

Guideline for fee and cost recovery for infrastructure facilities of significance

November 2011

© State of Queensland. Published by Queensland Government, November 2011,
111 George Street, Brisbane Qld 4000.

The Queensland Government supports and encourages the dissemination and exchange of information. However, copyright protects this publication. The State of Queensland has no objection to this material being reproduced, made available online or electronically but only if it is recognised as the owner of the copyright and this material remains unaltered. Copyright inquiries about this publication should be directed to crown.copyright@qld.gov.au or in writing to: Administrator (Crown Copyright and Other IP), Department of Employment, Economic Development and Innovation, PO Box 15168, City East, Qld 4002.

The Queensland Government is committed to providing accessible services to Queenslanders of all cultural and linguistic backgrounds. If you have difficulty understanding this publication and need a translator, please call the Translating and Interpreting Service (TIS National) on 131 450 and ask them to telephone the Queensland Department of Employment, Economic Development and Innovation on 132 523.

Disclaimer: While every care has been taken in preparing this publication, the State of Queensland accepts no responsibility for decisions or actions taken as a result of any data, information, statement or advice, expressed or implied, contained within. To the best of our knowledge, the content was correct at the time of publishing.

Any references to legislation are not an interpretation of the law. They are to be used as a guide only. The information in this publication is general and does not take into account individual circumstances or situations. Where appropriate, independent legal advice should be sought.

Contents

| | |
|--|---|
| Purpose of this guideline | 1 |
| Introduction..... | 1 |
| Commencement of fees and cost recovery provisions..... | 2 |
| Annual adjustment of fees..... | 2 |
| Fee schedule | 3 |
| Asking for an infrastructure facility of significance approval | 3 |
| Asking the Coordinator-General to take land | 3 |
| Applying for an investigator’s authority..... | 4 |
| Recovery of third-party costs..... | 4 |
| Coordinator-General’s powers suspended until fees paid..... | 5 |
| How to pay..... | 5 |
| Appendix 1— Fee schedule..... | 6 |

Purpose of this guideline

This guideline provides information about the fee structure and cost recovery provisions associated with the administration of the infrastructure facility of significance process under the *State Development and Public Works Organisation Act 1971* (SDPWO Act)¹.

Introduction

Under the SDPWO Act, the Coordinator-General has power to compulsorily acquire, or take, land for an infrastructure facility that is of significance, particularly economically or socially, to Australia, Queensland or the region in which the facility is to be constructed.

In November 2011 the *Building Boost Grant Act 2011* amended the SDPWO Act, introducing new sections 140A 'Fees' and 140B 'Recovering cost of advice or services', which apply to the infrastructure facility of significance process.

The amount of the fees and when they are payable are set out in Schedule 1A of the SDPWO Act.

The fees allow the Coordinator-General to recover some of the government costs of considering applications in relation to the infrastructure facility of significance process.

The fees are 'upfront fees' and are payable prior to the respective stage of the infrastructure facility of significance process. If a fee stated in Schedule 1 becomes payable, the Coordinator-General's obligations are suspended until the fee has been paid.

The SDPWO Act also allows recovery of the additional costs of any services or advice the Coordinator-General considers necessary to either decide an application or to take other action in relation to the proposed facility. This cost recovery provision is set out in section 140B of the SDPWO Act.

For details of the fee schedule and cost recovery provisions, refer to Part 6 Division 6A of the SDPWO Act and Schedule 1A.

¹ See Part 6, Divisions 6 and 7 of the SDPWO Act.

Commencement of fees and cost recovery provisions

The application fees and cost recovery provisions commenced on 4 November 2011. Fees apply to all applications made in relation to the infrastructure facility of significance process lodged on or after that date.

Below are two scenarios which demonstrate when a fee would apply:

Scenario 1:

The relevant fee **would not** be applied **retrospectively** to a properly made 'Application to the Coordinator-General for an Infrastructure Facility of Significance' lodged *before* the fee came into effect—even if the assessment of the application was incomplete.

Scenario 2:

The relevant fee **would** apply to all **new** applications. For example, even if a proponent's infrastructure facility was approved *before* the date the fees and cost recovery provisions took effect, the proponent would still be subject to fees for any applications made *after* that date, for example an application to the Coordinator-General to take land.

Annual adjustment of fees

The fees are adjusted on 1 January each year to reflect movements in the Consumer Price Index (CPI) over the previous 12 months. Under the SDPWO Act, the CPI is based on the all groups index for Brisbane published by the Australian Bureau of Statistics or— if publication of the index ceases—another similar index prescribed under a regulation.

Fee schedule

The fee schedule (see Appendix 1) applies to persons proposing an infrastructure facility if the person:

- (1) Asks the Coordinator-General to seek the approval of the Governor in Council for an infrastructure facility of significance (under section 125(1)(f)(ii) of the SDPWO Act).
- (2) Asks the Coordinator-General to take land for an approved infrastructure facility (under section 125(1)(f) of the Act).
- (3) Applies for an investigator's authority (under section 143 of the Act) for the infrastructure facility.

The regulatory fee and cost recovery schedule (including third-party costs) allows the Coordinator-General to recover some of the costs associated with the assessment of an application.

The making of an application and payment of the relevant fee does not guarantee that the application will be approved.

Asking for an infrastructure facility of significance approval

A proponent may apply to the Coordinator-General asking him to seek approval by the Governor in Council that an infrastructure facility is of significance. The application to the Coordinator-General must be accompanied by the relevant fee.

