

Cost Recovery for Environmental Assessments under the *Environment Protection and Biodiversity Conservation Act 1999*

Consultation Paper – December 2022 (V1.2)

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Glossary

The following list is a summary of commonly used words and acronyms within this document.

Applicant	Refers to both the ‘person proposing to take the action’ for an Environmental Impact Assessment and the ‘person responsible for the adoption or implementation of a policy, plan or program’ for a strategic assessment
Charge Point	The point in the process that a fee is charged
Cost recovery fees	Fees that can be charged when a good, service or regulation is provided directly to a specific individual or organisation.
Cost recovery levies	Cost recovery levies are imposed when a good, service or regulation is provided to a group of individuals or organisations (e.g. an industry sector) rather than to a specific individual or organisation
CRIS	Cost Recovery Implementation Statement
Direct expenses	Those costs that can be directly attributed to the provision of an activity to individuals or organisations, for example, referral decisions, assessments and development of approval conditions
Direct regulatory activities	Activities provided directly to an individual, business, or organisation to assess Environmental Impact Assessment applications
Enabling services	Activities that are essential to the delivery of Environmental Impact Assessments and are provided to sustain and enhance DCCEEW’s role to represent national interests across climate change, energy, the environment and water.
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>
MNES	Matters of National Environmental Significance
Indirect expenses	Costs which support but are not directly linked to a direct activity provided by the Department to individuals or organisations
Indirect regulatory activities	Activities which support the Department to maintain and deliver Environmental Impact Assessments to groups of individuals, businesses, or organisations
Proponent	The person who may be managing the assessment process for the person proposing to take the action
Regulations	Environment Protection and Biodiversity Conservation Regulations 2000
The Charging Framework	Australian Government Charging Framework (RMG 302)
The Cost Recovery Guidelines	Australian Government document outlining the principles and criteria for cost recovery activities - Australian Government Cost Recovery Guidelines (RMG 304)
The Department	The Department responsible for administering the EPBC Act, currently the Department of Climate Change, Energy, the Environment and Water (DCCEEW)
The Minister	The Minister responsible for administering the EPBC Act, currently the Minister for the Environment and Water (includes a delegate of the Minister)

Purpose of this consultation paper

This consultation paper discusses options for how the Department of Climate Change, Energy, the Environment and Water (DCCEEW or the Department) may implement changes to cost recovery to ensure sustainable funding for the following activities under the *Environment Protection and Biodiversity Conservation 1999* ('EPBC Act'):

- Environmental Assessments (Parts 7 to 9 of the EPBC Act)
- Permits (Part 13 of the EPBC Act)
- Actions on Commonwealth Land (s160 of the EPBC Act)

Other assessments and applications under the EPBC Act, including Strategic Assessments, are not being consulted on in this paper.

The Department is seeking feedback in two stages:

Stage 1: Targeted consultation

The first stage of consultation is targeted at key stakeholders who frequently interact with the Environmental Approvals process. This stage is intended to seek early feedback on the changes proposed from a targeted group to inform the preferred options that will be presented in public consultation.

Stage 2: Public consultation

The second stage of consultation will be seeking public feedback on the draft Cost Recovery Implementation Statement (CRIS) and Regulatory Impact Statement prior to a final implementation decision by Government.

The Department is consulting on four possible areas of change to the cost recovery model:

- 1. Changes to the fee structure**
- 2. Actions to reduce the financial impact of fees**
- 3. Value of an accelerated decision process**
- 4. Possible new levies and how they might be structured.**

For stage 1, we are seeking stakeholder feedback by no later than 10 am Monday 13 February, via "Have Your Say".

The Government's "[Nature Positive Plan: better for the environment, better for business](#)" includes establishing a National Environment Protection Authority (NEPA). This would incorporate EPBC Act environmental approvals and compliance activities. The Government is committed to properly fund compliance and enforcement and ensuring timely assessment processes.

The Government has committed to consult widely with industry and other relevant stakeholders to develop an appropriate and efficient sector-contribution funding model for the NEPA. This consultation process will directly inform early thinking on the funding model for the NEPA. This consultation relates to the environmental assessment processes, to ensure that proponents pay an equitable share of the cost of services they require.

The Department understands that changes to the EPBC cost recovery framework are substantial. The Department is consulting to seek feedback which can help shape the final cost recovery model implemented and avoid any unintended or unforeseen consequences.

Timeframes for key events

These timeframes are provisional. They are subject to change, depending on the feedback received, and any subsequent adjustments or other actions that may be required in response to feedback.

Table 1: Timeframes for implementing cost recovery

Event	Timeframe
Stage 1: Face-to-face consultation begins with key external stakeholders	December 2022
Consultation feedback period closes	10 am 13 February 2023
Incorporate feedback into proposed charging options	February - March 2023
Stage 2: 'Have Your Say' consultation on draft Cost Recovery Implementation Statement and Regulatory Impact Statement	March - April 2023
Ministerial approvals of Cost Recovery Implementation Statement (CRIS)	TBC (as early as May 2023)
Publication of CRIS	TBC (as early as May 2023)
New fees schedule comes into effect	Proposed to commence in the 2023-24 financial year

Introduction

The Department is responsible for Environmental Assessments under Parts 7 to 9 of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (EPBC Act or the Act). The EPBC Act came into force on 16 July 2000 and is the Australian Government's central piece of environmental legislation. The EPBC Act provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places - defined in the Act as matters of national environmental significance (MNES). In addition, the EPBC Act confers jurisdiction over actions that have a significant impact on the environment where the actions affect, or are taken on, Commonwealth land, or are carried out by a Commonwealth agency.

Full cost recovery for environmental assessments under the EPBC Act has been the preferred policy of Government since the 2012-13 Federal Budget. The first Cost Recovery Implementation Statement (CRIS) for Environmental Assessments was implemented in October 2014 and it was revised two years later. However, the current cost recovery model only recovers approximately 10 percent of the Department's costs related to the administration of the EPBC Act.

Fluctuations in funding have led to inconsistent performance, with periods where less than 20 percent of statutory assessment decisions were made on time. Since 2019 short-term funding through the "congestion busting" initiative has been provided to significantly reduce these delays.

Cost recovery background

Cost recovery involves government entities charging individuals or organisations some, or all, of the efficient costs of government activity. These costs may include goods, services, regulations, or a combination of these.

The [Australian Government Charging Framework \(Charging Framework\)](https://www.finance.gov.au/government/managing-commonwealth-resources/managing-money-property/managing-money/australian-government-charging-framework)¹ and [Australian Government Cost Recovery Guidelines \(Cost Recovery Guidelines\)](https://www.finance.gov.au/publications/resource-management-guides/australian-government-cost-recovery-guidelines-rmg-304)² support government entities to design and implement best practice charging arrangements. Good practice cost recovery should promote consistent, transparent, and accountable charging for government regulatory activity and support the proper use of public resources. Cost recovery can promote equity, where a recipient of a government service (e.g. a proponent seeking environmental approvals) bears the cost of the service that they create the need for, rather than the general public. The need to demonstrate a direct linkage between the cost of those activities and the fee charged encourages efficiency, productivity, and responsiveness of those government activities as well as accountability.

