



Government of **Western Australia**
Department of **Water and Environmental Regulation**

Report to the Minister for
Environment on the review of
Part IV assessment fees
charged under Division 1 of
the *Environmental Protection
(Cost Recovery) Regulations
2021*

Department of Water and Environmental Regulation

July 2025

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1. Purpose and scope

The Department of Water and Environmental Regulation (the Department) supports the Environmental Protection Authority (EPA) to manage duties under the *Environmental Protection Act 1986* (EP Act). The purpose of this report is to fulfil the requirements set out in Division 6, r.21 of the *Environmental Protection (Cost Recovery) Regulations 2021*:

s.21. Review of fees under Division 1

- (1) The CEO must, as soon as practicable after 1 July 2023, review the fees under Division 1.*
- (2) The review must address the extent that the fees under Divisions 1 and 2 recover the costs incurred by the Department in receiving and assessing proposals.*
- (3) The CEO must prepare a report based on the review and give the report to the Minister as soon as practicable after it is prepared.*

Division 1 of the Regulations enables the Department to charge fees for the referral and environmental impact assessment (EIA) of development proposals on behalf of the EPA under Part IV of the EP Act.

Division 2 provides for the charging of fees for external costs incurred by the Department and the EPA for the same purpose, where external costs are those incurred for independent peer reviews and specialist advice related to the assessment of proposals and/or costs associated with proposal site visits for staff.¹

Division 3 of the Regulations provides for the charging of an annual compliance fee for proposals approved under Part IV of the EP Act. The Regulations do not require fees charged under Division 3 to be reviewed, so the fee was considered out of scope of this review. The Department has committed to separately reviewing and consulting on this fee and associated guidelines.

¹ DWER 2021, [Policy: Implementing the Environmental Protection \(Cost Recovery\) Regulations 2021](#), December (pg. 11).

2. Background

2.1 Cost Recovery Regulations

The Department supports the EPA in conducting EIA of major development proposals and creating policies to protect the environment in accordance with the EP Act. The Department also monitors proponent compliance with the environmental conditions of Ministerial Statements that are established once a proposal has been approved by the Minister for Environment.

To improve the capacity and agility of the Department to manage an increasing environmental workload without compromising the State's environmental values², the Department recently moved to a cost recovery model for these functions. Following a consultation process³, the Regulations came into effect in December 2021.

The fees were established with the aim of:

- being feasible and legal
- being cost-effective and practical
- being imposed on those that benefit from, or whose actions give rise to the need for, EIAs
- being simple, easy to understand and communicate
- being transparent, with clear accountability
- allowing full cost recovery.

The development of a pricing model by an external consultant determined a schedule of fees to be charged under Division 1 of the Regulations in alignment with State Government guidelines⁴. The service functions included are listed in Table 1 and the schedule of assessment fees is presented in Table 2. A fixed fee structure was adopted to keep the fee model simple, despite the variability of proposal complexity.

² DWER (2021) [Implementing cost recovery for Part IV of the Environmental Protection Act 1986 Discussion paper](#), September.

³ [Discussion paper consultation summary - Implementing cost recovery for Part IV of the Environmental Protection Act 1986](#)

⁴ Primarily the Department of Treasury's [Costing and pricing of government services](#), Treasurer's Instructions 810 as found in the [Financial Administration Bookcase](#), and [Operating Subsidy Guidelines](#) (note – current links provided).

Table 1 EPA service functions considered under the pricing model

Inclusions
<ul style="list-style-type: none"> • Valid referrals by proponents • Referrals by third parties, including decision-making authorities, that are assessed (payable by the proponent) • Environmental impact assessments (EIAs) • Specialist advice (internal or external) • Advice from other agencies (this is included in the functions considered under the pricing model, although the current Regulations and model do not provide for fees that recover this cost) • Policy and strategy related to assessments • Environmental management plans (EMPs) • Compliance activities • Changes to proposals • Changes to implementation conditions • Strategic assessments • Bilateral assessments
Exclusions
<ul style="list-style-type: none"> • Advice – pre-referrals • Invalid referrals • Referrals by third parties/decision-making authorities that are not assessed • Administration errors • Schemes/planning • Policy and strategy not related to assessments • Appeals • Costs of EPA members and their direct support staff • Research and development activities • Ministerial support/communications • Advice to other agencies • Inquiries

The pricing model is based on 2019-20 financial data and an estimation of departmental officers' time to undertake assessments and related chargeable tasks. The methodology and assumptions were reviewed by Ernst and Young in October 2021 prior to the Regulations coming into effect⁵.

The Department began charging Part IV assessment fees in accordance with the Regulations from 1 January 2022.

⁵ Ernst & Young, [Environmental Protection Act 1986 Part IV cost recovery: pricing and demand model validation](#).

