



# Policy

## Implementing the Environmental Protection (Cost Recovery) Regulations 2021

December 2021



Department of Water and Environmental Regulation  
8 Davidson Terrace  
Joondalup Western Australia 6027  
Telephone +61 8 6364 7000  
Facsimile +61 8 6364 7001  
National Relay Service 13 36 77  
[www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)

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# 1. Purpose

This document sets out the implementation policy and methodologies for the implementation of the Environmental Protection (Cost Recovery) Regulations 2021 (Cost Recovery Regulations).

The Department of Water and Environmental Regulation (department) provides services to the Environmental Protection Authority (EPA) to enable it to undertake a range of functions under the *Environmental Protection Act 1986* (EP Act). This includes undertaking environmental impact assessment (EIA) of significant proposals and developing guidance and procedures to protect the environment.

The Cost Recovery Regulations were developed to prescribe, or provide for the determination of, the fees and charges for the EIA processes under Part IV of the EP Act, which will enable the Chief Executive Officer (CEO)<sup>1</sup> to recover costs associated with these processes. The Cost Recovery Regulations were gazetted on 17 December 2021 and came into operation on 1 January 2022.

The Cost Recovery Regulations will enable the State Government to better meet the expectations of industry and the community in protecting the environment. The department will use the funding received to provide an effective service while ensuring strong environmental protection remains.

## 2. Scope

The head power enabling cost recovery (s.48AA of the EP Act) provides that regulations may be made prescribing, or providing for the determination of, fees or charges that are payable by proponents in prescribed circumstances in relation to the referral, assessment and implementation of proposals under Division 1 or 2 of Part IV of the EP Act.

### 2.1 Out of scope

The Cost Recovery Regulations do not impose fees or charges:

- associated with the assessment of schemes under Divisions 3 and 4 of Part IV of the EP Act
- on third-parties and decision-making authorities<sup>2</sup> that refer proposals as they are not proponents.

However, please note that where a third-party or decision-making authority referral leads to a decision to formally assess a proposal, proponents must pay the referral

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<sup>1</sup> CEO refers to the Chief Executive Officer of the Department of Water and Environmental Regulation or delegate.

<sup>2</sup> Please refer to the definition of decision-making authority as defined in section 3 of the EP Act.



charge as outlined in the Cost Recovery Regulations and any subsequent fees throughout the stages of the assessment.

### 3. Context

The *Environmental Protection Amendment Act 2020* received Royal Assent on 19 November 2020. Amendments to Part IV of the EP Act commenced on 23 October 2021. This included a new head power in s.48AA to allow for fees and charges to be prescribed or determined for the referral, assessment and implementation of proposals under Part IV Divisions 1 and 2 of the EP Act.

The fees and charges are payable by proponents whose projects are to be assessed by the EPA.

The EPA has amended its [EIA Procedures suite](#) including the EPA's [Administrative Procedures](#) and [Procedures Manual](#) to align with the amendments and the Cost Recovery Regulations.

The discussion paper [Implementing cost recovery for Part IV of the Environmental Protection Act 1986](#) was released with the draft Cost Recovery Regulations for public consultation from 20 September 2021 to 22 October 2021. The paper provided stakeholders with information on the proposed pricing model for recovering costs associated with referral, assessment and implementation of proposals under Part IV of the EP Act.

The department considered the feedback received during the public consultation period during finalisation of the pricing model and Cost Recovery Regulations, which has informed this policy's development. See the [department's website](#) for a summary of the submissions received on the paper.

The cost-recovery pricing model was developed in accordance with the State Government's [Costing and pricing government services guidelines \(2020\)](#) and reflects the need for a fair and reasonable true cost of services.

The pricing model was also designed to enable the recovery of some costs incurred by the department for EIA by other government agencies, such as specialist advice provided by the Department of Biodiversity Conservation and Attractions in relation to proposals.

All funds received are to be held by the department in a special purpose account and must be applied towards receiving and assessing proposals and monitoring the implementation of proposals (including compliance activities).

### 4. Legislation

Section 48AA of the EP Act provides that regulations may be made prescribing, or providing for the determination of, fees or charges that are payable by proponents in prescribed circumstances in relation to the referral, assessment and implementation of proposals under Division 1 or 2 of Part IV of the EP Act.



The Cost Recovery Regulations prescribe, or provide for the determination of, the fees and charges for the EIA processes under Part IV of the EP Act to enable the department to recover costs associated with these processes.

The scheme will commence on 1 January 2022 with some transitional fees for current assessments alongside specified fee deferrals and fee waivers.

