

Part 13 Fees

Division 1 Preliminary—the Act, s 7.44

249 Definitions

In this Part—

application means the following—

- (a) a development application, including for State significant development,
- (b) a modification application, including for State significant development,
- (c) an application for approval of State significant infrastructure,
- (d) a request for modification of an approval of State significant infrastructure.

concept component of a staged application means the part of a concept development application or a staged infrastructure application that sets out concept proposals for the development of a site or infrastructure.

planning reform services means—

- (a) the monitoring and reviewing by the Planning Secretary of the practices and procedures followed by consent authorities in dealing with applications for the following purposes—
 - (i) assessing the efficiency and effectiveness of the practices and procedures,
 - (ii) ensuring the practices and procedures comply with the provisions of the Act and this Regulation, and
- (b) the monitoring and reviewing by the Planning Secretary of the following provisions of environmental planning instruments for the purposes of assessing the effectiveness of the provisions in achieving their intended effect and making recommendations for their improvement—
 - (i) provisions that control development,
 - (ii) provisions that consent authorities are required to consider when dealing with applications, and
- (c) the online delivery of planning services and information by the Planning Secretary, including—
 - (i) the compilation and maintenance of the NSW planning database, and
 - (ii) the operation of the NSW planning portal, and
 - (iii) the enhancement of the NSW planning database and the NSW planning portal.

staged infrastructure application has the same meaning as it has in the Act, section 5.20.

250 Services covered by fees for development applications

- (1) The services covered by the fee for a development application, other than an application for State significant development or approval of State significant infrastructure, include the following—
 - (a) the receipt of the application and internal referrals of the application,
 - (b) consideration of the application for the purpose of determining if further information is required in relation to the proposed development,
 - (c) inspection of the land to which the proposed development relates,
 - (d) evaluation of the proposed development, including discussion with interested parties,

- (e) preparation of internal reports on the application,
 - (f) preparation and service of notices of the consent authority's determination of the application,
 - (g) planning reform services.
- (2) The services covered by the fee for a development application for State significant development or approval of State significant infrastructure include planning reform services.

251 Estimated cost of development

- (1) If a fee specified in Schedule 4 is based on the estimated cost of the development, the estimated cost must be determined by reference to a genuine estimate of the following—
- (a) for development involving the erection of a building that is State significant development or State significant infrastructure—the capital investment value of the development,
 - (b) for development involving the erection of a building that is not State significant development or State significant infrastructure—the costs associated with the construction of the building and the preparation of the building for the purpose for which it will be used, such as the costs of installing plant, fittings, fixtures and equipment,
 - (c) for development involving the carrying out of a work—the construction costs of the work,
 - (d) for development involving the demolition of a building or work—the costs of demolition.
- (2) For the purposes of determining the fee for an application for development referred to in subsection (1)(b), (c) or (d), a consent authority must use the estimate specified in the application, unless the consent authority is not satisfied that the estimate is genuine or accurate.
- (3) For the purposes of determining the fee in relation to the concept component of a staged application, the Planning Secretary may make any necessary assumptions about the detail of the future stages of the development or infrastructure.

Division 2 Determination of fees generally—the Act, s 7.44

252 Planning Secretary may determine fees

- (1) The Planning Secretary may determine, either generally or in a particular case, the fee payable for doing anything referred to in the Act, section 7.44(1).
- (2) In determining the fee, the Planning Secretary must consider the cost to the Minister, the Planning Ministerial Corporation, the Department or the Planning Secretary of doing the thing referred to in that subsection.
- (3) If the Planning Secretary has not determined a fee under subsection (1), the maximum fee that may be imposed under the Act, section 7.44(1) is 120% of the cost to the Minister, the Planning Ministerial Corporation, the Department or the Planning Secretary of doing the thing referred to in that subsection.

253 Waiver and refund of fees

- (1) A person or body to whom a fee or charge is payable under this Regulation may waive or refund payment of all or part of the fee or charge if the person or body considers it is appropriate to do so.

Example— A consent authority may refund the whole or part of an application fee paid in relation to a development application that is withdrawn before it is determined.

- (2) A concurrence authority or an approval body may waive all or part of a fee payable to the authority or body for its concurrence or approval by giving written notice to—
 - (a) a consent authority, in relation to concurrence or approval fees collected by the consent authority, or
 - (b) the Planning Secretary, in relation to concurrence or approval fees collected through the NSW planning portal.
- (3) A waiver under subsection (2) may be given—
 - (a) generally, or
 - (b) in relation to a particular class of applications, or
 - (c) in relation to a particular application.