As a part of this cost recovery review the Department is implementing Activity Based Costing (ABC) to capture the true effort and corresponding costs of undertaking Environmental Assessment activities. This ABC methodology and framework is anticipated to provide more robust information not just for charging arrangements, but to monitor and improve regulatory efficiency and performance on an ongoing basis.

¹ Australian Government Charging Framework, Department of Finance, <https://www.finance.gov.au/government/managing-commonwealth-resources/managing-money-property/managing-money/australian-government-charging-framework>

² Australian Government Cost Recovery Guidelines, Department of Finance, <https://www.finance.gov.au/publications/resource-management-guides/australian-government-cost-recovery-guidelines-rmg-304>

The legislative basis for charging fees to cost recover Environmental Assessments under Parts 7 to 9 is provided through s170CA and s520 of the [EPBC Act 1999](#)³. This Act gives effect to the [EPBC Regulations 2000](#)⁴ which prescribe the fees payable to the Commonwealth for Environmental Assessments.

Outputs and business processes of the regulatory charging activity

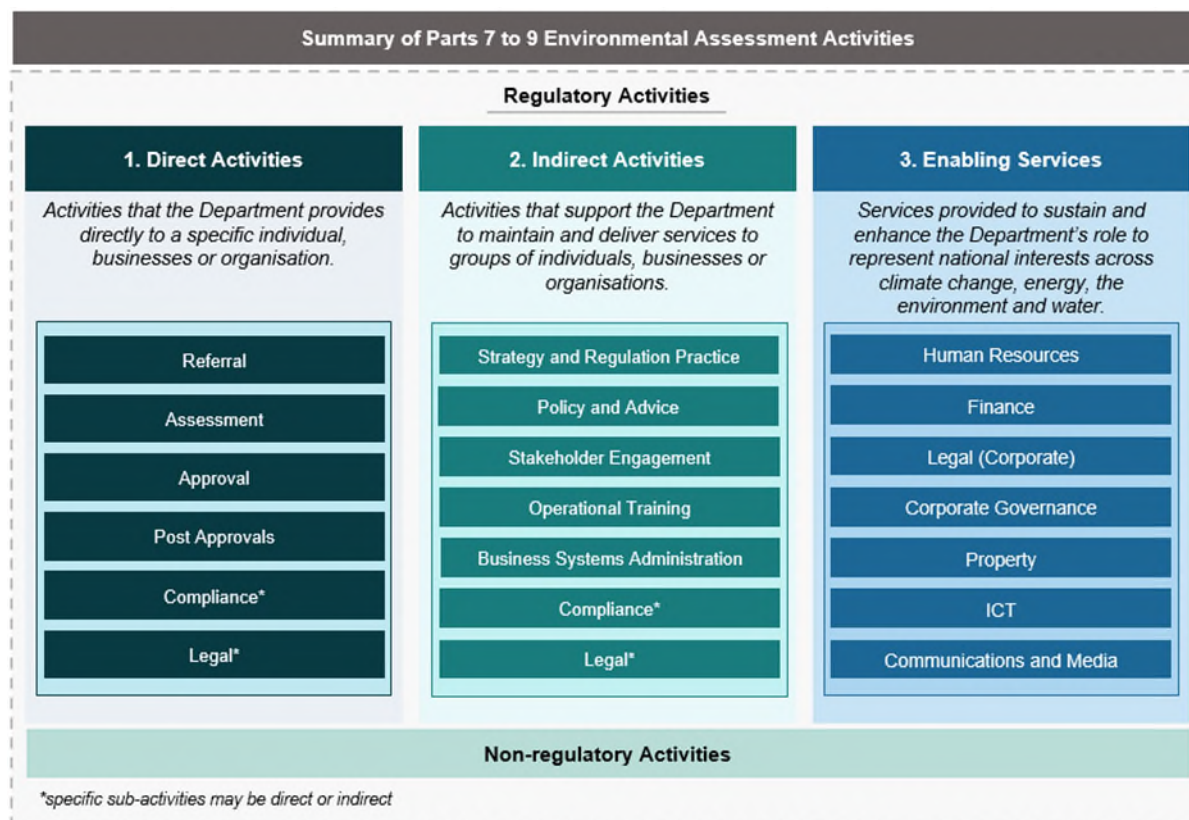
The Cost Recovery Guidelines and the Charging Framework require the regulator to break down an activity into distinct outputs and the key business processes that are used to produce those outputs. These outputs have a discernible link with the costs, charges, and performance of the activity. The regulatory activities to meet the policy objective have been grouped into the following categories:

- *Direct regulatory* - activities that the Department provides directly to an individual, business, or organisation to assess proposals.
- *Indirect regulatory* - activities that support the Department to maintain and deliver Environmental Impact Assessments to groups of individuals, businesses, or organisations.
- *Enabling services* – services provided to sustain and enhance the Department's role to represent national interests across climate change, energy, the environment and water.

³ Environment Protection and Biodiversity Conservation Act 1999, Australian Government, <https://www.legislation.gov.au/Details/C2022C00214>

⁴ Environment Protection and Biodiversity Conservation Regulations 2000, Australian Government, <https://www.legislation.gov.au/Details/F2020C00778>

Figure 1: Summary of Parts 7 to 9 Environmental Assessment Activities



In addition to the above activities, the Department undertakes functions that are non-regulatory in nature and as such are excluded from the cost base used to establish the cost recovery charges.

Further description and associated activities under these categories are in [Attachment B](#).

Costs of the regulatory charging activity

The cost base for the Department to assess Environmental Assessments comprises several activities, outlined in [Attachment B](#), which are necessary to efficiently and effectively regulate actions which may have a significant impact on matters of national environmental significance.

To determine the cost to efficiently and effectively deliver on regulatory functions, the Department is developing an ABC methodology and model to allocate all direct and indirect costs incurred by the Department to each activity and subsequently each charge point. The ABC methodology uses the following two expense categories:

- *Direct expenses:* directly attributed to the provision of an activity to individuals or organisations, for example, referral decisions, assessments, and development of approval conditions. They comprise staff salaries (including on-costs, such as training, superannuation, and leave) and supplier costs (such as office supplies and workers compensation premiums);
- *Indirect expenses:* costs that support the delivery of the direct activities provided by the Department to individuals or organisations. These include corporate employee salaries and overheads such as information technology, finance, human resources costs, and indirect capital expenses. This includes expenditure on the Department's broader supporting systems, such as maintaining the websites for environmental assessments and general email infrastructure.

Indirect expenses are included in the cost base to reflect the systems and processes that exist to help with the efficient administration of the regulatory activity.

At a high level, the ABC methodology first identifies activities required to deliver Parts 7 to 9 of the EPBC Act. Appropriate cost drivers are then identified to calculate the cost and other metrics of performing relevant activities. This calculation uses information such as:

- the **effort** associated with each regulatory output;
- the **resources** required to deliver each output; and
- the **annual volume** of each output performed.

These activities can be mapped to various charge points. Where relevant, the model will use historical actuals to inform the future cost and volume of Environmental Assessment activities.