There will also be a transitional period for annual compliance fees for Ministerial Statements deferring commencement of those fees until the 1 July 2023 financial year.

This policy outlines the implementation approach and methodologies to support the introduction of the Cost Recovery Regulations.

A copy of the Cost Recovery Regulations is available on the State Government’s [legislation page](#).

## 5. Fees and charging points

To introduce cost recovery, a pricing model was developed to recover the costs associated with implementing EIA under Part IV of the EP Act. These include the direct and indirect<sup>3</sup> costs associated with EIA and compliance work under Ministerial Statements.

In determining the appropriate fee amount, the pricing model provides for a mixture of fixed, variable (complexity) and compliance fees which are payable at various milestones throughout the EIA process.

See Figure 1 for an outline of the primary charging points for fees under the EIA process.



<sup>3</sup> Indirect costs are those the department incurs that are not directly attributable to the performance of a particular function such as: costs relating to office accommodation, motor vehicles and equipment; costs of licensing, including of equipment and intellectual property; and depreciation.



*Figure 1: Charging points for fixed and variable (complexity) fees for assessments*

See Table 1 for a summary of all the fees prescribed under the Cost Recovery Regulations, with links to the relevant sections of this policy.

Table 1: Summary of the fees in the Cost Recovery Regulations

Item	EP Act reference	Prescribed circumstance	Fee amount	Frequency	Timeframe for payment	Relevant policy section
<b>General fees – prescribed in regulation 4</b>						
1	s.38	Referral of proposal to the EPA	\$32,000	Per referral	<ul style="list-style-type: none"> <li>Proponent-referred: fee is payable on the day of referral.</li> <li>Proponent-referred in accordance with a requirement under s38A(1) of the EP Act: fee is payable within 28 days after notice is given to the proponent that the EPA has decided to assess the proposal.</li> <li>Referral by third-party: fee is payable within 28 days after notice is given to the proponent that the EPA has decided to assess the proposal.</li> </ul>	Section 5.2
2	s.38C	Request by proponent for approval to amend proposal	\$16,000	Per request	On the day on which the request is made.	Section 5.2
3	s.38E	Request by proponent to declare proposal a derived proposal	\$16,000	Per referral	On the day on which the request is made.	Section 5.3
4	s.38F	Request by EPA for additional information from the proponent about the proposal	\$16,000	Per request	Within 28 days after the day on which the request was made of the proponent.	Section 5.4
5	Part IV Division 1	<u>Assessment of a proposal</u> 1. Base assessment fee  2. Estimated complexity fee	\$16,000  80% of the amount determined by the CEO under r. 5 for	Once per proposal  Once per proposal	Within 28 days after the day the proponent is given an invoice from the CEO.  Within 28 days after the day the proponent is given an invoice from the CEO.	Section 5.5

Item	EP Act reference	Prescribed circumstance	Fee amount	Frequency	Timeframe for payment	Relevant policy section
		3. Final complexity fee	costs of the Department in assessing the proposal  The total amount determined by the CEO under r. 5 for costs of the department in assessing the proposal LESS the estimated complexity fee.	Once per proposal	Within 28 days after the day the proponent is given an invoice from the CEO.  The CEO will determine the final complexity fee as soon as practicable after the EPA has provided its report to the Minister or the assessment is terminated. (Note: if the final complexity fee is less than estimated complexity fee, the CEO will refund the difference.)	
6	s.40(2)(a)	Request by EPA for additional information from a proponent for the assessment of referred proposals	\$16,000	Per request	Within 28 days after the day on which the requirement was made of the proponent.	Section 5.4
7	s.41A(3)	Request by proponent for consent to minor or preliminary works relating to a proposal	\$16,000	Per request	On the day on which the request is made.	Section 5.6
8	s.43A	Request by proponent for approval of assessment of amended proposal	\$16,000	Per request	On the day on which the request is made.	Section 5.6
9	s.45C	Request by proponent for approval of amendment to an approved proposal, or amendment of conditions, relating to approved proposal (or both)	\$48,000	Per request	On the day on which the request is made.	Section 5.8

