



**Australian Government**  
**Department of the Environment**

# **A practitioners guide to Cost Recovery under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)***



# Introduction

- Why is cost recovery necessary?
- Will current projects be charged fees?
- Who does cost recovery apply to?
- What is the cost of an assessment?
- Can I reduce the complexity fees?
- Can the complexity fees be reduced or reviewed?
- Are there any exemptions or waivers?
- Roles and responsibilities
- Understanding the fee schedule


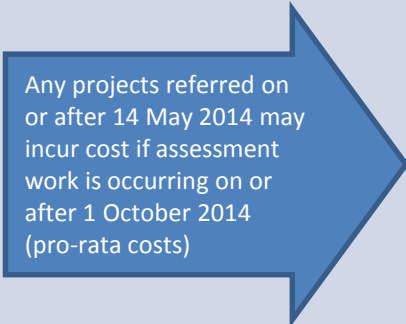
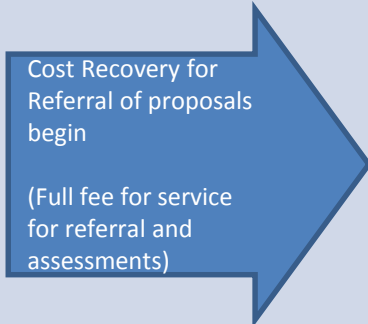


# Why is cost recovery necessary?

- Cost recovery is the charging of a fee to cover the cost of specific services provided by the Australian Government for work that benefits particular groups or individuals.
  - The introduction of cost recovery is consistent with the Australian Government Cost Recovery Guidelines and policy objectives in that:
    - *those who create the need for regulation should incur the costs, rather than the costs being borne by the wider community;*
    - *the implementation of cost recovery for environmental assessments will lead to a more equitable sharing of the cost of protecting the environment between the community and those who obtain a private benefit from environmental assessments.*
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# Will current projects be charged fees?

- Cost recovery applies to projects received after 14 May 2014, but only for work done after 1 October 2014
- Between 14 May and 1 October 2014, neither referral fees or any assessment activities are recovered, only recorded.
- From 1 October 2014, referral fees are payable for all proposed actions as well as any assessment activities yet to commence.

Up to 13 May 2014	14 May – 1 October 2014	1 October 2014 onwards
<p data-bbox="297 801 697 868">Cost recovery will not apply to any projects up to this date</p>  <p data-bbox="324 1053 556 1110">Minister Briefing and Support given</p>	<p data-bbox="745 801 1122 868">Cost recovery announced 14 May 2014</p>  <p data-bbox="765 991 1051 1176">Any projects referred on or after 14 May 2014 may incur cost if assessment work is occurring on or after 1 October 2014 (pro-rata costs)</p>	<p data-bbox="1195 801 1572 868">Cost recovery commences 1 October 2014</p>  <p data-bbox="1234 976 1470 1190">Cost Recovery for Referral of proposals begin (Full fee for service for referral and assessments)</p>

# Who does cost recovery apply to?

- Cost recovery applies to anyone who engages the department's environmental assessment service, with the exception of those people proposing to take an action that are granted an exemption or a waiver (from full or partial fees)
  - Cost recovery applies equally to individuals, businesses, Commonwealth, State/Territory and local governments.
  - Cost recovery will only apply to work completed by the Commonwealth (*Bilateral Agreements*)
  - Each action referred to the Minister under the EPBC Act is subject to a set referral fee of \$7,352 at the time of submitting an EPBC referral.
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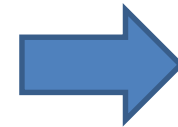
# What is the cost of an assessment?

- The total cost of undertaking an assessment includes two types of fees:
    - Base fees due at each stage in the assessment process (non discretionary); and
    - Complexity fees due at each stage of assessment, if applicable (discretionary).
  - *Contingent fees* also apply in certain circumstances:
    - Requests for further information;
    - Variation to conditions;
    - Request to reconsider a decision under s75(1) of the EPBC Act.
  - A number of factors drive complexity and these are referred to as '*components*'. There are five components.
  - Strategic assessments are costed on a case-by-case basis
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# Can I reduce the complexity fees?