The cost of activities will be provided in stage 2 of consultation.

Fees and charges

Overview

The characteristics of each activity undertaken by DCCEEW will determine whether the costs can be recovered by a fee or a levy or must be funded by government through other revenue. Activities that can be recovered through each charge type as explained below are defined in the Cost Recovery Guidelines⁵.

- **Cost recovery fees** - Fees can be charged when a good, service or regulation is provided directly to a specific individual or organisation.
- **Cost recovery levies** - Cost recovery levies are imposed when a good, service or regulation is provided to a group of individuals or organisations (e.g. an industry sector) rather than to a specific individual or organisation⁶.

Historically, revenue for Environmental Assessments has been raised from fees alone and therefore, have been limited to the activities provided directly to a specific individual or organisation.

In the interest of achieving greater and more accurate cost recovery DCCEEW is considering simplified charging options which better align with the Cost Recovery Guidelines and the Charging Framework. In some instances, simply increasing the existing fees is not an appropriate method to achieve full cost recovery as not all activities are provided directly to an individual or organisation, and therefore cannot be recovered through the existing cost recovery fees. The Department aims to update its fee structure in 2023-24, while also seeking agreement on the structure and implementation of a cost recovery or other levy that might commence as early as 2024-25.

Fees for services are currently payable where an activity is provided to an identifiable individual person or organisation. For example, the proponent is charged a fee when seeking an assessment of a proposed action that is likely to have or will have a significant impact on one or more matters of

⁵ Australian Government Cost Recovery Guidelines, Department of Finance, <https://www.finance.gov.au/publications/resource-management-guides/australian-government-cost-recovery-guidelines-rmg-304>, Paragraph 4

⁶ A cost recovery levy is a tax and is imposed via a separate charge through a taxation Act. It differs from general taxation as it is 'earmarked' and limited to fund activities provided to the group that pays the levy.

national environmental significance. The update to the fee structure aims to recover the full cost, including both direct and indirect costs, of delivering that specific activity.

There are four types of fee-for-service charging structures discussed in this document.

- **Flat fee** - charged when an activity requires a similar level of effort in all instances. For example, a referral validation will take the same amount of effort each time.
- **Tiered fee** - charged when the time associated with an activity varies for different classes of the activity. For example, an assessment may take a different amount of effort based on the MNES that are impacted and the assessment fee may be tiered as moderate, high or very high complexity with different fees applying to recover the cost of the effort for each class.
- **Time-based** - charged in time-based units (e.g. 15 minute units) based on the actual effort associated with the activity.
- **Cost** - where the actual cost will be passed onto the individual or organisation that creates the need for the activity. For example, the cost of travel to undertake site visit.

Possible changes to fee structures

One of the key changes considered in this discussion paper is an update to the fee structure via:

- **Updates to existing fees** - The latest cost recovery implementation statement (CRIS) was last updated in 2016/17. The cost of regulatory activities to deliver outcomes has significantly increased over the ensuing years. Furthermore, the current CRIS underestimated the efficient effort required to deliver robust environmental assessments of sufficient quality⁷. As a result, the existing fees need to be updated to reflect the current efficient cost of delivering regulatory activities.
- **Introduction of new fees** - The Cost Recovery Guidelines and the Charging Framework encourages regulators to promote equity, whereby the recipients who create the need for government activity, rather than the general public, bear its costs. As a result, new charge points are proposed to allow recovery of fees from those who create demand for the Department's regulatory activities.

Additional considerations

Indexation

The Department also proposes to consider the application of indexation of fees to further align fees with the expected inflationary factors on costs associated with undertaking activities related to Environmental Assessments. The Department continues to consider the most appropriate application of indexation, which could be applied annually across all fees.

The Department is also considering which indexation parameter would be the most appropriate to apply. This includes further analysis of the nature of the costs that make up its cost base for undertaking these activities. For example, a cost base driven largely by employee costs may be most

⁷ The Australian National Audit Office (ANAO) June 2020 performance audit of *Referrals, Assessments and Approvals of Controlled Actions under the EPBC Act* found that over 80 percent of approvals reviewed contained administrative errors in conditions that could render them unenforceable or subject to successful court challenge.

appropriately indexed using a Wage Price Index (WPI). A cost base driven largely by supplier costs may be most appropriately indexed using a Consumer Price Index (CPI).

Non-payments and debt recovery

The likely impact of non-payments, and the cost of any consequent debt recovery processes is also being considered in relation to potential options for recovering the cost of undertaking follow up processes in relation to non-payments. These could be pursued on a case-by-case basis and may include penalties for late payment.

Payment deferral

Payment deferral is explored in connection with certain charge points to reduce financial barriers to ecologically sustainable development. As such, the Department is exploring options to minimise this impact such as through staged or progressive payments, or payment deferral. Deferral of fees would require an application to the Department by the proponent and would only be agreed in certain circumstances i.e. where the cost recovery charges materially impact a proponent's ability to progress a project.

Proposed charge points

The proposed charge points can broadly be grouped by relevant categories as shown in **Figure 2**.

Figure 2: Summary of potential charge points

Summary of charge point options by category			
Referral	<ul style="list-style-type: none">❖ Referral validation❑ Referral validation – resubmission required❖ Referral decision❑ Assessment approach decision	Post Approval	<ul style="list-style-type: none">❖ Evaluation of Action Management Plan❑ Trigger Action Response Plan (TARP)❑ Outcomes-based conditions❑ Conservation Agreement❑ Termination of Conservation Agreement❑ Offset strategy or plan
Assessment	<ul style="list-style-type: none">➤ Assessment stage/s by assessment type❖ Complexity fees❑ Draft documentation – resubmission❑ Reassessment		Compliance
Approval	<ul style="list-style-type: none">❖ Approval decision (by assessment type)	Other Applications	<ul style="list-style-type: none">❖ Part 13 permit request❖ S160 assessment request
Contingent Fees	<ul style="list-style-type: none">❑ Transfer of application to new proponent➤ Transfer of approval to new approval holder❑ Statement of reasons❑ Reconsideration of fees➤ Reconsideration of controlled action decision	<ul style="list-style-type: none">➤ Request additional information (all stages)➤ Variation of proposed action, conditions or action management plan➤ Extension to approval expiry date❑ Deferral of fee request❑ Site visits (all stages)	
Legend <ul style="list-style-type: none">➤ Existing charge point – no change❖ Amendment to existing charge point – restructured❑ New charge point			

A full breakdown of the proposed fee options including charge points relating to various activities undertaken by the Department is shown in the **Tables 2 to 8** below. A series of illustrative examples that demonstrate how these fees would apply in a case study scenario are provided in [Attachment C](#).