Item	EP Act reference	Prescribed circumstance	Fee amount	Frequency	Timeframe for payment	Relevant policy section
10	s.45C(2)	Minister requests further information relating to an amendment requested by the proponent	\$16,000	Per request	Within 28 days after the day on which the request was made of the proponent.	Section 5.4
11		Submission of an EMP <sup>4</sup> for confirmation, endorsement or approval under implementation conditions applying in relation to a proposal	\$16,000	Per request	On the day on which the EMP is submitted.	Section 5.8
12	s. 46	Inquiry by EPA into implementation conditions relating to an approved proposal	\$64,000	Per inquiry	Within the 28 days after the day on which the proponent is given the invoice by the CEO.	Section 5.8 & Section 6.2
13	s. 46A	Minister issues interim conditions and procedures for a proposal	\$16,000	Per notice	Within 28 days after the day on which the proponent is given notice of the interim conditions and procedures.	Section 5.8
<b>Other prescribed fees</b>						
	s.40(2a)	Independent peer review commissioned by the EPA	Variable	Per review	Within 28 days after the day on which the proponent is given the invoice.	Section 5.7
	n/a	External costs incurred by the department for the purposes of receiving or assessing a proposal	Variable	Per cost incurred	Within 28 days after the day on which the proponent is given the invoice by the CEO.	Section 5.7

<sup>4</sup> In r. 3 and EMP refers to an environmental management plan, environmental management system or environmental improvement plan.

Item	EP Act reference	Prescribed circumstance	Fee amount	Frequency	Timeframe for payment	Relevant policy section
	n/a	Assessment report provided to the Minister when the assessment had commenced but was not completed by 1 January 2022 (transitional fee)	\$48,000	Once per proposal	Within 28 days after the day on which the proponent is given the invoice by the CEO.	Section 7.0
<b>Compliance fees – regulation 11</b>						
	n/a	Annual compliance fee for each approved proposal	Compliance priority rating for approved proposal: Low – \$3,500 Medium – \$7,000 High – \$14,000 Very high – \$21,000	Once per year	Within 28 days after the day on which the proponent is given the invoice by the CEO.	Section 5.9



## 5.1 Referral fee

A fixed fee of \$32,000 is payable by the proponent for the referral of a proposal under s.38 of the EP Act (see item 1 in Table 1 to r.4 of the Cost Recovery Regulations).

The time at which this fee is payable by the proponent depends on the nature of the referral (r.6 of the Cost Recovery Regulations).

*Table 2: Referral fees and timeframes for payment*

Nature of referral	Time at which fee is payable by proponent	Relevant regulation
Referred by the proponent	On the day on which the proposal is referred.	6(2)
Referred by the proponent in compliance with a requirement under s.38A(1) of the EP Act	28 days after the day on which the proponent is given notice of the EPA's decision to assess the proposal. No fee is payable if the EPA determines an assessment is not required.	6(4)
Referred other than by the proponent	28 days after the day on which the proponent is given notice of the EPA's decision to assess the proposal. No fee is payable if the EPA determines an assessment is not required.	6(3)

Interest will accrue on the unpaid amount in accordance with regulation 15 (see Section 6.3) and the CEO will pursue recovery of unpaid amounts in accordance with regulation 16 (see Section 6.4).

## 5.2 Fee for amending proposal prior to decision to assess

A fee of \$16,000 applies to each request made by the proponent for approval to amend a proposal under s.38C of the EP Act before the EPA has made a decision whether or not to assess the proposal (see item 2 in Table 1 and r.4 of the Cost Recovery Regulations). This fee is payable by the proponent on the day on which the request is made.

## 5.3 Fee for a request to declare proposal a derived proposal

A proponent may request that the EPA declares a referred proposal to be a derived proposal. This means that the proposal was part of a strategic proposal which has already been assessed by the EPA.

A fee of \$16,000 is payable by the proponent on the day on which the proponent submits a written request to the EPA to declare the referred proposal to be a derived



proposal under s.38E of the EP Act (see item 3 in Table 1 and r.4 of the Cost Recovery Regulations).

## 5.4 Fee where additional information is requested or required

A fee of \$16,000 is payable by the proponent if:

- a written request is issued by the Chair of the EPA for additional information under s.38F of the EP Act (see item 4 in Table 1 and r.4 of the Cost Recovery Regulations), or
- a written requirement is issued by the Chair of the EPA for information under s.40(2)(a) of the EP Act (see item 6 in Table 1 and r.4 of the Cost Recovery Regulations), or
- the Minister requests additional information under s.45C(2) of the EP Act (see item 10 in Table 1 to r.4 of the Cost Recovery Regulations).

This fee is payable within 28 days after the day on which the request or requirement is made of the proponent.

## 5.5 Assessment fee for proposal

The assessment fee is a fixed fee of \$16,000 plus a complexity fee determined by the CEO under r. 5 and is payable by the proponent for the assessment of a proposal under Part IV Division 1 of the EP Act (see item 5 in Table 1 and r.4 of the Cost Recovery Regulations).

As required by r.5(2) of the Cost Recovery Regulations, the method for determining the complexity fee amount is set out in Appendix A.

