions, give infrastructure charges notices and condition infrastructure up until the 1 July, 2016. This is essential for low or smaller Local governments who may not have a PIP or LGIP at the commencement of the <i>SP(IC)OLA</i> on the 4 th July 2014.