Table 2: Fee options relating to Referral

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Referral validation	Per submission	Referral	<ul style="list-style-type: none"> Referral validation Referral validation – deactivation and refunds 	Proponent	Upfront upon submission OR Upon validation	Flat fee
Referral validation – resubmission required	Per resubmission	Referral	<ul style="list-style-type: none"> Referral validation – resubmission required 	Proponent	Upfront upon submission OR Upon validation	Flat fee
Referral decision	Per referral	Referral	<ul style="list-style-type: none"> Referral decision Suspension of statutory timeframes Inviting comments 	Proponent	Upfront upon submission OR Upon decision	Flat fee OR Tiered fee: <ul style="list-style-type: none"> Not a controlled action Not a controlled action: particular manner Controlled Action Clearly unacceptable
Assessment approach decision	Per decision	Referral	<ul style="list-style-type: none"> Assessment approach decision Determine fee schedule 	Proponent	Upfront upon application	Flat fee

Table 3: Fee options relating to Assessment

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Assessment – stage 1 Assessment – stage 2 Assessment – stage 3	Per assessment stage	Assessment by Preliminary Documentation (PD) Assessment by Public Environment Report (PER) Assessment by Environmental Impact Statement (EIS)*	<ul style="list-style-type: none"> Determine information requirements (currently Stage 1) Review draft assessment documentation (currently Stage 2) Review final assessment documentation (currently Stage 3) 	Proponent	Prior to the commencement of each stage	Flat fee plus complexity matrix OR Tiered fee <ul style="list-style-type: none"> Moderate High Very High

* The actual fee may vary depending on the assessment type and effort required however the structure will be the same for the group

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Assessment – stage 1 Assessment – stage 2	Per assessment stage	Assessment on Referral Information (ARI)	<ul style="list-style-type: none"> Preparation and publication of draft Recommendation report (currently Stage 1) Review comments from relevant stakeholders and finalise the recommendation Report (currently Stage 2) 	Proponent	Prior to the commencement of each stage	Flat fee plus complexity matrix OR Tiered fee: <ul style="list-style-type: none"> Moderate High Very High

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Assessment – stage 1 Assessment – stage 2 Assessment – stage 3	Per assessment stage	Assessment by Accredited Assessment Process Assessment by Bilateral Agreement*	<ul style="list-style-type: none"> Review terms of reference (currently Stage 1) Review draft assessment documentation (currently Stage 2) Review final assessment documentation (currently Stage 3) 	Proponent	Prior to the commencement of each stage	Flat fee plus complexity matrix OR Tiered fee: <ul style="list-style-type: none"> Moderate High Very High
Assessment stage/s	Per assessment stage	Fees for Assessment by Public Inquiry Assessment by other means	<ul style="list-style-type: none"> Assessment by public inquiry Further information request - public inquiry Assessment by other means (Ministerial declarations) 	Case-by-case decision	Case-by-case decision	Case-by-case decision
Draft documentation – resubmission required	Per resubmission	Assessment	<ul style="list-style-type: none"> Review of resubmitted draft assessment documentation 	Proponent	Upfront upon resubmission	Tiered based on complexity

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Reassessment	Per reassessment	Reassessment	<ul style="list-style-type: none"> Reassessed – exceeded commencement date 	Proponent	Upfront upon application	Flat fee OR Tiered fee: <ul style="list-style-type: none"> Moderate High Very High OR Time-Based

Table 4: Fee options relating to Approvals

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Approval decision	Per decision	Assessment by Preliminary Documentation (PD) Assessment by Public Environment Report (PER), Assessment by Environmental Impact Statement (EIS)*	<ul style="list-style-type: none"> Prepare proposed and final decision (currently Stage 4) 	Proponent	Prior to the commencement of drafting the decision	Flat fee plus complexity matrix OR Tiered fee: <ul style="list-style-type: none"> Moderate High Very High

* The actual fee may vary depending on the assessment type and effort required however the structure will be the same for the group

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Approval decision	Per decision	Assessment on Referral Information (ARI)	<ul style="list-style-type: none"> Prepare proposed and final decision (currently Stage 3) (ARI) 	Proponent	Prior to the commencement of drafting the decision	Flat fee plus complexity matrix OR Tiered fee: <ul style="list-style-type: none"> Moderate High Very High
Approval decision	Per decision	Assessment by Accredited Assessment Process	<ul style="list-style-type: none"> Prepare proposed and final decision (currently Stage 4) 	Proponent	Prior to the commencement of drafting the decision	Flat fee plus complexity matrix OR Tiered fee: <ul style="list-style-type: none"> Moderate High Very High

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Approval decision	Per decision	Assessment by Public Inquiry Assessment by other means	<ul style="list-style-type: none"> Public inquiry approval Approval by other means (Ministerial declarations) 	Case-by-case decision	Case-by-case decision	Case-by-case decision

Table 5: Fee options relating to Post Approvals

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Evaluation of Action Management Plan	Per evaluation	Post Approvals	<ul style="list-style-type: none"> Evaluation of Action Management Plan 	Approval Holder	Upfront prior to evaluation of the plan	Tiered fee: <ul style="list-style-type: none"> Low Medium High
Trigger Action Response Plan (TARP)	Per Plan	Post Approvals	<ul style="list-style-type: none"> Trigger Action Response Plan 	Approval Holder	Upfront prior to evaluation of the plan	Flat fee
Outcomes-based conditions	Per approval	Post Approvals	<ul style="list-style-type: none"> Outcomes-based conditions 	Approval Holder	Upfront prior to evaluation of the outcome based conditions	Flat fee

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Conservation Agreement	Per conservation agreement	Post Approvals	<ul style="list-style-type: none"> Establishing Conservation Agreement Reviewing Conservation Agreement 	Approval Holder	Upfront prior to establishing or evaluation of conservation agreement	Flat fee OR Tiered fee based on complexity
Termination of conservation agreement	Per application	Post Approvals	<ul style="list-style-type: none"> Application to terminate Conservation Agreement 	Approval Holder	Upfront prior to evaluation of termination application	Flat fee
Offset strategy or plan	Per offset strategy or plan	Post Approvals	<ul style="list-style-type: none"> Offset strategy or plan – low Offset strategy or plan – medium Offset strategy or plan - high 	Approval Holder	Upfront prior to evaluation of strategy or plan	Tiered fee based on Complexity

Table 6: Fee options relating to Compliance

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Environmental history check	Per history check	Compliance	<ul style="list-style-type: none"> Environmental history check - at approval Environmental history check - for change of Proponent Environmental history check - for change of Approval Holder 	Approval holder	Prior to commencement	Flat fee OR Tiered fee: <ul style="list-style-type: none"> Small business or individual Corporation
Annual compliance report	Per report	Compliance	<ul style="list-style-type: none"> Annual compliance report reviews 	Approval holder	Upon submission of annual compliance report	Flat fee OR Tiered fee based on complexity
Independent audit report review	Per report	Compliance	<ul style="list-style-type: none"> Independent audit reports reviews 	Approval holder	Upon submission of independent audit report	Flat fee OR Tiered fee based on complexity

Table 7: Fee options relating to other applications

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Part 13 permit request	Per permit request	Other applications	<ul style="list-style-type: none"> Part 13 permit 	Applicant	Upfront upon submission of the permit request	Flat fee OR Tiered fee based on complexity
S160 referral	Per referral	Other applications	<ul style="list-style-type: none"> S160 advice – decision on advice required 	Proponent	Upfront upon referral	Flat fee
S160 assessment request	Per assessment request	Other applications	<ul style="list-style-type: none"> S160 advice – assessment outcome 	Proponent	Upfront upon submission of assessment request	Flat fee plus complexity matrix OR Tiered fee: <ul style="list-style-type: none"> Moderate High Very High