As soon as practicable after the EPA decides to assess the proposal, the CEO will determine an estimate of the assessment fee based on the information set out in the EPA's decision to assess. The CEO will issue an invoice to the proponent for 80 per cent of the estimated amount of the assessment fee (r.8(4) of the Cost Recovery Regulations).

The invoice will set out how the estimated assessment fee and the final assessment fee was determined (r.8(7) of the Cost Recovery Regulations).

The proponent is required to pay the invoiced amount within the period of 28 days after the day on which the proponent is given the invoice (r.8(4) of the Cost Recovery Regulations).

As soon as practicable after the report on the outcome of the assessment of the proposal is given to the Minister or termination of the assessment under s.40A of the EP Act), the CEO will determine the fee for the assessment (r.8(2) of the Cost Recovery Regulations).

If the final assessment fee exceeds the amount of the estimated assessment fee already paid by the proponent following the EPA's decision to assess the proposal,



the CEO will issue an invoice to the proponent for the additional amount. The invoice will set out how the fee was determined (r.8(7) of the Cost Recovery Regulations).

The proponent is required to pay the invoiced amount within the period of 28 days after the day on which the proponent is given the invoice (r.8(5) of the Cost Recovery Regulations).

If the final assessment fee for the assessment is less than the estimated assessment fee already paid by the proponent following the EPA's decision to assess the proposal, the CEO will issue a refund to the proponent for the excess amount (r.8(6) of the Cost Recovery Regulations).

## 5.6 Fees for external costs

The CEO may issue an invoice to the proponent for external costs<sup>5</sup> (or a portion of these costs) incurred for the purposes of receiving or assessing a proposal. The amount of this invoice is payable by the proponent within 28 days after the day on which the proponent is issued the invoice.

External costs will include the full cost of independent peer reviews and specialist advice commissioned by the EPA and costs associated with site visits.

The CEO will provide the proponent with original copies of the invoices for external costs on request.

## 5.7 Fees for requests by the proponent during assessment

### 5.7.1 Fee for consent to minor or preliminary works

A fee of \$16,000 is payable by the proponent for a request by the proponent for consent for minor or preliminary works relating to their proposal under s.41A(3) of the EP Act. The fee is payable on the day on which the request is made (see item 7 in Table 1 and r.4 of the Cost Recovery Regulations).

### 5.7.2 Fee for an amendment to a proposal during assessment

A fee of \$16,000 is payable by the proponent for a request by the proponent for approval of assessment of an amended proposal under s.43A of the EP Act. The fee is payable on the day on which the request is made (see item 8 in Table 1 and r.4 of the Cost Recovery Regulations).

## 5.8 Post-assessment fees

A fee of \$48,000 is payable by the proponent for a request by the proponent for approval of amendment to an approved proposal or amendment of conditions relating

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<sup>5</sup> External costs means costs of acquiring services in the nature of advice; and costs (including meals and accommodation) of departmental staff travelling to the site of a proposal or a related site.



to an approved proposal, or both under s.45C of the EP Act. The fee is payable on the day on which the request is made (see item 9 in Table 1 and r.4 of the Cost Recovery Regulations).

A fee of \$16,000 is payable by the proponent on the day on which an EMP is submitted for confirmation, endorsement or approval (however described) under implementation conditions applying in relation to the proposal (see item 11 in Table 1 and r.4 of the Cost Recovery Regulations).

A fee of \$64,000 is payable by the proponent for an inquiry by the EPA (on the request of the Minister) into implementation conditions relating to the approved proposal under s.46 of the EP Act (see item 12 in Table 1 and r.4 of the Cost Recovery Regulations). The fee is payable within the period of 28 days after the day on which the proponent is given the invoice (r. 9(3) of the Cost Recovery Regulations). Please also refer to Section 6.2 for information on fee waivers or reductions which may apply if there is a Minister-initiated inquiry under s.46 (without a request by the proponent).

A fee of \$16,000 is payable by the proponent if the Minister issues interim conditions and procedures under s.46A of the EP Act. This amount is payable within 28 days after the day on which the proponent is given notice of the interim conditions and procedures (see item 13 in Table 1 and r.4 of the Cost Recovery Regulations).

## 5.9 Compliance fees

From 1 July 2023, an annual fee will be charged for compliance monitoring, reviewing of annual compliance statements and auditing of Ministerial Statements issued under the EP Act. This fee will apply to each approved proposal in effect immediately before the start of the financial year.

The annual fees are outlined in Table 3 below. The amount will depend on the compliance priority rating determined by the CEO.