Table 2 Fees charged by the Department under the Cost Recovery Regulations (excludes annual compliance fees)

Stage	Fee type	Fee amount	Fee trigger
Referral	s38 – Referral of proposal to EPA	\$32,000	Date of referral post 1/1/22
	s38C – Request by proponent for approval to amend proposal	\$16,000	Date of request post 1/1/22
	s38E – Request by proponent to declare proposal a derived proposal	\$16,000	Date of referral post 1/1/22
	s38F – Request by EPA for further information	\$16,000	Date of request by EPA post 1/1/22
Assessment	s38 – Level of assessment estimate	Based on complexity calculator	Level of assessment decision by EPA with decision assessment required post 1/1/22
	Transitional fees	\$48,000	Assessments completed and sent to Minister with level of assessment decision prior to 1/1/22 and sent to Minister post 1/1/22
	s40(2)(a) – Request by EPA for further information for the assessment of referred proposals	\$16,000	Date of request post 1/1/22
	s41A(3) – Request by proponent for consent to minor or preliminary works	\$16,000	Date of request post 1/1/22
	s43A – Request by proponent to amend proposal during assessment	\$16,000	Date of request post 1/1/22
	s46A – Minister issues interim conditions and procedures	\$16,000	Date of issue from the Minister post 1/1/22
	Specialist advice	Reimbursement of actual costs	Final reconciliation of assessment cost, when the final report is endorsed by the EPA and sent to the Minister.
	s38 – Finalisation of assessment cost	Based on complexity calculator	The EPA endorses the final report and sends it to the Minister post 1/1/22 (for assessments not subject to transitional fees)

Stage	Fee type	Fee amount	Fee trigger
Post-Assessment	s45C – Request by proponent to amend an approved proposal and/or conditions	\$48,000	Date of request post 1/1/22
	s45C(2) – Request from Minister to proponent for further information relating to a S45C request	\$16,000	Date of request post 1/1/22
	EMP – submission of EMP for confirmation, endorsement or approval	\$16,000	Date of submission post 1/1/22
	s46 – Inquiry by EPA into amending implementation conditions	\$64,000	Date of request from the Minister post 1/1/22

2.2 Review of the Cost Recovery Regulations

Division 6 of the Regulations requires a review of the fees charged under Division 1 of the Regulations as soon as practicable after 1 July 2023.

In February 2024, the Department engaged Marsden Jacob Associates to review the Regulations and the extent that the fees under Divisions 1 and 2 recover the costs incurred by the Department in receiving and assessing proposals. The consultant undertook an in-depth analysis of the appropriateness of the Regulations to identify any unintended and/or adverse outcomes, with a focus on fee triggers and administration practicalities. Their review involved desktop assessment of relevant documentation (including the Regulations, the pricing model, financial reports and approaches used in other jurisdictions) as well as consultation with key stakeholders.

The consultant held a series of meetings with stakeholders to gather feedback. The process engaged both internal subject matter experts and external stakeholders, primarily via the EPA's stakeholder reference group.

A briefing session was held on 28 August 2024 with the group. Organisations invited to attend the briefing and participate in the questionnaire were:

- Conservation Council of WA
- The Wilderness Society
- Environmental Defenders Office
- Environmental Institute of Australia & New Zealand
- Environmental Consultants Association (WA)
- Natural Resources Management WA
- Urban Bushland Council WA
- National Environmental Law Association
- Urban Development Institute of Australia
- WA Local Government Association
- WA Planning Commission
- Association of Mining and Exploration Companies
- Australian Energy Producers
- Chamber of Commerce and Industry
- Chamber of Minerals and Energy
- Pastoralists and Graziers Association of WA
- Recfishwest
- WA Farmers Federation
- WA Fishing Industry Council.

The briefing session set out a presentation on the scope of the project, along with the list of questions that would be provided in the questionnaire. The briefing session was optional, as stakeholders could participate in the questionnaire without attending the session.

In addition, the project team was asked to consult with the strategic programs team in the Department of Primary Industries and Regional Development (DPIRD) and the Aquaculture Council of Western Australia (ACWA) because it was an illustrative example of the broader issue around concessions and waivers.

The consultants received a total of seven responses from stakeholders: three to an online questionnaire and four written submissions. The organisations that provided responses were:

- Environmental Defenders Office
- Urban Development Institute of Australia
- WA Local Government Association
- Association of Mining Exploration Companies
- Chamber of Minerals and Energy
- one member from Environmental Consultants Association
- Aquaculture Council of WA.

The Regulations were also analysed by the consultant to identify adverse or unintended outcomes. Feedback provided during consultations was considered as part of the analysis of the Regulations. The key questions addressed and approach used by the consultant are outlined in Table 3.

Table 3 Key review questions and review strategies used by consultant

Key review questions	Review strategies used
Are the fees legal (review of fee triggers)?	Review of documentation
Were the fees identified and determined using a suitable approach?	Review of documentation Internal consultation with the Department Targeted consultation with stakeholders
Do the fees align with the objectives proposed?	Review of documentation Internal consultation with DWER
Are the fee levels appropriate (achieving full cost recovery)?	Review of model and financial reports
Are there any fees that should be charged but currently are not? Should any fees be removed?	Review of documentation Internal consultation with the Department Targeted consultation with stakeholders
Do the fees appropriately balance precision and simplicity?	Review of documentation Internal consultation with the Department Targeted consultation with stakeholders
Should any fees be changed?	Review of documentation Internal consultation with the Department Targeted consultation with stakeholders
Are there any unintended or adverse outcomes of the Cost Recovery Regulations?	Internal consultation with the Department Targeted consultation with stakeholders

In May 2025, the consultant delivered its report with the findings of the review to the Department.

3. Key findings and recommendations

3.1 Summary of findings

Overall, the review’s findings were positive about the Department’s approach to designing the fee framework and its implementation, with the consultant noting:

- *“Overall, the aims used when establishing the fees align well with WA’s guidance on cost recovery. The cost model works as intended and has been built using best practice approaches”*
- *“We consider that the cost recovery model built for the development of Part IV fees and charges aims to balance simplicity and transparency and to achieve full cost recovery. No cost recovery model will be able to achieve all three, as those are conflicting aims. Noting this, we find that the cost recovery model is built appropriately and provides a good estimation of costs associated with assessments”*
- *“...the WA fees compare favourably with the fees for similar assessments undertaken in a few of the other jurisdictions”*
- *“...the approach used by the Department to implement cost recovery accounting for the complex and bespoke nature of the proposals is appropriate.”*

Cost recovery information provided by the Department as part of this review indicated that, for the 2023–24 year, 79 per cent cost recovery was achieved for assessments. This provides more confidence that the determination of the cost base and the development of the cost recovery model was done correctly and there are no gross miscalculations or errors.