Table 8: Fee options relating to contingent activities

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Transfer of application to new proponent	Per request	Contingent activities	<ul style="list-style-type: none"> Change to proponent – referral Changes of proponent – assessment 	New proponent	Upfront upon submission of change request	Flat fee
Transfer of approval to new approval holder	Per request	Contingent activities	<ul style="list-style-type: none"> Change to approval holder – post approval 	New approval holder	Upfront upon submission of change request	Flat fee
Reconsideration of fees	Per reconsideration request	Contingent activities	<ul style="list-style-type: none"> Reconsideration cost recovery fees or exemptions 	Proponent	Upfront upon submission of reconsideration request	Flat fee OR Tiered fee based on complexity
Reconsideration of controlled action decision	Per reconsideration request	Contingent activities	<ul style="list-style-type: none"> Reconsideration of controlled action decision 	Proponent OR Third party	Upfront upon submission of reconsideration request	Flat fee OR Tiered based on complexity

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Request additional information (all stages)	Per request	Contingent activities	<ul style="list-style-type: none"> • Additional data request • Additional document review 	Proponent	Upon request for additional information	Flat fee OR Tiered fee: <ul style="list-style-type: none"> • Referral decision • Assessment approach decision • Approval decision
Variation	Per variation request	Contingent activities	<ul style="list-style-type: none"> • Variation to proposed action • Variation of conditions • Variation of an action management plan under conditions of approval 	Proponent OR Approval holder	Upfront upon submission of variation request	Flat fee OR Tiered fee: <ul style="list-style-type: none"> • Proposed action • Conditions • Action management plan under conditions of approval
Extension	Per extension request	Contingent activities	<ul style="list-style-type: none"> • Extension to approval expiry date 	Approval holder	Upfront upon submission of extension request	Flat fee

Proposed charge point	Unit of measure	Charge points relating to	Outputs of the activity	Who pays	Timing	Proposed fee structure
Request for fee deferral	Per deferral request	Contingent activities	<ul style="list-style-type: none"> Application of deferral of fees 	Proponent	Upon submission of the deferral request	Flat fee
Site visits (all stages)	Per site visit	Contingent activities	<ul style="list-style-type: none"> Site visit – Referral stage Site visit – Assessment stage Site visit - Compliance 	Proponent OR Approval holder	Prior to the site visit	Flat fee OR Time-based fee + travel costs
Statement of reasons	Per statement of reasons request	Contingent activities	<ul style="list-style-type: none"> Statement of reasons - referral decision Statement of reasons – assessment approach Statement of reasons – exceeding statutory timeframes Statement of reasons – approval decision 	Proponent OR Third party	Upfront upon submission of Statement of Reasons request	Flat fee OR Tiered fee: <ul style="list-style-type: none"> Referral decision Assessment approach Statutory timeframes Approval decision

Feedback Questions: [Possible changes to fee structures](#) (Refer to Table 2, Table 3: Fee options relating to Table 4: Fee options relating to Table 5, Table 6, Table 7, Table 8)

- When considering your project development and design process, how well do the proposed charge points align with your project milestones?
 - a) They don't align
 - b) They mostly align
 - c) They align well
 - d) Not applicable
- Do you support the introduction of fees after project approval? (Refer to Table 5: Fee options relating to Post Approvals and Table 6: Fee options relating to Compliance)
 - a) Yes
 - b) No

Simplifying the complexity matrix

The Department is considering options to simplify the complexity matrix. The level of complexity of a proposed action helps determine the departmental efforts to undertake an assessment. More complex projects are charged higher fees. The complexity matrix currently applies in the Assessment and Approval phase.

The Department is seeking feedback on moving to a tiered approach for complexity for Assessment and Approval activities. Each assessment would be categorised as moderate, high or very high. In addition to the tiers, additional fees would apply for any additional project components and a multiplier would apply for the number protected matters impacted within the controlling provisions triggered for the assessment. The simplified matrix is further explained in [Attachment D](#).

A proposed action is classified as **moderate** if all of the following criteria can be met for all controlling provisions:

- The impact to matters of national environmental significance is well understood
- The available options to manage the impact are well understood
- The technology is well understood
- Site surveys are complete for all projects
- Management measures including mitigations and offsets are proposed and well defined
- Project scope includes alternatives, with each alternative well defined

A project will be upgraded to high or very high if any of the above criteria cannot be met.

A project will be upgraded to **high** if two or more of the following criteria are met for any controlling provisions:

- The impact to matters of national environmental significance is mostly well understood
- The available options to manage the impact are mostly well understood
- The technology is well understood
- Site surveys are not complete for a least one of the project components

- Management measures poorly defined, with a high degree of uncertainty about the effectiveness of the measures and/or the way in which they will be implemented. Technical review of information is likely to be required
- Project scope includes alternatives, with further clarification required

A project will be upgraded to **very high** if two or more of the following criteria are met for any controlling provision:

- The impact to matters of national environmental significance are not well understood
- The available options to manage the impact are not well understood
- Technology proposed is new and unproven
- Site surveys are not complete for multiple project components
- Management measures not proposed or untested. Technical review of information likely to be required.
- Project scope is unclear or alternative options are poorly defined.

Feedback Questions: [Simplifying the complexity matrix](#) (Refer to Attachment D: Option for complexity tiers, Attachment E: Current complexity matrix)

- Where would most of your projects place within the complexity matrix (Refer to Attachment E)?
 - a) Not relevant
 - b) I have never used the complexity matrix
 - c) Moderate
 - d) High
 - e) Very High
 - f) Not sure
- What would be the preferred approach to determining project complexity?
 - a) Current approach from the 2016/17 CRIS (Refer to Attachment E)
 - b) Proposed tiered structure (Refer to Attachment D)
 - c) Other (please specify)

Actions to reduce the financial impact of fees

The Department understands that these are potentially major reforms to the EPBC cost recovery framework which could have a significant financial impact on some stakeholders. The Government wants to support ecologically sustainable developments. So the Department are considering actions to minimise the impact of cost recovery fees on proposals. These actions could be classified into four key categories:

- **Fee exemptions**
- **Fee waivers**
- **Fee caps**
- **Fee deferrals**

Each of the above actions is further explored in the table below.