*Table 3: Annual compliance fees*

<b>Compliance priority rating</b>			
Low	Medium	High	Very high
\$3,500	\$7,000	\$14,000	\$21,000

Additional guidance on the methodology for determining the compliance priority rating will be published in mid-2022.

Please note that a proponent may request under s.47A of the EP Act that the Minister withdraws the Ministerial Statement relating to their proposal where it can be demonstrated that the proposal and implementation conditions have been implemented or the implementation of the proposal can be satisfactorily mitigated by licensing or some other form of regulatory control under the EP Act (e.g. Part V Division 3 licence) or another written law.



Compliance fees will not be applied to a proposal where Ministerial Statements have been withdrawn under s.47A.

## 6. Methods for payment of fees and charges

The department has updated its procedures to ensure that proponents are prompted to pay the relevant and correct fees at the appropriate time and in the appropriate manner when the scheme commences on 1 January 2022.

Where a proponent is required to submit a payment on the same day that a request is made, please ensure the payment is submitted at the same time as the request is made.

Where the proponent is required to make a payment within a specified period following the issuing of an invoice by the CEO, the invoice will include information on the required payment.

For the purposes of the Cost Recovery Regulations and this policy, the day on which a request or requirement is made of the proponent or the proponent is given an invoice by the CEO, is the day on which the request or requirement was emailed to the email address nominated by the proponent.

Please also refer to Section 9.2 which discusses the introduction of Environment Online. This digital interface for managing Part IV proposals is anticipated to launch in 2022. Environment Online will enable the collection of relevant fees through an online portal.

Please visit the [department's website](#) if you have any questions about the payment of fees and charges outlined in this policy.

### 6.1 Extension of period of time in which to pay fees

If a proponent wishes to request an extension of the period of time in which a fee is to be paid, a written request should be made to the CEO.

Please note that extensions will only be considered by the CEO where:

- there are unusual or exceptional circumstances which preclude the proponent from paying the prescribed fees within the timeframe specified, or
- the proponent satisfies the CEO that they are an eligible small business entity.

The CEO will consider each request for an extended timeframe for payment on a case-by-case basis. The CEO will notify the proponent of the outcome of their request as soon as practicable, and provide a specified timeframe for payment.

#### Eligible small business entity

The CEO will consider an extension of time to pay a fee if the proponent can demonstrate, to the satisfaction of the CEO that they are an eligible small business entity.



An eligible small business entity, in relation to a proposal, means a business undertaking:

- a) which is wholly owned and operated by an individual person or by individual persons in partnership or by a proprietary company within the meaning of the *Corporations Act 2001* of the Commonwealth, and
- b) is managed personally by the owner or owners or directors, as the case requires, and
- c) is not a subsidiary of, or does not form part of, a larger business or enterprise, and
- d) in circumstances where the total cost of the proposal is estimated to be less than \$10,000,000.

## 6.2 Fee waivers, reductions or refunds

The CEO may, on a case-by-case basis, refund, reduce or waive – in whole or in part – a fee paid or payable under the Cost Recovery Regulations, if the CEO considers it appropriate to do so.

Proponents may request that the CEO refund, reduce or waive a fee. Any such request must clearly state the reason for the request.

### 6.2.1 Fee waivers and reductions

The CEO will only consider a fee waiver or reduction where the proponent can demonstrate that it would not be appropriate in the circumstances to postpone the day on which the fee is payable or extend the period within which the fee is payable (see Section 6.1). The CEO will only grant a waiver or reduction of a fee in exceptional circumstances or as otherwise guided by this policy.

For example, the CEO will consider a proponent's written request for a reduction or waiver of a fee where:

- a) the payment of the fee will represent, in light of relevant exceptional circumstances, an extreme financial impost to the proponent and it would not be appropriate in the circumstances to postpone the day on which the fee is payable or extend the period within which the fee is payable<sup>6</sup>, or
- b) the proponent can demonstrate that not waiving or reducing the fees for a proposal would be detrimental to the public interest, or
- c) an inquiry under s.46 of the EP Act to change the implementation conditions is initiated without a request from the proponent.

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<sup>6</sup> Please note that consideration may be given to whether it would be appropriate to require the proponent to provide a financial assurance under Part VA of the EP Act in these circumstances.



## 6.2.2 Fee refunds

A referral fee will generally be refunded by the CEO if the application is withdrawn by the proponent before the department completes validation and formally accepts the referral. Refunds of the referral fee will generally not be granted by the CEO once the application has been validated and accepted.