3.2 Summary of recommendations

The consultant made 15 recommendations to improve the administration of cost recovery, address unintended and/or adverse outcomes and identify potential fee or fee level changes. The recommendations and the Department’s response are discussed in Table 4 below by review question.

Table 4 Summary of recommendations and the Department’s response

Recommendation	Relevant fee value	Impact on fee and event triggers	Department response
1. Recommend that a further review of forecast demand and historical levels of demand for EIA services be undertaken at a future time once further data becomes available.	n/a	No impact on fees and event triggers	Support The Regulations have been in place for a limited time, with more complex assessments still to be completed. A further review is supported to confirm the model is robust when more complex proposals have been completed and more fee events have occurred.

Recommendation	Relevant fee value	Impact on fee and event triggers	Department response
<p>2. Recommend that the regulations be amended to require that all payments be liable to be paid on the issue of a request, that payment be made within a 28-day period of notice and that provisions be included to state that substantial work on assessment will not take place until payment has been made in full.</p>	n/a	No impact on fees and event triggers	<p>Support in principle Standardising payment due dates will simplify administration of cost recovery, as well as provide proponents with appropriate time to validate an invoice (given the value) and pay prior to interest being accrued. To enable timely assessment processes, rather than introducing provisions that substantial work on assessment will not take place until payment has been made in full, the Department will implement Recommendation 3 (provision to suspend assessment).</p>
<p>3. Recommend that DWER review the interest regulation (15) and develop clear guidelines around how interest is applied. The guidance should cover interest calculations and consistent application. We recommend the Department consider whether the interest rate charged should be made consistent with the interest charged under other parts of the EP act for simplicity and transparency. Further, we recommend the inclusion of provisions to allow the suspension of assessment processes in the event of extended non-payment.</p>	n/a	No impact on fees and event triggers	<p>Support in principle The Department has a range of approaches in place to manage late payments and will consider whether a consistent approach across applications is feasible. The Department supports the inclusion of provisions to suspend assessment processes in the event of non-payment.</p>
<p>4. For fees associated with requests for information, recommend that the regulations be amended. We suggest that the amendments include the provision that, in the case of a third-party referral, proponents do not incur any fees until the decision has been made to assess the proposal.</p>	\$16,000	Introduces a new fee trigger – but aligns with an existing trigger	<p>Support Referral fees are only charged where a proposal is assessed by the EPA. The Department supports amending the Regulations to make Request for Information fees associated with third party referrals only payable if a proposal is assessed and to be paid following an assessment decision.</p>
<p>5. Recommend that the regulations be amended so that proponents are not required to pay an additional fee when given an extension of time to comply with a request for information.</p>	\$16,000	Removes a trigger for an additional fee	<p>Support As there is limited additional work required to extend the timeframe in which a Request for Information needs to be responded to, the Department supports clarity to charge this fee only once per RFI.</p>

Recommendation	Relevant fee value	Impact on fee and event triggers	Department response
6. Recommend that the regulations be amended to ensure that fees for confirmation, endorsement or approval for environmental management plans (EMPs) be charged only once (such as on final submission) to recognise the iterative nature of the confirmation process for EMPs.	\$16,000	Removes a trigger for additional fees	Support The consideration of EMPs is an iterative process and the fee is intended to cover these iterations until approval is given/not given. For clarity, once an EMP is approved, any subsequent modification which requires approval will be subject to a new fee.
7. Recommend that the regulations be amended to indicate that approvals under section 45C(5) [Amending approved proposals or implementation conditions without inquiry or assessment], specifically for administrative changes and clerical errors, be exempt from the fee.	\$48,000	Removes a trigger for additional fees	Support As there is limited work required to correct administrative or clerical errors, the Department agrees no fee should be charged.
8. Recommend that section 46 [Amending implementation conditions after inquiry] inquiries be further investigated to understand how many are being initiated and the range of resourcing required to conduct inquiries. If the investigations indicate that fees for section 46 inquiries should be flexible to scale with the level of effort, we recommend that this be implemented.	\$64,000	May introduce a new fee trigger	Support The Department supports further investigation of this fee as part of the next review. This will provide time for more examples of s.46 inquiries to be considered.
9. Recommend that the fee relating to amendments under section 43A [Amendments to proposals during assessment] be investigated further by the Department to understand whether the removal of the fee would result in any perverse incentives.	\$16,000	Removes a trigger for additional fees	Noted Further consideration by the Department has identified that amendments to proposals often involve additional work. The Department will not remove the fee but can use existing waiver provision to consider whether to waive this fee on a case-by-case basis.