Table 9: Proposed actions to reduce the financial impact of fees

Categories	Current state	Proposed updates
Update to small business exemption	<p>As described in the current CRIS, there are limited occasions where a proposed action referred under the EPBC Act will be exempt from the payment of fees. The Australian Government will fund costs for Environmental Impact Assessments where the applicant is exempt from cost recovery so other applicants will not cross-subsidise these assessments. The Australian Government has determined that it is appropriate to exempt individuals and small businesses from environmental assessments fees under the EPBC Act, for the following reasons:</p> <ul style="list-style-type: none"> • small businesses have a lower revenue base than large companies, which means they will be disproportionately impacted by cost recovery fees; • cost recovery fees may deter small businesses and individuals from referring their project to the Department; and • the cost to the Government of increasing compliance to investigate non-referred projects would be greater than the cost to the Government of granting exemptions to small businesses and individuals. <p>For the purposes of the exemptions from EPBC Act cost recovery, a small business has the meaning given by section 328-110 (other than subsection 328-110(4)) of the Income Tax Assessment Act 1997. Currently, a business's prior year turnover must be less than \$10 million to be considered a small business.</p>	<p>The Department is considering three options in relation to updates for small business exemption. They are:</p> <p>Option 1 - Status Quo</p> <p>The Department may define a small business in accordance with the Income Tax Assessment Act 1997</p> <p>Option 2 - Exemption by revenue</p> <p>The proponent's (and the parent company's) annual turnover could be used to set fee exemptions</p> <p>Option 3 – Project Costs Exemption</p> <p>Applicants with project cost less than a specified value could be exempt from the fee or charge</p> <p>Note: In all options proposed, the Australian Government would fund costs for Environmental Impact Assessments where the applicant is exempt from cost recovery so other applicants will not cross-subsidise these assessments.</p>

Categories	Current state	Proposed updates
Update to grounds for waivers	<p>As described in the current CRIS, in limited circumstances, the Minister may use the discretionary power to waive a fee or part of a fee under the EPBC Act. Decisions on waiving fees are made on a case-by-case basis. The Australian Government will fund costs for Environmental Impact Assessments where the Minister waives the applicant's liability to pay cost recovery fees (i.e. other applicants do not cross-subsidise these assessments).</p> <p>The Minister may determine to waive fees on the following grounds:</p> <ul style="list-style-type: none"> the primary objective of the proposed action is to protect or conserve the environment (including heritage) consistent with the objectives of the EPBC Act; exceptional circumstances; public interest; or a stage of an assessment is not applicable and the associated fee should be waived. 	<p>More clearly define the grounds for waivers and require the decision maker to publish reasons.</p> <p>Note: The Australian Government would fund costs for Environmental Impact Assessments where the waivers to pay cost recovery fees are granted so that other applicants do not cross-subsidise these assessments.</p>
Introduce fee caps	There are no caps applicable to the fees in the current CRIS.	The Department is considering capping the fees as a percentage of project size. This would mean that the assessment fees may be capped at a specified percentage of the project costs. This would allow the proponents to know the maximum financial impact of environmental assessment fees at the project conception stage.

Categories	Current state	Proposed updates
Introduce deferral of fee option	There is no deferral of fee options in the current CRIS.	<p>To assist the approval holder with their cash flow, the Department is considering introducing a process where applicants can apply to defer the payment of their fees in certain circumstances, such as where it is financially prohibitive to pay the fee/s upfront. They are:</p> <p>Option 1 – defer the fees until the outcome of the decision:</p> <p>This option allows for the deferral of fees until an outcome of the decision is reached. The outcome of the decision could be either during the referral stage or during the approvals stage. The fees would be payable regardless of the outcome of the decision i.e. the decision to approve or the decision to decline.</p> <p>Option 2 – defer the fees until project commencement:</p> <p>This option allows for the deferral of fees until the actual commencement of the project.</p>

An illustrative example of how deferral of fees may apply if deferred until project commencement is provided in [Attachment C](#).

Feedback Questions: [Actions to reduce the financial impact of fees](#) (Refer to Table 9: Proposed actions to reduce the financial impact of fees)

- Have you sought an exemption from paying fees in the past?
 - a) Yes
 - b) No
- If yes, what was the outcome?
 - a) Qualified for exemption as small business
 - b) Qualified for exemption as individual
 - c) Did not qualify
 - d) Request for exemption was denied by delegate
- If request for exemption was denied by delegate, then under what grounds were you seeking an exemption for?

- Are you likely to apply for an existing, or proposed fee exemption or waiver?
 - a) Likely to apply for exemption
 - b) Likely to apply for fee waiver
 - c) Unlikely to apply for either change
 - d) Unsure
- If you are likely to apply for deferral of fees, which options would best minimise the financial impact? (Refer to Table 9: Proposed actions to reduce the financial impact of fees)
 - a) Unlikely to apply for deferral of fees
 - b) Defer fees until approval
 - c) Defer fees until project commencement
- Which of the proposed changes are most likely to affect project viability?
 - a) Big increases to existing fees
 - b) Introduction of new charge points table (Refer to Figure 2: **Summary of potential charge points**, and Table 2: Fee options relating to Referral to 8)
 - c) Changing complexity matrix (Refer to Attachment D: Option for complexity tiers)
 - d) Changing the exemption and waiver criteria (Refer to Table 9: Proposed actions to reduce the financial impact of fees)

Additional fee for accelerated process

. The Department is seeking feedback and interest from the stakeholders to ascertain:

- if accelerated pathways will add value to the proponents
- which stages of the assessment (referral, assessment, approval or all) are proponents most interested in seeing the accelerated pathway option
- if proponents would be willing to pay the additional cost of providing an accelerated option.

The accelerated assessment process might occur by allocating a greater number of staff to assess a project and via the allocation of more senior staff to assess such projects in combination with shorter timelines for statutory decision making. An additional fee is proposed to be charged to recover the additional effort and cost created directly by the proponent by allowing an accelerated pathway.

If implemented, the accelerated process would not impact those applications that do not choose to pay an additional cost for an accelerated pathway. The Department is committed to meeting its statutory timeframe obligations in relation to the Environmental Assessments process.

Feedback Questions: [Additional fee for accelerated process](#)

- Would you pay an additional fee to take up an accelerated pathway and have more experienced/senior staff assess your project?
 - a) Yes
 - b) No

- If yes, what steps in the process would be most desirable for you to accelerate?
 - a) Referral
 - b) Assessment
 - c) Approval
 - d) Post Approval
 - e) All the above
 - f) None of the above

Levies

Levies are designed to fund the indirect regulatory activities, that are not attributable to a service provided to a specific proponent, approval holder or third party. To move towards full cost recovery, the Department is investigating the introduction of a cost recovery or other levy to fund these activities.

The Department is considering the following possible levy points and structures. The levies would work in combination with each other.