## 6.2.3 No fee applicable

### *Decision-making authorities*

There is no referral fee payable by a decision-making authority when they are required to refer the proposal under s. 38(4) of the EP Act. Note that where the EPA decides to assess the proposal, assessment fees will be applicable and the proponent notified.

### *Section 45C – Changes initiated by the Minister*

If the Minister initiates an administrative amendment to a proposal or implementation condition under s.45C of the EP Act, no fee is payable for that amendment.

## 6.3 Interest on outstanding amounts

If a proponent does not pay a fee in full on the day, or within the period, that the fee is required to be paid – interest will be charged on the outstanding amount at a rate of 3 per cent higher than the cash rate target, as determined and published by the Reserve Bank of Australia cash rate target, in effect on the first day that the amount became outstanding. Interest is not charged on any interest that accrues on an outstanding fee.

## 6.4 Non-payment or late fees

The CEO may recover from the proponent any fee that is unpaid (in full or in part), together with any interest that is payable on the unpaid amount, as a debt in a court of competent jurisdiction.

## 6.5 Queries relating to fees

Please email the department at [costrecovery@dwer.wa.gov.au](mailto:costrecovery@dwer.wa.gov.au) with any queries or concerns about how the fees outlined in the regulations and this policy are calculated.

## 7. Transitional arrangements

The Cost Recovery Regulations outline how fees are to be applied to proposals that have been referred or called in before commencement of the regulations.

Where a proposal has been referred prior to 1 January 2022, no referral fee applies.

Where a proposal has been referred, but a decision to assess was not made prior to 1 January 2022, all fees that would be payable are to be deferred to 1 July 2022.



Where a decision to assess a proposal was made before 1 January 2022 and the report on the outcome of the assessment has not been given to the Minister by that date,<sup>7</sup> then a fixed assessment fee payable by the proponent of \$48,000 applies instead of the assessment fee under r. 4(3) item 5 and r. 8. Where this fee would otherwise be payable before 1 July 2022 it is to be deferred. The fee will be due on 1 July 2022 as provided in r. 19.

Where a request for a s.46 inquiry was made in respect to changes to the conditions of a Ministerial Statement before 1 January 2022 and the inquiry is not completed by that date, then the assessment fee of \$64,000 required under r. 4(3) (item 12 and r. 9) will not apply.

## 8. Review of fee structure

The CEO will initiate a review of the pricing model as soon as practicable after 1 July 2023, with the findings to be published on the department's website. An independent party will conduct the review and address the extent that fees under Divisions 1 and 2 recover the costs incurred by the department in receiving and assessing proposals. Key items for consideration in the review include accuracy of the cost model, equitable application of costs across proposals, and unintended or perverse outcomes. The review will also consider efficiency measures.

### 8.1 Evaluation and reporting

The fees collected and associated expenditure will be reported and documented as required under the *Financial Management Act 2006*, and associated Treasurer's Instructions, as well the department's annual reporting process. Revenue and expenditure will be reported and published annually in the department's annual report.

## 9. Additional considerations

### 9.1 Bilateral assessments

Current negotiations between Western Australia and the Commonwealth may lead to the introduction of an approval or assessment bilateral agreement. If this occurs, fees and charges in the regulations and this policy will be revised.

The State Government will consider opportunities to minimise the unnecessary duplication of fees in relation to bilateral or accredited assessments.

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<sup>7</sup> And the assessment has not been terminated before 1 January 2022.



## 9.2 Environment Online

The department is progressing a new digital ‘one stop shop’ for environmental assessments, approvals and compliance, through the introduction of [Environment Online](#).

Environment Online will improve the transparency, certainty and consistency of environmental approvals and provide a quality experience for staff, industry and customers.

It is anticipated that environmental impact assessment under Part IV of the EP Act will become operational under Environment Online during 2022.

The department will work to incorporate the cost recovery regime into Environment Online so as to streamline and simplify the processing and payment of fees for proponents.

## 10. Further assistance

For further assistance on fees and charges relating to Part IV, please refer to the department’s [website](#) or contact us at [costrecovery@dwer.wa.gov.au](mailto:costrecovery@dwer.wa.gov.au)



## Document implementation

This policy comes into effect on 1 January 2022 to align with the commencement of the Cost Recovery Regulations. Proposals received after publication will be processed in accordance with the information contained herein.

The CEO will not apply the policy retrospectively.



## Relevant documents

Please refer to the below documents and legislative instruments, which are relevant to the guidance outlined in this policy.