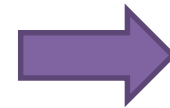
- Yes, but only for the Part B complexity fees (application component). Part B complexity fees are estimated first then confirmed later, prior to stage 3.
- Part A fees are set at assessment approach decision.

- Controlling provision component
- Exceptional case component
- Legislative impact component
- Project component



No

- Application component



Yes

- Complexity fees can be *reviewed* – ‘reconsideration of fees’ where there was a method used to work out the fee. Base fees cannot be reviewed.
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# Are there any exemptions or waivers?

- A person can notify the Department that they meet the criteria for exemption at any time.
  - To qualify for an exemption you must be
    - an individual; or
    - a small business entity as defined by the *Income Tax Assessment Act 1997*; and
    - notify the Secretary of that fact.
  - Your circumstances may change during the project.
  - We can request evidence to support a notification.
  - It is an offence not to advise the Department if a person no longer qualifies for an exemption.
  - If an exemption is obtained, and subsequently found not to qualify the full fee payable would become a debt – this also applies to transfers of proponent
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# Are there any exemptions or waivers?

- A person can seek a waiver from full or partial fees
  - The Minister can grant a waiver at his or her own initiative.
  - Applications are made at or before referring an action and are considered within 20 BD of the application being made.
  - An application for a waiver must set out information about the applicant, the grounds on which the waiver is sought and the reasons why the applicant considers it should be made.
  - The Regulations outline the 'tests' used to determine if a waiver will be granted.
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# Roles and Responsibilities

- A proposed action that could have a significant impact on a matter of national environmental significance should be referred.
  - Contact the Department if you are not sure if an action may have a significant impact on MNES (pre-referral meetings, compliance help desk)
  - If an action proceed and has or is likely to have a significant impact on MNES, and an approval or notification that it is 'not a controlled action' has not been made, this may be a breach of the EPBC Act and subject to penalty.
  - At referral - Provide clear and complete information, or justification based on evidence for not requiring further surveys, for example.
  - Provide clear proposed avoidance and mitigation measures and alternatives.
  - Self-assess, then seek advice early and often, consider available information and understand the environment
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# Fee schedule - understanding the results

- The Department must have good, defensible reasons for applying a complexity rating
- All decisions must be in accordance with the Regulations and be consistent with the CRIS



# Fee schedule - understanding the results



## Environmental assessment fee calculator: Results

### Summary

Date fee schedule generated	Oct. 28, 2014, 2:59 p.m.
Internal user	A10150
EPBC number	2014/1111
Short description of the action	proposed action
Exempt from fees?	No
Exceptional case component?	No
Assessment type	Environmental Impact Statement
Assessment base cost	\$30,202
Assessment complexity cost ( <a href="#">detailed below</a> )	\$279,852
<b>Total assessment fee</b>	<b>\$310,054</b>

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# Fee schedule - understanding the results

## Fee schedule

### Part A

#### Stage 1

Component	Assessment Total	Stage 1 Percentage	Stage 1 Due
Stage 1 base fee	\$4,031	100%	\$4,031
Complexity (provisions A through L, & P)	\$111,886	14%	\$15,664
		Total	\$19,695

For an assessment by environmental impact statement, if standard guidelines are used under section 101A(2)(a) of the EPBC Act, the Stage 1 base cost fee of \$4,031 plus 14% of the complexity fee will not be applicable.

#### Stage 2

Component	Assessment Total	Stage 2 Percentage	Stage 2 Due
Stage 2 base fee	\$12,760	100%	\$12,760
Complexity (provisions A through L, & P)	\$111,886	42%	\$46,992
		Total	\$59,752

# Fee schedule - understanding the results

## Part B

### Stage 3

Component	Assessment Total	Stage 3 Percentage	Stage 3 Due
Stage 3 base fee	\$4,265	100%	\$4,265
Complexity (provisions A through L, & P)	\$111,886	14%	\$15,664
Complexity (provisions M, N & O) (estimate at this stage)	\$167,966	70%	\$117,576
		<b>Total</b>	<b>\$137,505</b>

The Department advises proponents of the maximum liability for complexity fees in rows M, N, and O at the time of the assessment approach decision, based on the information provided in the referral documentation. Proponents have the opportunity to reduce the 'adequacy of information' and 'clarity of project scope' complexity fees (shown in rows M, N and O in complexity fee matrix) during the assessment process by improving the quality of information provided to the Department during stages 1 and 2 of the assessment. These complexity fees are confirmed after stage 2 and are not payable until stage 3 and 4 of the assessment. See section 3.2.2.3 of the EPBC Cost Recovery Impact Statement for further information.