Table 10: Levy structure options

Proposed charge point	Unit of measure	Who pays	Timing	Proposed Fee Structure
Referral	Per referral	Proponent	Upfront upon submission of referral	Flat levy
Assessment	Per assessment	Proponent	Upfront upon submission of application	Flat levy OR Tiered levy by assessment type: <ul style="list-style-type: none"> • Referral information • Preliminary documentation • Environmental Impact Statement • Public Environment Report • Bilateral Agreement

Proposed charge point	Unit of measure	Who pays	Timing	Proposed Fee Structure
Approval holder	Per approval	Approval holder	Annually for the life of the approval	<p>Tiered levy based on:</p> <p>Option 1 - industry type</p> <p>Option 2 - industry type and site complexity, risks and number of MNES</p> <p>Option 3 - industry type and cost of the project</p> <p>Option 4 - industry type and production rates at the site e.g. tonnes of ore/year</p>

Feedback Questions: [Levies](#) (Refer to Table 10: Levy structure)

- If a levy approach is taken, when would you prefer to pay a levy:
 - Progressively during the assessment
 - Annual fee post-approval
 - Other (please specify)
- The levy would likely be set at different rates for different industries and sites. Should the size of the levy be decided by:
 - Industry type
 - Industry type and complexity matrix
 - Industry type and value of project
 - Industry type and production rate at the project site
 - Other (please specify)
- Do you use a formal cost estimation process to determine the total cost of projects?
 - Yes
 - No
- If yes, at what class of cost estimation do you generally have at the time of project referral?
 - Class 5 – conceptual stage + or – 20 – 100% accuracy
 - Class 4 – prefeasibility stage + or – 15 – 50% accuracy
 - Class 3 – feasibility stage + or – 10 – 30% accuracy
 - Class 2 – detailed stage + or – 5 – 20% accuracy
 - Not sure

Feedback Question: Impact of implementing changes to cost recovery

- What are the impacts of implementing the proposed changes to cost recovery?

Risk assessment

The Department has considered the risks associated with the updates to the charging structure and how we will manage these risks is presented in Table below. Any risks raised through consultation will be documented with management strategies defined.

Table 11: Potential risks and management with cost recovery

Risk	Management
The regulated community is not aware of, does not plan for or does not support, the future proposed updates to the charging structure.	<p>The Department will continue to engage with the regulated community to ensure they are aware of changes to cost recovery.</p> <p>The Department will assess the regulatory burden of any changes through a RIS.</p> <p>The Department will release a draft CRIS and RIS, to provide industry with ample time to prepare for these changes.</p>
The actual demand or cost of providing regulatory activities is different to the expected demand.	The Department will regularly review the forecast demand and compare this to real life data. This will be considered in the annual review of the CRIS.
The cost of fees will encourage some to operate outside of the regulatory framework, resulting in risk to the environment and increased compliance and enforcement costs to the Department.	Exemptions are being proposed for small businesses that would be impacted by fees. For other applicants, the charges proposed will represent a small proportion of the costs of the actions they are taking.

Next Steps

Consultation on this paper is open until 10 am Monday 13 February 2023. Within the consultation period, stakeholders are encouraged to provide detailed feedback via a targeted “Have Your Say” page.

Should you wish to meet with a representative of the Department to discuss this paper or ideas further with the EPBC cost recovery team leaders or the relevant senior executive, please email the EPBC Cost Recovery mailbox (EPBC.Cost.Recovery@dcceew.gov.au):

- **Bruce Edgerton**, Assistant Director, Environment Assessment Policy, Governance and Reform Branch, Environment Approvals Division, DCCEEW
- **Cormac Farrell**, Director, Environment Assessment Policy, Governance and Reform Branch, Environment Approvals Division, DCCEEW

Once the consultation period has closed, the Department will consider the submissions which will support the development of a draft CRIS for public consultation. A summary of the key feedback received will be made available to the parties consulted.

A new CRIS could be implemented in 2023-24 subject to Government approval and progression of regulatory amendments.

Implementing a new cost recovery levy for environmental assessments under the EPBC Act would require greater government consideration and would involve new legislation. If the Government chose to progress with a levy option, it is not anticipated to be introduced prior to 2024.

Any questions regarding this process can be directed to EPBC.Cost.Recovery@dcceew.gov.au.

Attachment A: Questionnaire / Feedback sought

Feedback Questions

[Possible changes to fee structures](#) (Table 2, Table 3: Fee options relating to Table 4: Fee options relating to Table 5, Table 6, Table 7, Table 8)

- When considering your project development and design process, how well do the proposed charge points align with your project milestones?
 - a) They don't align
 - b) They mostly align
 - c) They align well
 - d) Not applicable
- Do you support the introduction of fees after project approval? (Refer to Table 5: Fee options relating to Post Approvals and Table 6: Fee options relating to Compliance)
 - a) Yes
 - b) No

[Simplifying the complexity matrix](#) (Refer to Attachment D: Option for complexity tiers, Attachment E: Current complexity matrix)

- If relevant, where would most of your projects place within the complexity matrix? (Refer to Attachment E)
 - a) Not relevant
 - b) I have never used the complexity matrix
 - c) Moderate
 - d) High
 - e) Very High
 - f) Not sure
- What would be the preferred approach to determining project complexity?
 - a) Current approach from the 2016/17 CRIS (Refer to Attachment E)
 - b) Proposed tiered structure (Refer to Attachment D)
 - c) Other (please specify)

[Actions to reduce the financial impact of fees](#) (Refer to Table 9: Proposed actions to reduce the financial impact of fees)

- Have you sought an exemption from paying fees in the past?
 - a) Yes
 - b) No

- If yes, what was the outcome?
 - a) Qualified for exemption as small business
 - b) Qualified for exemption as individual
 - c) Did not qualify
 - d) Request for exemption was denied by delegate
- If request for exemption was denied by delegate, then under what grounds were you seeking an exemption for?
- Are you likely to apply for an existing, or proposed fee exemption or waiver?
 - a) Likely to apply for exemption
 - b) Likely to apply for fee waiver
 - c) Unlikely to apply for either
 - d) Unsure
- If you are likely to apply for deferral of fees, which options would best minimise the financial impact? (Refer to Table 9: Proposed actions to reduce the financial impact of fees)
 - a) Unlikely to apply for deferral of fees
 - b) Defer fees until approval
 - c) Defer fees until project commencement
- Which of the proposed changes are most likely to affect project viability?
 - a) Big increases to existing fees
 - b) Introduction of new charge points table (Refer to Figure 2: **Summary of potential charge points**, and Table 2: Fee options relating to Referral to 8)
 - c) Changing complexity matrix (Refer to Attachment D: Option for complexity tiers)
 - d) Changing the exemption and waiver criteria (Refer to Table 9: Proposed actions to reduce the financial impact of fees)

Additional fee for accelerated process

- Would you pay an additional fee to take up an accelerated pathway and have more experienced/senior staff assess your project?
 - a) Yes
 - b) No
- If yes, what steps in the process would be most desirable for you to accelerate?
 - a) Referral
 - b) Assessment
 - c) Approval
 - d) Post Approval
 - e) All the above

f) None of the above

Levies (Refer to Table 10: Levy structure)

- If a levy approach is taken, when would you prefer to pay a levy:
 - a) Progressively during the assessment
 - b) Annual fee post-approval
 - c) Other (please specify)
- The levy would likely be set at different rates for different industries and sites. Should the size of the levy be decided by:
 - a) Industry type
 - b) Industry type and complexity matrix
 - c) Industry type and value of project
 - d) Industry type and production rate at the project site
 - e) Other (please specify)
- Do you use a formal cost estimation process to determine the total cost of projects?
 - a) Yes
 - b) No
- If yes, at what class of cost estimation do you generally have at the time of project referral?
 - a) Class 5 – conceptual stage + or – 20 – 100% accuracy
 - b) Class 4 – prefeasibility stage + or – 15 – 50% accuracy
 - c) Class 3 – feasibility stage + or – 10 – 30% accuracy
 - d) Class 2 – detailed stage + or – 5 – 20% accuracy
 - e) Not sure

Impact of implementing changes to cost recovery

- What are the impacts of implementing the proposed changes to cost recovery?