The fees are specified in Schedule 1A of the SDPWO Act. See Appendix 1 for the fee schedule for 2011 (calendar year).

If the proposed infrastructure facility has been declared a 'significant project' (under Part 4 of the SDPWO Act), and the Coordinator-General has released his report on the proponent's environmental impact statement (EIS), the fee payable is lower. This is because the Coordinator-General has already undertaken some assessment of the proposed facility.

Fees are not refundable if the Coordinator-General decides not to recommend that the Governor in Council approve the facility as an infrastructure facility of significance or if the Governor in Council does not approve the infrastructure facility as significant.

Asking the Coordinator-General to take land

Under Part 6 Division 6 and in accordance with the guidelines prepared under section 174 of the SDPWO Act, a proponent of an approved infrastructure facility of significance may apply to the Coordinator-General to request that he compulsorily acquire, or take, land required for the facility.

The application must be accompanied by the relevant fee. This fee is specified in Schedule 1A of the SDPWO Act. See Appendix 1 for the fee schedule for 2011 (calendar year).

The fee applies to each application to the Coordinator-General to take land. An application may be for one or multiple parcels of land.

Fees are not refundable if the Coordinator-General decides not to compulsorily acquire, or take, land required for the facility.

In addition to the payment of the fee, under the guidelines prepared under section 174 of the SDPWO Act a proponent must enter into a binding agreement with the Coordinator-General in relation to costs before the Coordinator-General will commence the process to compulsorily acquire the land.

The agreement specifies the responsibilities for, and the timing of, the payment of all costs and expenses (including compensation payments) associated with the acquisition of the land.

Applying for an investigator's authority

A proponent may apply to the Coordinator-General for an investigator's authority to enter land to investigate its suitability for the proposed infrastructure facility of significance.

The application must be accompanied by the relevant fee. These fees are specified in Schedule 1A of the SDPWO Act. See Appendix 1 for the fee schedule for 2011 (calendar year).

If the proponent's infrastructure facility has already been approved by the Governor in Council as an infrastructure facility of significance, the fee is lower as the Coordinator-General has already undertaken some assessment of the proposed facility.

Application fees are not refundable if the Coordinator-General decides not to grant an investigator's authority.

Recovery of third-party costs

The Coordinator-General may require the advice or services of another entity to take action under Part 6 of the SDPWO Act.

Section 140B of the SDPWO Act enables the Coordinator-General to recover these costs from the proponent of the proposed infrastructure facility.

For example, the Coordinator-General may seek to recover from the proponent the costs associated with commissioning an independent report into a particular aspect

of the infrastructure facility proposal that the Coordinator-General considers is necessary to evaluate the facility's significance.

For more details, refer to section 140B of the SDPWO Act.

Coordinator-General's powers suspended until fees paid

If the fees prescribed in the fee schedule are not paid at the specified time, the Coordinator-General's powers will not be exercised.

Proponents of infrastructure facilities must pay the Coordinator-General the fees outlined in Schedule 1A at the specified times.

If a fee stated in Schedule 1A becomes payable, the Coordinator-General's obligations are suspended until the fee has been paid.

For more details, refer to section 140A(3) of the SDPWO Act.

How to pay

Payments of fees can be made by cheque, payable to the Department of Employment, Economic Development and Innovation.

The cheque must accompany the application or request, or be given to the department prior to the application or request being made.

Alternatively, payments may be directly deposited into the Department of Employment, Economic Development and Innovation bank account.

In this case, the transaction receipt must accompany the application.

The department's bank account details are as follows:

- Account name: Depart of Employment, Economic Development and Innovation
- BSB: 064-013
- Account No: 10007096
- Reference: Please include the name of the proposed or approved infrastructure facility, and the matter for which the fee is payable.

Upon receipt of the payment, the department will issue a tax invoice.

Appendix 1— Fee schedule

Fee schedule for 2011 (calendar year)

| | Matter for which fee is payable | Payment due | Fee (\$) |
|----------|--|--|------------------------------|
| 1 | <p>Asking for an infrastructure facility of significance approval</p> <p>(under section 125(1)(f)(ii) of the SDPWO Act)</p> <p>Considering and assessing the matters mentioned in sections 125(2) and 125(3)—</p> <p>(a) if, at the time the request for approval is made, a report for an EIS for the proposed infrastructure facility has been notified under section 35(5)(b)</p> <p>(b) if paragraph (a) does not apply</p> | <p>On lodgement of the application</p> | <p>55,000</p> <p>110,000</p> |
| 2 | <p>Asking the Coordinator-General to take land</p> <p>(under section 125(1)(f) of the SDPWO Act)</p> <p>Assessing a request to take land under section 125(1)(f) and complying with sections 125(6) and 126 and any guidelines made under section 174(1)(a)</p> | <p>On lodgement of the application</p> | <p>55,000</p> |
| 3 | <p>Applying for an investigator’s authority</p> <p>(under section 143 of the SDPWO Act)</p> <p>Assessing and deciding an application relating to a proposed infrastructure facility—</p> <p>(a) if the facility is the subject of an approval by the Governor in Council under section 125(1)(f)(ii)</p> <p>(b) if paragraph (a) does not apply</p> | <p>On lodgement of the application</p> | <p>15,000</p> <p>30,000</p> |

Notes

The fees in the schedule are exempt from GST by virtue of Division 81 *A New Tax System (Goods and Services Tax) Act 1999*.

The fees increase on 1 January each year in line with CPI (calculated as the CPI for the quarter ended 30 September of the completed year compared to the CPI for the same quarter in the previous year).