Recommendation	Relevant fee value	Impact on fee and event triggers	Department response
10. Recommend that the waiver system be reviewed and appropriate delegations established to ensure that the procedure aligns with due process while not being unduly burdensome.	n/a	No impact on fees and event triggers	Support As part of implementing the recommendations, the Department will seek to amend Regulations or policy to provide clarity on the use and application of waivers. The Department will then consider whether any supporting changes to procedure or delegations are needed.
11. Recommend that resource utilisation on section 47A requests be considered further [Withdrawal of Ministerial statement]. If section 47A requests prove to be highly resource intensive, we recommend that fees be introduced to recover the costs incurred by the Department. However, any fee would require careful consideration and drafting to ensure that it does not impact any dormant ministerial statements.	New	May introduce a new fee trigger.	Support Withdrawal of a Ministerial Statement was only recently added to the EP Act. The Department will investigate the effort required to process s.47A withdrawal requests and consider whether a fee is appropriate.
12. Recommend that the regulations be amended to indicate that if a direction under section 43 [Minister may direct authority as to assessing proposal] results in a project being assessed for the first time, then the assessment be charged with the conditions aligning with section 38A. This would fall under regulation 6(3).	Varied - \$80-976,000	Introduces a new fee trigger – but aligns with an existing trigger	Support The Department will amend the Regulations to ensure these are subject to the assessment fee.
13. Recommend that the Part IV fees be indexed to reflect movements in the Public Sector Wage Price Index.	All fees	No impact on fees and event triggers. Would impact fee levels	Support in principle Given the fees are based on salaries which change over time, indexing the fees to remain current is supported. The Department will consider this recommendation in line with other fees charged by the Department.
14. Recommend that the regulations be amended to include provision for a future review. A review in five years would be suitable.	n/a	No impact on fees and event triggers	Support in principle Given some of the other recommendations require additional data, the Department commits to a future review. The Department will not embed this in updated Regulations to allow flexibility in when to conduct the review based on the availability of data.

Recommendation	Relevant fee value	Impact on fee and event triggers	Department response
15. Recommend that the process for increasing staffing resources be reviewed and be made flexible to react to demand levels.	n/a	No impact on fees and event triggers	<p>Noted The Department will engage with Treasury on any opportunities to respond to demand fluctuations, noting that early engagement by proponents through the pre-referral process provides greater awareness of potential future referrals (and workload).</p>

4. Response to recommendations

4.1 Are the fees legal (review of fee triggers)?

The consultant found

The consultant reviewed the legislative authority and determined that the fees and charges are based on an appropriate power in the EP Act. The EP Act sets out the purpose of the fees (to defray the costs of receiving and assessing proposals). The Interpretation Act sets out that fees for the recovery of expenditure can include establishment and administration costs as well as assessment costs.

4.2 Were the fees identified and determined using a suitable approach? Do the fees align with the objectives proposed?

The consultant found

The consultant reviewed the adequacy and structure of cost recovery fees to ensure they were consistent with the State Government's guidance on cost recovery fees and charges. The review of the model considered whether the fees and charges:

- reflect movements in the input costs
- achieve, or make adequate progress towards achieving, full cost recovery where appropriate
- are not over-recovering costs
- are fair and equitable, and recognise organisational capacity to pay
- are competitive, in comparison to other jurisdictions
- are comprehensive, in that new fees and charges are designed and introduced in a timely manner.

The consultant noted the aims of cost recovery align well with State Government guidance on fees and charges, as outlined in:

- Costing and pricing government services (May 2020)
- Treasurer's instruction 810 as found in the Financial Administration Bookcase
- Operating subsidy guidelines.

An in-depth review of the model was undertaken to ensure that all the input formulas were being calculated correctly. Checks of the model indicated that the calculations were all correct. However, a few observations were made that the calculations could be amended to make the model more robust. Those changes were non-critical and did not affect the fees. The calculations were then provided to the Department and changes were made where necessary. The changes made did not alter the calculation of the fees but rather ensured the model was operating efficiently.

The review aimed to assess the validity of the model in terms of the demand estimates and the expected versus actual number of referrals. However, since the fees have come into effect only on 1 January 2022, there is a limited amount of historical data on referrals and assessments.

Recommendation 1: We recommend that a further review of forecast demand and historical levels of demand for EIA services be undertaken at a future time once further data becomes available.

Department response: Support. The Regulations have been in place for a limited time, with more complex assessments still to be completed. A further review is supported to confirm the model is robust once more complex proposals have been completed and more fee events have occurred.

Recommendation 14: We recommend that the Regulations be amended to include provision for a future review. A review in five years would be suitable.

Department response: Support in principle. Given some of the other recommendations require additional data, the Department commits to a future review. The Department will not embed this in updated Regulations to allow flexibility in when to conduct the review based on the availability of data.

4.3 Are the fee levels appropriate (achieving full cost recovery)? Do the fees appropriately balance precision and simplicity?

Stakeholder input to consultant

One stakeholder noted their opposition to cost recovery for 'core government functions' and considers this includes assessments under Part IV of the EP Act. Another stakeholder claimed the fees charged can potentially be the determining factor in whether a project will progress.

One stakeholder questioned the State Government's choice to link this cost recovery endeavour to the concept of 'impactor pays.' They argued that a proponent is paying only for the assessment of a potential future impact or the right to impact. Another stakeholder supports proponents contributing to the cost of EIAs of their proposals, with 'impactor pays' consistent with the purpose and object of the EP Act.

Two stakeholders found the complexity fee 'nebulous' and 'opaque', requesting that the Department provide greater detail about this fee, possibly through the provision of case studies. One stakeholder found the structure of general fees to be clear and easy to understand.

One stakeholder argued that including complexity as a metric has meant the proposed cost recovery methodology is perceived to be weighed against new industries. Three stakeholders suggested some industries should be exempt from fees to support new industries, government priorities or works for the public good.