### Key policies and documents

<a href="#"><i>Statement of environmental principles, factors, objectives and aims of EIA</i></a>
<a href="#"><i>Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual</i></a>
<a href="#"><i>Instructions and template on how to prepare an Environmental Scoping Document</i></a>
<a href="#"><i>Instructions and template on how to prepare an Environmental Review Document</i></a>
<a href="#"><i>Implementing cost recovery for Part IV of the Environmental Protection Act 1986: Discussion paper</i></a>
<a href="#"><i>Costing and pricing government services guidelines – May 2020</i></a>

### Legislative instruments

- *Environmental Protection Act 1986*
- Environmental Protection (Cost Recovery) Regulations 2021
- Environmental Protection Regulations 1987
- Environmental Protection (Clearing of Native Vegetation) Regulations 2004

All legislative instruments are available at [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au)



## Appendices

### Appendix A: Method for complexity component of assessment fee - regulation 5

Reg 5(3)	Characteristics of referred proposal	Applicable fee units
(a)	<b>Strategic proposal:</b> proposal is a strategic proposal.	3
(c)	<b>Commonwealth-accredited assessment process:</b> proposal, or an aspect of the proposal, is assessed under an accredited assessment process (approved by the Commonwealth) under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .	2
(i)(i)	<b>Public comment on proposal:</b> one or more public submissions were received during the seven-day public comment period.	1
(d)	<b>Environmental review document:</b> the proponent undertakes an environmental review and reports to the EPA under s. 40(2)(b) of the Act.	1
(e)	<b>Proponent-prepared scoping document:</b> a scoping document is prepared for an environmental review under s. 40(2)(b) of the Act by the proponent.	1
	<b>EPA-prepared scoping document:</b> a scoping document is prepared for an environmental review under s. 40(2)(b) of the Act by the EPA.	2
(g)	<b>Public comment on assessment on referral information required:</b> proposal and referral information made available for public comment.	2
(h)	<b>Public comment on assessment on environmental review document required:</b> public comment required on the environmental review document under s.40(5) of the Act.	2
(i)(ii)	<b>Extent of public comment on scoping document:</b> number of public submissions received on proponent-prepared scoping document.	
	• 1–49	1
	• 50 or more	2
(i)(i), (i)(iii)	<b>Extent of public comment on assessment information:</b> number of public submissions received on the environmental review document or referral information.	
	• 1–49	1
	• 50 or more	2
(j)	<b>Key environmental factors:</b> number of <a href="#">key environmental factors</a> identified in the EPA's decision whether to assess and in the EPA's assessment report under s.44 of the EP Act.	3 per key environmental factor



(k)	<b>Consultation on conditions:</b> the EPA engaged in consultation on conditions recommended in the EPA's assessment report under s. 44 of the EP Act.	1
(l)	<b>Environmental offset required:</b> the EPA's assessment report under s. 44 of the EP Act recommends one or more conditions imposing environmental offsets.	2
(n)	<b>Disturbance footprint:</b> the project's disturbance footprint exceeds 2,500 hectares of land.	6
(o)	<b>Species or ecological communities:</b> greater than 10 species or ecological communities in relation to which assessment of the impact of implementing the proposal, and assessment of ongoing investigation or management requirements, is needed <sup>8</sup> .	6
	Total fee units	Sum of fee units
	Fee per fee unit	\$16,000
	<b>TOTAL COMPLEXITY FEE FOR ASSESSMENT</b> (i.e. total fee units multiplied by fee per fee unit)	<b>Total fee units x \$16,000</b>

For the purposes of calculating the variable (complexity) component of the assessment fee:

1. The CEO must determine the number of fee units that apply to the proposal with reference to the table above, and
2. Multiply the total applicable fee units by the fee per fee unit – \$16,000<sup>9</sup>.

The fee unit represents the average cost to the department of a unit of staff time associated with assessing proposals, as determined through the pricing model.

This amount will be added to the \$16,000 base assessment fee to determine the total assessment fee to be paid by the proponent.

<sup>8</sup> Species or ecological communities include threatened species or threatened ecological communities, as defined in the *Biodiversity Conservation Act 2016* section 5(1), or listed threatened species or listed threatened ecological communities, as defined in the *Environment Protection and Biodiversity Conservation Act 1999*; new or undescribed species; species or ecological communities categorised as Priority 1 or 2 under the Conservation Codes at <https://www.dpaw.wa.gov.au/images/documents/plants-animals/threatened-species/Listings/Conservation%20code%20definitions.pdf> vegetation units of regional significance; and stygofaunal or troglofaunal communities.

<sup>9</sup> The fee per fee unit is determined by the CEO in accordance with r. 5(4). The department will review its fees on an annual basis and the fee per unit may be subject to change to best reflect the costs incurred by the department in undertaking EIA.