254 Circumstances in which refund of fees required

- (1) If a consent authority rejects an application, the consent authority must refund to the applicant the whole of the fee paid for the application.
- (2) If a consent authority is paid a fee for giving notice of the following development, the consent authority must refund to the applicant any part of the fee that is not spent in giving the notice—
 - (a) designated development,
 - (b) nominated integrated development,
 - (c) threatened species development,
 - (d) Class 1 aquaculture development,
 - (e) prohibited development,
 - (f) other development for which a community participation plan requires notice to be given.
- (3) If a consent authority is paid a fee for giving notice of a modification application, the consent authority must refund to the applicant any part of the fee that is not spent in giving the notice.
- (4) If a consent authority is paid an additional fee for an application that is accompanied by a statement of a qualified designer, the consent authority must refund to the applicant the additional fee, if the development is not referred to a design review panel.
- (5) Subsections (3) and (4) do not apply to fees paid in relation to—
 - (a) a development application for State significant development, or
 - (b) an application for approval of State significant infrastructure,

Division 3 Fees for development applications, including State significant development and State significant infrastructure—the Act, ss 4.64 and 5.29

255 Information about development application fees

- (1) A consent authority must publish the following on its website—
 - (a) the consent authority's scale of fees for applications generally,
 - (b) the amount of the fee to accompany an application of a particular kind, if determined by the consent authority.

- (2) This section does not apply to fees for State significant infrastructure.

256 Determination of fees for applications

- (1) The fee for an application must be determined in accordance with this Part and Schedule 4 by—
- (a) if the application relates to State significant development or State significant infrastructure—the Planning Secretary, or
 - (b) otherwise—the consent authority.
- (2) The determination of the fee for an application must be made before, or within 14 days after—
- (a) if the application relates to State significant infrastructure—the environmental impact statement is submitted to the Planning Secretary under the Act, section 5.17, or
 - (b) otherwise—the application is submitted on the NSW planning portal.
- (3) The determination takes effect when notice of the determination is given to the applicant through the NSW planning portal.
- (4) The fee for an application may consist of the sum of 1 or more fees for different matters.
- Note—** Schedule 4 specifies various fees for different matters, including the following—
- (a) different fees for different kinds of development,
 - (b) additional fees for certain kinds of development,
 - (c) fees payable if a consent authority is required to publicly notify a development application or other document,
 - (d) fees payable to an approval body for integrated development and to a concurrence authority for development requiring concurrence.
- (5) If a fee has been determined and notified to the applicant but has not been paid, the consent authority, or the Minister if the application relates to State significant infrastructure, may refuse to consider the application.
- (6) In this section—
- application* includes an application for review under the Act, section 8.3.

257 Timing of payment of certain additional fees

If State significant infrastructure is declared to be critical State significant infrastructure after the fee for the application for approval of State significant infrastructure is due or paid, the additional fee for the approval of critical State significant infrastructure is payable within 14 days after the Planning Secretary notifies the applicant of the additional fee.

258 Concept development applications other than State significant development

- (1) The fee payable for a concept development application in relation to a site, and for a subsequent development application for part of the site, is the fee that would be payable if a single development application were required for all development on the site.
- (2) This section does not apply to State significant development.

259 Fees not to be charged for council compliance and enforcement functions—the Act, s 4.64(1)(f)

- (1) The charging of a fee by a council in relation to a development application for the exercise of the council's compliance or enforcement functions under the Act in relation to development carried out in the council's area is prohibited.
Note— The *Local Government Act 1993*, section 610(2) provides that a council must not charge a fee for a service if another Act prohibits the charging of the fee.
- (2) This section does not prohibit the charging of a fee that is specifically prescribed by this Regulation or the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
- (3) This section does not apply to a development application for State significant development.

Division 4 Miscellaneous fees—the Act, s 7.44

260 Fees for proponents of State significant development

- (1) The Planning Secretary may require an SSD proponent to pay a fee determined by the Planning Secretary that does not exceed the reasonable costs incurred by the Department in exercising the functions under section 280 in relation to the request.
- (2) In this section—
SSD proponent means a person who requests a Ministerial planning order under the Act, section 4.36(3).

261 Assessment fee for concept component of staged applications for State significant development and State significant infrastructure

- (1) The Planning Secretary may require the payment of an additional fee for the assessment of the concept component of a staged application that relates to State significant development or State significant infrastructure.
- (2) The amount of the fee must not exceed the fee that would be payable for all the proposed State significant development or State significant infrastructure to which the concept component of the staged application relates.
- (3) The payment of a fee under this section does not remove the need to pay another fee under this Regulation in relation to—
 - (a) a concept development application to the extent to which it sets out detailed proposals for the first stage of development, or
 - (b) a staged infrastructure application to the extent to which it sets out detailed proposals for the first stage, or
 - (c) another application, including a subsequent application that relates to the staged application.

262 Fees for referral to Independent Planning Commission or Sydney district or regional planning panel

- (1) The Planning Secretary may require the payment of a fee, of no more than the maximum fee specified in Schedule 4, for considering a request that the Minister or the Planning Secretary refer a matter to the Independent Planning Commission or a Sydney district or regional planning panel.
- (2) If the matter is referred, the Planning Secretary may require the payment of a fee, of no more than the maximum fee specified in Schedule 4, for the costs and expenses incurred by—

- (a) the Minister or the Planning Secretary in preparing a report about the referred matter, including any necessary consultation with councils and other relevant agencies, or
 - (b) the Independent Planning Commission or a Sydney district or regional planning panel in providing advice to the Minister or the Planning Secretary.
- (3) A fee is not payable under this section in relation to a request made by an SSD proponent under section 260.