One stakeholder suggested there should be a reasonable increase in line with inflation or a review of actual costs on a regular basis and fees updated.

The consultant found

The cost base is determined in the model by calculating the total expenses for the Department:

- fixed costs (work done by specialists within other parts of the Department, such as hydrogeologists, aquatic science officers) are allocated as FTEs
- variable costs relate to the costs borne by directorates within EPA Services in conducting EIAs
- overheads for EIA-related services are calculated as a percentage of total overheads
- total overheads are calculated as direct overheads relevant to the assessment group plus corporate-level overhead costs

- direct overheads are costs borne by compliance and enforcement, EPA Services, Regional Delivery, Regulatory Services, Science and Planning, and Strategic policy
- corporate-level overhead costs are the costs for corporate services, entity level, Office of the DG, Strategy and Engagement.

The consultant considers that this methodology applied to the calculation of the total costs base is appropriate and follows the State Government guidelines on cost recovery. They consider that the cost recovery model built for the development of Part IV fees and charges aims to balance simplicity and transparency and to achieve full cost recovery. No cost recovery model will be able to achieve all three, as those are conflicting aims. Noting this, the consultant found that the cost recovery model is built appropriately and provides a good estimation of costs associated with assessments.

The consultant reviewed cost recovery mechanisms in other jurisdictions including Victoria, New South Wales, Queensland, South Australia, the Northern Territory and Commonwealth. They found WA fees compare favourably with fees for similar assessments in a few other jurisdictions.

Currently, the Regulations do not provide for any indexation of the fees. The intention of cost recovery is for the government to recover the costs of providing services. Therefore, fees are meant to represent accurately the time and effort spent by staff on assessing proposals. Without the indexation of fees, it is possible that, as years go by, the current fees will no longer represent the true cost of government providing these services to industry. A review of similar fees in other jurisdictions indicates fees are indexed in many where there are cost recovery mechanisms.

The consultant considers the fees are an example of impactor pays, because the staff employed by EPA Services and costs incurred are directly linked to the assessment of proposals. In this way, the costs are allocated to the proponents as the group driving this cost impact. This philosophy aligns with WA guidance on fees and charges and is closely aligned with the fees being charged on a cost-reflective basis.

The fees and charges are based on the average time taken (and resulting salary costs) for each of the fee triggers. The use of an average cost for each fee trigger results in the fees being simpler to understand and estimate ahead of time but less cost-reflective than other options.

For the 2023–24 year, 79 per cent cost recovery was achieved for assessments. This provides more confidence that the determination of the cost base and the development of the cost recovery model is done correctly and there are no gross miscalculations or errors.

The consultant noted the current interpretation used by the Department is that Division 1 relates to the Department's costs and Division 2 relates to external costs (such as from a consultant). That interpretation results in services provided by other agencies – such as the Department of Biodiversity, Conservation and Attractions and the Department of Planning, Lands and Heritage – not being included in the calculation of costs. That approach does not align with the costing and pricing guidelines, which state:

“Any resources received free of charge from other government agencies should be allocated to each of the services.”

The consultant noted that charging for services provided by other government agencies would increase the complexity significantly and some services provided by other government agencies are included in their own cost recovery processes. While the current approach does not align with the State Government's guidance on services provided by other agencies, the consultant found it is not

clear that this is an issue or that an alternative arrangement would be preferable. For this reason, this review does not provide any recommendation relating to recovering costs for services provided by other government agencies.

The consultant noted some stakeholders raised the point that the State Government has committed to various programs to support new industries in WA and high fees defeated the purpose of having government support. Those stakeholders suggest that consideration could be given to reduced fees, waivers and operating subsidies for projects of this kind.

The consultant noted introducing concessions or waivers of this kind would increase the complexity of the fees and charges framework. It is also not clear that these projects align with the State Government guidance on concessions, waivers and operating subsidies. Based on the consultant's assessment, it appears that, while this is an issue, it is not significant (because it can be worked around) and does not arise very often. As a preferable arrangement is not immediately apparent, the consultant considered the topic should be monitored.

Additional information from the Department

[Information on the fees and charges](#) (including how the complexity fee is derived) is available on its [website](#). This includes worked examples of how fees apply. Further information has also been prepared to assist proponents understand their potential fees upfront.

Recommendation 13: We recommend that the Part IV fees be indexed to reflect movements in the Public Sector Wage Price Index.

Department response: Support in principle. Given the fees are based on salaries which change over time, indexing the fees to remain current is supported. The Department will consider this recommendation in line with other fees charged by the Department.

4.4 Are there any fees that should be charged but are not currently? Should any fees be removed?

The consultant found

The ability to withdraw a Ministerial Statement is a new section of the EP Act which was only introduced in 2020. There is currently no fee to withdraw a Ministerial Statement under section 47A and departmental staff indicated it could be time-consuming to process. The Department indicated there are currently 38 section 47A requests to withdraw a Ministerial Statement made by proponents and more than 500 older, dormant Ministerial Statements that require further investigation or review (which are not charged annual compliance fees).

Proponents of an approved project can request a withdrawal of the Ministerial Statement relating to the proposal, which is likely to be advantageous to the proponents because the withdrawal would avoid the need to pay ongoing compliance fees. Since those requests are resource intensive, it is reasonable to expect recovery of the costs incurred due to the requests, noting any potential impact on dormant Ministerial Statements.

Recommendation 11: We recommend that resource utilisation on section 47A requests be considered further [Withdrawal of Ministerial Statement]. If section 47A requests prove to be highly resource intensive, we recommend that fees be introduced to recover the costs incurred by the Department. However, any fee would require careful consideration and drafting to ensure that it does not impact any dormant Ministerial Statements.