## Appendix B: Case examples - fee determinations

The case examples below demonstrate how fees will be determined or estimated under different scenarios.

### Example 1: Proposal subject to fixed and complexity fees

Proposal to construct a power plant in the Pilbara. Assessment on referral information with additional information and public review.

Assessment stage	Activity	Fee unit	Fee
Referral	s.38 Referral (proponent referred)		\$32,000
Determination	N/A		–
Assessment	Base assessment fee		\$16,000
	EPA requests additional information		\$16,000
	<b>Complexity fees</b>		
	Public comment on proposal	1	
	Public comment on assessment on referral	2	
	Information required		
	Extent of public comment on assessment Information = 1–49:	1	
	Key environmental factors = 2	2 x 3 fee units = 6	
	Total fee units	10	
	Fee per fee unit	\$16,000	
	Total complexity fee		\$160,000
	<b>TOTAL COST</b>		<b>\$224,000</b>

**Example 2: Proposal subject to fixed and complexity fees**

Proposal to produce sulfate of potash from groundwater. Assessed as environmental review without public review.

Assessment Stage	Activity	Fee unit	Fee
Referral	s.38 Referral (proponent referred)		\$32,000
Determination	N/A		–
Assessment	Base assessment fee		\$16,000
	<b>Complexity fees</b> Public comment on proposal Proponent-prepared scoping document Environmental review document Key environmental factors = 4 Disturbance footprint greater than 2,500 ha	1 1 1 4 x 3 fee units = 12 6	
	Total fee units	21	
	Fee per fee unit	\$16,000	
	Total complexity fee		\$336,000
	<b>Total cost</b>		<b>\$384,000</b>

**Example 3: Proposal subject to fixed and complexity fees**

Proposal to construct a rail-line. Assessment on referral information with additional information and public review.

Assessment stage	Activity	Fee unit	Fee
Referral	s.38 Referral (proponent referred)		\$32,000
Determination	N/A		–
Assessment	Base assessment fee		\$16,000
	41A Minor and preliminary works request		\$16,000
	43A Change to proposal during assessment		\$16,000
	EPA requests additional information		\$16,000
	<b>Complexity fees</b>		
	Public comment on proposal	1	
	Public comment on assessment on referral information required	2	
	Extent of public comment on assessment on referral information = 50 or more	2	
	Key environmental factors = 6	6 x 3 fee units = 18	
	Environmental offsets required	2	
	Total fee units	25	
	Fee per fee unit	\$16,000	
	Total complexity fee		\$400,000
	<b>Total cost</b>		<b>\$496,000</b>

**Example 4: Example of fees for a request under s.45C of the EP Act**

<b>Assessment stage</b>	<b>Activity</b>	<b>Fees</b>
Implementation	s.45C Request to change proposal and/or conditions after decision s.45C(2) Minister requests further information	\$48,000 \$16,000
	<b>Total cost</b>	<b>\$64,000</b>

**Example 5: Example of fees for inquiry under s.46 of the EP Act**

<b>Assessment stage</b>	<b>Activity</b>	<b>Fees</b>
Implementation	s.46 Inquiry to change implementation conditions s.46A Request for interim conditions	\$64,000 \$16,000
	<b>Total cost</b>	<b>\$80,000</b>

**Example 6: Significant amendment to an existing proposal**

Proposal to increase discharge of groundwater from mine dewatering into the mouth of a river. Assessed on referral information with no public comment or review. In this example, the initial request received would have incurred a \$48,000 fee on the day the proponent requested an amendment to the proposal. This fee would be refunded and the fees outlined below would apply.

Assessment stage		Activity	Complexity fee calculation	Fee
Referral		s.38 Referral (proponent referred)		\$32,000
Determination		N/A		–
Assessment		Base assessment fee		\$16,000
		<b>Complexity fee</b> Key environmental factors = 1	1 x 3 fee units = 3	
		Total fee units Fee per fee unit Total complexity fee	3 \$16,000	\$48,000
		<b>Total cost</b>		<b>\$96,000</b>



## Glossary

<b>CEO</b>	Chief Executive Officer of the Department of Water and Environmental Regulation or delegate.
<b>Cost Recovery Regulations</b>	Environmental Protection (Cost Recovery) Regulations 2021
<b>Department</b>	Department of Water and Environmental Regulation
<b>EIA</b>	Environmental impact assessment
<b>EMP</b>	An environmental management plan, environmental management system or environmental improvement plan.
<b>EPA</b>	Environmental Protection Authority
<b>EP Act</b>	<i>Environmental Protection Act 1986</i>
<b>EY</b>	Ernst & Young Australia