263 Public hearing by Independent Planning Commission

- (1) This section applies to a public hearing held by the Independent Planning Commission under the Act, section 2.9(1)(d) that relates to—
- (a) a development application for State significant development, or
 - (b) an application for approval of State significant infrastructure.
- (2) The fee payable for the public hearing is the sum of—
- (a) the base fee specified in Schedule 4, and
 - (b) an additional fee determined by the Planning Secretary for the estimated costs to the Independent Planning Commission of the public hearing, not exceeding the maximum additional fee specified in Schedule 4.
- (3) The fee is payable by the person making the application to which the hearing relates within 14 days after the Planning Secretary notifies the person of the fee payable.

264 Consideration of planning proposal with State significant development application

- (1) The fee payable for considering a proposed environmental planning instrument in conjunction with a development application for State significant development under the Act, section 4.38(5) is specified in Schedule 4.
- (2) The fee is payable by the person making the development application within 14 days after the Planning Secretary notifies the person of the fee payable.

265 Making environmental impact statements publicly available

The maximum additional fee payable for making an environmental impact statement publicly available under the Act in relation to an application for State significant development or for approval of State significant infrastructure is specified in Schedule 4.

266 Planning reform contributions from development application fees

- (1) This section applies to a development application for development with an estimated cost of more than \$50,000 that involves—
- (a) the erection of a building, or
 - (b) the carrying out of a work, or
 - (c) the demolition of a work or a building.
- (2) A consent authority to whom a development application is made must set aside an amount from the fee paid for the development application for payment to the Planning Secretary for planning reform services.
- (3) The amount must be determined in accordance with the following formula—

$$P = (E \times 0.00064) - 5$$

where—

P represents the amount to be set aside, expressed in dollars rounded down to the nearest dollar.

E represents the estimated cost of the development, expressed in dollars rounded up to the nearest thousand dollars.

- (4) The consent authority must give the Planning Secretary—
 - (a) on or before the 14th day of each month—a report in the approved form, in relation to the applications lodged with the consent authority during the previous month, and
 - (b) on or before the 28th day of each month—the total amount set aside under this section in relation to the applications.
- (5) The Planning Secretary must apply the amounts received under this section to planning reform services.
- (6) The Planning Secretary may, at any time, waive the requirement for all or part of an amount to be set aside by a consent authority and paid to the Planning Secretary under this section.
- (7) A waiver may be unconditional or subject to conditions.
- (8) This section does not apply to a development application to which section 267 applies.

267 Planning reform contributions from development application fees for State significant development and State significant infrastructure

- (1) This section applies to the following applications—
 - (a) a development application for State significant development with an estimated cost of more than \$50,000,
 - (b) an application for approval of State significant infrastructure with an estimated cost of more than \$50,000.
- (2) The Planning Secretary may require the payment of a fee for the application that is to be used for planning reform services.
- (3) The fee payable must not exceed the amount calculated in accordance with the following formula—

$$P = E \times 0.00064$$

where—

P represents the amount to be set aside, expressed in dollars rounded down to the nearest dollar.

E represents the estimated cost of the development or infrastructure, expressed in dollars rounded up to the nearest thousand dollars.

- (4) This section does not apply to the concept component of a staged application.

268 Other fees—the Act, section 10.8 and Sch 3, cl 3(2)

- (1) The fee payable for a certified copy of a document, map or plan under the Act, section 10.8(2) is specified in Schedule 4.
- (2) The fee payable for submitting the following on the NSW planning portal is specified in Schedule 4—
 - (a) an application for modification of a development consent under the Act, section 4.55(1A) or (2) or 4.56,
 - (b) an application for a complying development certificate,

- (c) an application for a building information certificate,
- (d) an application for the following under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*—
 - (i) a construction certificate
 - (ii) a subdivision works certificate,
 - (iii) an occupation certificate
 - (iv) a subdivision certificate.
- (3) The fee payable for using the NSW planning portal to pay a monetary contribution or levy under the Act, Division 7.1 is specified in Schedule 4.

269 Fees for site compatibility certificates and site verification certificates

- (1) The fee payable for an application for a site compatibility certificate under the following State environmental planning policies is specified in Schedule 4—
 - (a) *State Environmental Planning Policy (Housing) 2021*,
 - (b) *State Environmental Planning Policy (Infrastructure) 2007*,
 - (c) *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*.
- (2) The fee for submitting an application under subsection (1) on the NSW planning portal is specified in Schedule 4.
- (3) The fee payable for an application for a site verification certificate under *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* is specified in Schedule 4.