Department response: Support. Withdrawal of a Ministerial Statement was only recently added to the EP Act. The Department will investigate the effort required to process s.47A withdrawal requests and consider whether a fee is appropriate.

Under section 43 of the Act, the Minister can direct the EPA to assess a proposal or to assess or reassess a proposal more fully and/or more publicly. Currently, assessments under this section do not incur any fees. Given that decisions under this section may result in assessments, fees should be applied and charged as they would for assessments that do not fall under this section.

Recommendation 12: We recommend that the Regulations be amended to indicate that if a direction under section 43 [Minister may direct Authority as to assessing proposal] results in a project being assessed for the first time, then the assessment be charged with the conditions aligning with section 38A. This would fall under regulation 6(3).

Department response: Support. The Department will amend the Regulations to ensure these are subject to the assessment fee.

A request under s.43A by the proponent for approval of assessment of amended proposal attracts a \$16,000 fee. Staff advised the consultant that some proponents amend their proposal to improve it, which can result in the proposal being quicker to assess. However, some proposals are amended in a manner that increases the assessment time and costs. The consultant noted charging proponents for improving their proposal and reducing staff workload appears to create an adverse incentive and does not align with cost recovery objectives.

Recommendation 9: We recommend that the fee relating to amendments under section 43A [Amendments to proposals during assessment] be investigated further by the Department to understand whether the removal of the fee would result in any perverse incentives.

Department response: Noted. Further consideration by the Department has identified that amendments to proposals often involve additional work. The Department will not remove the fee, however, will use existing waiver provisions to consider whether to waive this fee on a case-by-case basis.

4.5 Should any fees be changed?

Stakeholder input to consultant

Two stakeholders commented that requiring a \$48,000 fee for minor amendments is impractical. In particular, the inflexibility of section 45C where a fee of \$48,000 is charged to a proponent even for minor amendments or perceived errors on the Department's behalf. It was claimed that some proponents would rather risk a noncompliance notice than have the error fixed due to the high costs involved, arguing that a minor amendment should come at no cost to the proponent. The stakeholders did not clarify whether what they referred to as 'minor amendments' relate to clerical errors or minor amendments to the proposal itself.

The consultant found

Discussions by the consultant with EPA Services staff highlighted that minor amendments and clerical errors should not be treated the same way because they can be substantially different from each other.

The consultant recommended that fees should not be charged for clerical changes or administrative errors. However, amendments to the proposal itself that the proponent considers minor may lead to

potential impacts on the environment, which will then require assessment. Therefore, the fee would be appropriate.

Recommendation 7: We recommend that the Regulations be amended to indicate that approvals under section 45C(5) [Amending approved proposals or implementation conditions without inquiry or assessment] specifically for administrative changes and clerical errors be exempt from the fee.

Department response: Support. As there is limited work required to correct administrative or clerical errors, the Department agrees no fee should be charged.

The consultant also found that section 46 inquiries may be resource intensive and that the flat fee currently provided for in the regulations does not reflect the range of work that may be undertaken.

Recommendation 8: We recommend that section 46 [Amending implementation conditions after inquiry] inquiries be further investigated to understand how many are being initiated and the range of resourcing required to conduct inquiries. If the investigations indicate that fees for section 46 inquiries should be flexible to scale with the level of effort, we recommend that this be implemented.

Department response: Support. The Department supports further investigation of this fee as part of the next review. This will provide time for more examples of s.46 inquiries to be considered.

4.6 Are there any unintended or adverse outcomes of the Cost Recovery Regulations?

Stakeholder input to consultant

One external stakeholder claimed that, since the introduction of fees, departmental staff appeared to be requesting more information which in turn attracted additional fees. They argued that the Department should attempt to ask its questions at the beginning of the process and preferably all in one block to reduce the fees paid by proponents.

Another external stakeholder noted the fees had increased the use of consultants for pre-application advice to determine whether an EIA is likely to be required (to avoid a referral fee). Proponents required to proceed with a full proposal are also unlikely to be able to use pre-application advice to discount the complexity cost or the expense of further external advice for a full proposal, resulting in a high net cost to the enterprise. For activities that are proposed in greenfield sites and more remote areas, this uncertainty and cost structure may be an impediment to some proposals proceeding.

The consultant found

The consultant did not comment on the perceived change in use of requests for information as this is beyond the scope of its review. However, they did identify when a proposal is referred by a third party, should the EPA require more information from the proponent it may issue a request for additional information under section 38F. While the proponent is required to pay the referral fee only if the EPA decides to assess the proposal, the proponent is required to pay the fee associated with requests for information (RFIs) at the time of request. It was indicated to the consultant that this was not the intention when the Regulations were first drafted and, in the case of a third-party referral, all fees to the proponent would be charged only if the decision was made to assess the proposal.

The consultant also noted for statutory RFIs, proponents are given a 28-day period to comply with the requests. Under the current Regulations, each time an extension is granted an additional fee is chargeable to the proponent. Generally, those extensions are requested because proponents are waiting on external factors, such as consultants' reports or assessment from the Australian Government. The consultant considers that requiring a proponent to pay an additional fee when they are given an extension of time to comply is an unintended/adverse outcome because it creates an unnecessary financial burden that might not be entirely within proponent's control.

Similarly, the consultant found that the submission of Environmental Management Plans may also trigger a fee on every submission, noting the preparation of EMPs is usually an iterative process. Requiring a fee each time a submission occurs poses an unnecessary financial burden.

