



Environmental Planning and Assessment Amendment (Fees) Regulation 2012

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

BRAD HAZZARD, MP
Minister for Planning and Infrastructure

Explanatory note

The object of this Regulation is to amend the *Environmental Planning and Assessment Regulation 2000*:

- (a) to require a council to notify a person who requests the preparation of a planning proposal if the request is not supported, and
- (b) to prescribe certain fees relating to the preparation of reports and the referral and assessment of planning matters.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 137 and 157 (the general regulation-making power).

2012 No 542

Environmental Planning and Assessment Amendment (Fees) Regulation
Clause 1 2012

**Environmental Planning and Assessment Amendment
(Fees) Regulation 2012**

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Fees) Regulation 2012*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

[1] Clause 10A

Insert after clause 10:

10A Notification when council does not support request to prepare planning proposal

When a council does not support a written request made to the council by a person for the preparation of a planning proposal under Part 3 of the Act, the council is required to notify the person as soon as practicable in writing that the proposal is not supported.

[2] Clause 11

Omit clause 11. Insert instead:

11 Fee payable for costs and expenses of studies etc by relevant planning authority

- (1) The relevant planning authority may enter into an agreement with a person who requests the preparation of a planning proposal under Part 3 of the Act for the payment of the costs and expenses incurred by the authority in undertaking studies and other matters required in relation to the planning proposal.
- (2) The fee payable to the relevant planning authority for the payment of those costs and expenses is:
 - (a) if the authority is a council—the fee set out or determined in accordance with the agreement, or
 - (b) in any other case—an amount (not exceeding \$25,000) determined by the authority to cover the costs and expenses reasonably incurred by the authority in undertaking the studies or other matters, or such greater amount as may be agreed in the particular case.
- (3) A fee payable by a person under this clause is due and payable at the time notified in writing to the person by the relevant planning authority.
- (4) If the relevant planning authority is the Commission or a regional panel, the functions of the relevant planning authority under this clause are exercisable by the Director-General.
- (5) A reference in this clause to an agreement includes a reference to an arrangement.

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[3] Clause 263 Other fees

Insert after clause 263 (3):

- (4) The Director-General may, under section 137 (1A) of the Act, require the payment of an initial fee of not more than \$5,000 for consideration of a request that the Minister or the Director-General refer a matter to the Commission or to a regional panel.

Note. The Commission and a regional panel may advise the Minister or Director-General as to planning matters under sections 23D (1) (b) (i) and 23G (2) (c) of the Act, respectively.

- (5) If the Minister or the Director-General determines to refer any such matter to the Commission or a regional panel, the Director-General may, under section 137 (1A) of the Act, require the payment by the person who requested the referral of a fee of not more than \$15,000 for the costs and expenses incurred by the Minister or Director-General in preparing a report about the matter (including any necessary consultation with councils and other relevant agencies) or incurred by the Commission or the regional panel in providing advice to the Minister or the Director-General.
- (6) A fee is not payable under subclause (4) or (5) in respect of a request referred to in subclause (3).