### Stage 4

Component	Assessment Total	Stage 4 Percentage	Stage 4 Due
Stage 4 base fee	\$9,146	100%	\$9,146
Complexity (provisions A through L, & P)	\$111,886	30%	\$33,565
Complexity (provisions M, N & O) (estimate at this stage)	\$167,966	30%	\$50,389
		<b>Total</b>	<b>\$93,101</b>

# Fee schedule - understanding the results

## Components of complexity fees

Controlling Provision Component	Assessment	Calculated Cost
A	<p>Rated <i>High</i>, with score of 6 points based on:</p> <ul style="list-style-type: none"> <li>Listed threatened species (vulnerable): 3</li> <li>Listed threatened species (endangered): 2</li> <li>Listed threatened Ecological Communities (endangered): 1</li> </ul> <p>High complexity; 6 to 14 points.</p>	\$21,852
C	Moderate complexity; for example, impacts on the ecological character of the wetland are well understood and are of low severity and temporary in nature.	\$5,463
E	High complexity; for example, impacts of proposed action on values are uncertain and poorly defined.	\$21,852
H	Moderate complexity; for example, impacts of the proposed action on values of the GBRMP are well understood and are low severity and temporary in nature.	\$2,882
I	High complexity; for example, impacts on the environment are unclear or are of moderate severity and are temporary or permanent in nature.	\$21,852
<b>Project Component</b>		
K	Moderate complexity; two project components. Additional project component complexity fee equal to the assessment method base cost.	\$30,202
<b>Legislative Impact Component</b>		
L	Moderate complexity; Moderate complexity under s.160 of the EPBC Act or other legislation.	\$7,783
<b>Application Component</b>		
M	Site surveys partially complete for all project components.	\$14,248
N	High complexity; management strategies poorly defined, not proposed or untested. Technical review of information likely to be required.	\$93,316
O	High complexity; Project scope is unclear, OR alternative options poorly defined.	\$60,402
<b>Exceptional Case Component</b>		<b>N/A</b>
<b>Total</b>		<b>\$279,852</b>

# Fee schedule - understanding the results

## Post-approval fees

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Action Management Plan Assessment (per management plan)	\$3,233
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## Contingency activities

The Department will notify you if a contingency activity fee is applicable due to an additional statutory step being required under the EPBC Act.

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Request additional information under section 76, 89, 132 or 134(3D) of the EPBC Act (see Regulation 5.19(1))	\$2,544
Request additional information (environmental impact statement / public environment report) under section 132 or 134(3D) (see Regulation 5.19(2))	\$13,087
Reconsideration of a controlled action decision (made by the applicant of the action) (see Regulation 5.19A)	\$7,423
Variation of conditions (see Regulation 5.19B)	\$3,320
Variation of action management plan (see Regulation 5.18B(3)(b))	\$3,233
Variation of action management plan (administrative) (see Regulation 5.18B(3)(a))	\$943



# Contact details

Referrals Gateway Section – Cost Recovery

[victoria.press@environment.gov.au](mailto:victoria.press@environment.gov.au) or

[epbc.referrals@environment.gov.au](mailto:epbc.referrals@environment.gov.au)

Cost Recovery information on our website

<http://www.environment.gov.au/epbc/publications/final-cost-recovery-cris>

Pre-referral meetings

[epbc.referrals@environment.gov.au](mailto:epbc.referrals@environment.gov.au)

Compliance helpdesk

[compliance@environment.gov.au](mailto:compliance@environment.gov.au)

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