Further Department response

Stakeholders consulted in mid-2025, on the EPA's draft EIA Practice Guide of Proposals in WA under Part IV of the EP Act, said communication between proponents and EPA Services tends to be limited to formal written RFIs. There is also an increased use of multiple RFIs (information loops), causing significant delays to the assessment process. It was also raised there is a tendency for RFIs to include non-significant matters or information that has already been provided (i.e. in the ERD).

The draft EIA practice guide sets out a clear expectation to departmental staff regarding how RFIs should be used at each stage of the assessment. This includes limits on their use and an emphasis on ensuring that any request should be proportionate to the significance of potential environmental impacts and risks. The draft EIA practice guide provides further guidance regarding what should be included in an RFI and what will be requested through an informal clarification request to keep the assessment progressing whenever possible.

The draft guide sets a standard that the usual practice for departmental staff is to contact the proponent prior to issuing an RFI and offer the opportunity to meet to discuss the nature of the request. The draft guide also provides clarity regarding what is required for a referral to be considered adequate for the EPA to accept. The draft guide is due for publication in late 2025.

Proponents are encouraged to engage with the Department at pre-referral stage, which does not attract any fees. Inadequate information provided in referrals may also result in an RFI, which is subject to cost recovery.

Recommendation 4: For fees associated with requests for information, we recommend that the Regulations be amended. We suggest that the amendments include the provision that, in the case of a third-party referral, proponents do not incur any fees until the decision has been made to assess the proposal.

Department response: Support. Referral fees are only charged where a proposal is assessed by the EPA. The Department supports amending the Regulations to make Request for Information fees associated with third party referrals only payable if a proposal is assessed and to be paid following an assessment decision.

Recommendation 5: We recommend that the Regulations be amended so that proponents are not required to pay an additional fee when given an extension of time to comply with a request for information.

Department response: Support. As there is limited additional work required to extend the time frame in which a request for information needs to be responded to, the Department supports clarity to only charge this fee once per RFI.

Recommendation 6: We recommend that the Regulations be amended to ensure that fees for confirmation, endorsement or approval for environmental management plans (EMPs) be charged only once (such as on final submission) to recognise the iterative nature of the confirmation process for EMPs.

Department response: Support. The consideration of EMPs is an iterative process and the fee is intended to cover these iterations until approval is given/not given. For clarity, once an EMP is approved, any subsequent modification which requires approval will be subject to a new fee.

4.7 Other matters

4.7.1 Payment and non-payment

Stakeholder input to consultant

One stakeholder considered it reasonable to require payment on the day on which a proposal is referred or the day on which any other fee arises, to ensure that assessment staff are not undertaking work on assessments with outstanding payments. They commented that interest on late fees pursuant to regulation 15 should be retained and offence provisions should be added for non-payment (or withdrawal or suspension of service).

The consultant found

While it is reasonable to require payment on the day on which the fee arises, having differing payment periods for the same fee causes administrative difficulties. Improved consistency could be achieved by making all payments liable to be paid on the issue of the request and required to be paid within a 28-day period.

The Department identified difficulties in applying interest calculations. The consultant considers the interest charged on late fees and its calculation to be appropriate and in line with standard government practice. If a standard 28-day approach is adopted, this would reduce the frequency for interest rate calculations. However, the consultant also notes that the number of instances of fees collected under Part IV is relatively small compared to other fees administered by the Department. From a simplicity and consistency perspective, it would appear reasonable to bring the interest rate used for Part IV fees in line with the same rate as those used by other parts of the EP Act.

Other parts of the EP Act only consider an application to be complete (and assessment commences) once the payment of fees is made. However, introducing this requirement for Part IV would require a legislative change and is complicated by the multiple ways a project can be referred and the timing of fees charged.

It does appear, however, that prompt payment could be incentivised by allowing the Department to pause or suspend the assessment of a referral if payments are outstanding (similar to the Northern Territory). The inclusion of a suspension in the case of extended non-payment would appear to create strong incentives for proponents to make payment. This would also ensure that substantial costs are not incurred by the Department on assessments prior to payment.

While one stakeholder suggested penalties could be introduced for non-payment, the consultant considered the Department had sufficient alternative mechanisms to incentivise payment.

Recommendation 2: We recommend that the Regulations be amended to require that all payments be liable to be paid on the issue of a request, that payment be made within a 28-day period of notice and that provisions be included to state that substantial work on assessment will not take place until payment has been made in full.

Department response: Support in principle. Standardising payment due dates will simplify administration of cost recovery as well as provide proponents with an appropriate amount of time to validate an invoice (given the value) and pay prior to interest being accrued. To enable timely assessment processes, rather than introducing provisions that substantial work on assessment will not take place until payment has been made in full, the Department will implement Recommendation 3 (provision to suspend assessment).

Recommendation 3: We recommend that DWER review the interest regulation (15) and develop clear guidelines around how interest is applied. The guidance should cover interest calculations and consistent application. We recommend the Department consider whether the interest rate charged should be made consistent with the interest charged under other parts of the EP act for simplicity and transparency. Further, we recommend the inclusion of provisions to allow the suspension of assessment processes in the event of extended non-payment.

Department response: Support in principle. The Department has a range of different approaches to manage late payments and will consider whether a consistent approach across applications is feasible. The Department supports the inclusion of provisions to suspend assessment processes in the event of non-payment.

4.7.2 Efficiency of assessments

Stakeholder input to consultant

Most external stakeholders reported they had observed no improvement in the Department's capacity, agility or efficiency in assessing proposals due to cost recovery.

The consultant found

The consultant considered relevant information about the Department's performance and noted the observation cannot easily be supported nor refuted.

It is not clear that the current process to increase staffing is conducive to scaling up and down as demand fluctuates. The Department indicated that a special purpose account holds the cost recovery funds received. The consultant reviewed other special purpose accounts in WA and considered whether any had preferable processes that provided flexibility in levels of expenditure. However, the review identified that each of the special purpose accounts had unique circumstances that differentiated its structure and processes from Part IV assessments under the EP Act. As the structure and process to access the special purpose account is tangential to the review of the Regulations, no explicit recommendations were made on this topic but noting that flexibility in resourcing is key for the fund to fulfil its purpose. For that reason, it would appear appropriate for the Department to work with Treasury on identifying suitable processes for accessing the funds in the account.

Further Department response

As part of the 2025-26 State Budget, a total of \$18.5 million over the forward estimates period has been provided to the Environmental Protection Authority to increase Board membership, resourcing and accommodation, which aims to improve the governance, co-ordination and delivery of services, and address any backlog of environmental assessments. This includes additional resources for the EPA and the Deemed Decision-Making initiative aimed at improving the timeliness and effectiveness of processing assessments and applications in line with the Vogel-McFerran review of environmental approvals.

Further, 75 per cent of recommendations from the recent Vogel McFerran review have been implemented in the last 12 months. The Department expects to see efficiency improvements resulting from these reforms as these are embedded.

It is also worth noting that while cost recovery has been in effect from 1 January 2022, proposals under assessment at the time are only subject to transitional assessment fees. There are 75 proposals subject to transitional arrangements, of which approximately 45 have been progressed through to EPA report.

Recommendation 15: We recommend that the process for increasing staffing resources be reviewed and be made flexible to react to demand levels.

Department response: Noted. The Department will engage with Treasury on any opportunities to respond to demand fluctuations, noting that early engagement by proponents through the pre-referral process provides greater awareness of potential future referrals (and workload).

4.7.3 Transparency

Stakeholder input to consultant

Some stakeholders indicated they believed there was a lack of transparency around Part IV fees, including the cost recovery model, time spent by departmental staff and staff performance.

The consultant found

The consultant noted the Department was not required to publish such information and further that:

- the Ernst & Young review of the pricing model is publicly available (and some stakeholders were unaware of this being available)⁶
- fees are clearly published and so can be estimated ahead of time. In addition, the complexity fee is based on elements that relate to cost drivers for the assessment teams.

This contrasts with the practice in some jurisdictions that use tiered fees based on the value of the project, rather than the complexity of the environmental assessment.

⁶ Ernst & Young [EP Act 1986 Part IV cost recovery: pricing and demand model validation](#), 25 Jun 2021.

Noting all those points, the approach used by the Department to implement cost recovery accounting for the complex and bespoke nature of the proposals is appropriate.

4.8 Waiver system

The consultant found

Based on feedback from departmental staff, the consultant found the fee waiver system needed overhauling and some small proponents provided feedback that the fees were high.

Recommendation 10: We recommend that the waiver system be reviewed and appropriate delegations established to ensure that the procedure aligns with due process while not being unduly burdensome.

Department response: Support. As part of implementing the recommendations, the Department will seek to amend Regulations or policy to provide clarity on the use and application of waivers. The Department will then consider whether any changes to procedure or delegations is needed to support.

5. Next steps

5.1 Further reviews (Recs 1, 8, 9, 11, 14)

The Department will review the effort required to process s.47A withdrawal requests, alongside its review of inactive Ministerial Statements. If a new fee is considered appropriate, it will require regulatory amendments and follow the process outlined in 6.2 below.

In line with Treasury's guidance, the Department will undertake reviews of Part IV cost recovery on a regular basis. In its next review, the Department will consider the cost model again, with a focus on forecast demand, s.46 inquiries and s.43A amendments as highlighted by the review. The timing of this review will be considered alongside broader cost recovery activities in the Department and sufficient data being available. It is anticipated this would likely be around 2028.

5.2 Regulatory amendments (Recs 2, 4, 5, 6, 7, 12, 14)

The Department will work through mechanisms to implement changes due to the Cost Recovery Review. These include proposed changes to the Regulations and an update to policy and departmental procedures. Amendments to the regulations will take time to draft and the Department will consult stakeholders on these proposed amendments. Where possible, the Department will use interim measures to implement the intent of the recommendations.

5.3 Waivers (Rec 3)

Alongside the regulatory amendments, the Department will consider whether any changes to the waiver position or process is required. Part of the current complexity in considering and processing waivers relates to the unintended consequences highlighted in the review, which will be resolved through updated Regulations. Should any matters not be covered by the regulatory changes or require clarity on how and when waivers would be considered, the Department will update its position on waivers in the external Cost Recovery Policy.

5.4 Interest, indexing fees and use of fees (Recs 3, 13, 15)

In March 2025, the Department integrated Environment Online with its finance platform. This means invoices are generated and provided when a proponent submits an application or request, and payment can be made through the Department's payment portal. Interest has been waived to date but, now that integration has occurred, the Department will look to how it manages timely payments. The integration also means the Department should have greater confidence in forecasting fees and planning for resourcing.

As interest, indexing fees and use of fees are department-wide activities, consideration of whole-of-department approaches will be given in progressing any changes. This will enable a simpler approach to fees and payments across the Department where possible.