Attachment B: Description of Activities

Figure 3: Summary of Parts 7 to 9 Environmental Assessment Direct Activities

Direct Activities		
Activity	Descriptions	Sub-activities
Referral	A referral is required to be lodged by the person proposing to the Minister via the Department. If the action referred is deemed to be a controlled action, it continues to Assessment. The Minister makes a decision within 20 business days on the need for assessment and assessment type.	<ul style="list-style-type: none"> • Pre-referral • Referral validation • Referral decision • Fee exemptions and waivers • Variations • Reconsiderations • Statement of reasons • Terminations • Determine assessment approach
Assessment	The assessment stage is when the provided information is assessed for the impact on MNES. The assessment could be completed using one of the following type: <ul style="list-style-type: none"> • Assessment on referral information • Assessment on preliminary documentation • Assessment by public inquiry • Assessment by public environment report • Assessment by environment impact statement • Assessment by bilateral agreement 	<ul style="list-style-type: none"> • Assessment by type • Other assessments • Additional consultation/review • Variations • Reconsiderations • Statement of reasons • Terminations
Approval	Various conditions could be attached to the approval including expiry date, management plan or offset strategy that approval holders need to follow. There could also be additional annual compliance or other reporting conditions which again needs to be met in order to be compliant.	<ul style="list-style-type: none"> • Approval decision • Determine approval conditions • Statement of reasons
Post-Approval	Post-approval manages the conditions to the approval determined above.	<ul style="list-style-type: none"> • Action management plans • Variations
Compliance*	Compliance includes conducting environmental history checks, monitoring approval holders, investigations.	<ul style="list-style-type: none"> • Environmental history checks • Assurance monitoring • Audit • Variations
Legal*	Legal provides advice to ensure the process is in accordance with relevant legislation.	<ul style="list-style-type: none"> • Prior authorisations advice • Decision brief reviews

*specific sub-activities may be direct or indirect

Figure 4: Summary of Parts 7 to 9 Environmental Assessment Indirect Activities

Indirect Activities		
Activity	Descriptions	Sub-activities
Strategy and Regulation Practice	The planning of strategy across the environment division including coordinating boards and the regulatory practice committee.	<ul style="list-style-type: none"> • Environmental assessment strategy • Business risk planning • Workforce planning
Policy and Advice	The creation, updating and interpreting of relevant of policy for proponent, department and government.	<ul style="list-style-type: none"> • Environmental assessment policy • Government Policy
Stakeholder Engagement	The primary focus of this activity is increasing the awareness and education of proponents to increase compliance.	<ul style="list-style-type: none"> • Stakeholder engagement • Communications and media • Enquires management
Operational Training	Training of new and existing officers to ensures legal and quality standards are upheld.	<ul style="list-style-type: none"> • Assessment officer training • Compliance officer training
Business Systems Administration	This involves the set-up, maintenance and management of data and business systems.	<ul style="list-style-type: none"> • Data clean up • Business systems
Compliance*	Compliance includes conducting environmental history checks, monitoring approval holders, investigations.	<ul style="list-style-type: none"> • Investigations
Legal*	Legal provides advice to ensure the process is in accordance with relevant legislation.	<ul style="list-style-type: none"> • General

*specific sub-activities may be direct or indirect

Figure 5: Summary of Parts 7 to 9 Environmental Assessment Enabling Services Activities

Enabling Services	
Activity	Descriptions
Human Resources	This includes the administration and advisory of recruitment, safety and training, professional development.
Finance	Finance is responsible for the administering and management of the departments budget.
Legal	This comprises of non-proponent or assessment specific legal matters including reducing risk, employee waivers and management of law suits.
Corporate Governance	The regulation and systems controlling the operation of the department.
Property	The provision of strategic leadership and operational management of facilities, property, procurement, security, business continuity and contract management functions.
ICT	The set up and maintenance of department wide software and hardware including laptops, access passes and applications.

Attachment C: Illustrative example of fee structure options

Case study 1a: Illustrative example of assessment on Referral Information (ARI) – Referral to Approval

Proposed project: The Department of Roads and Transport is proposing to upgrade a section of highway, which requires clearing of up to fifty hectares of vegetation, located in an important regional habitat corridor for wildlife.

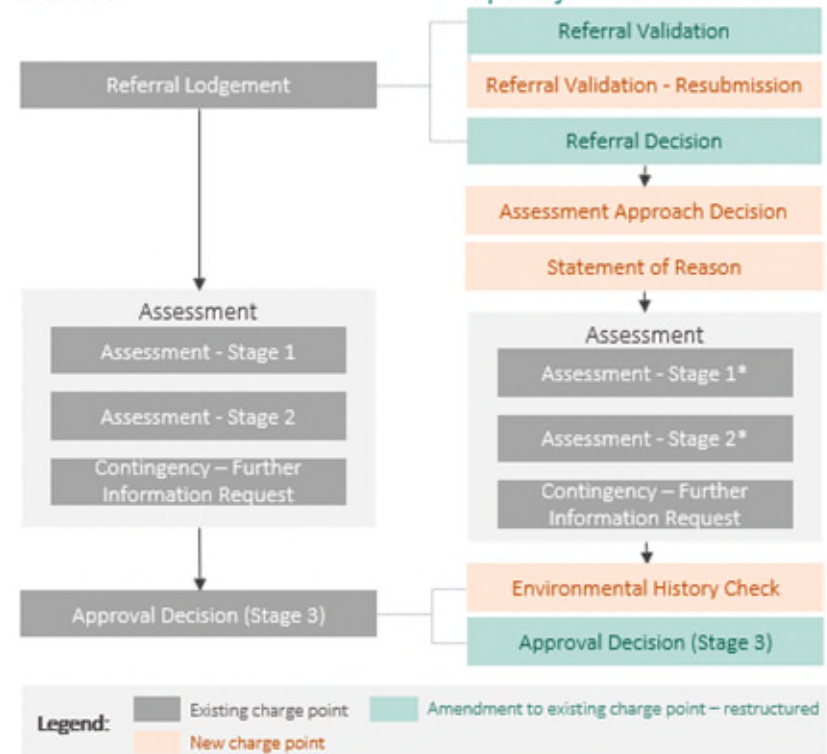
Assessment outcome overview – illustrative example

Referral	The referral process determined the proposed action is likely going to have a significant impact on a matter of national environmental significance and therefore it is a controlled action that requires assessment and approval . <i>*The initial referral required resubmission due to insufficient documentation</i>
Assessment Approach Decision	As the information provided on the referral form was comprehensive and succinct, the proposed action was determined to be assessed via Assessment on Referral Information (ARI) . <i>Following this the applicant requested a statement of reason.</i>
Assessment	Stage 1* – A draft recommendation report was prepared and published for public comment. Stage 2 – The recommendation report was finalised and provided to the Minister to decide on the appropriate approval actions. <i>*During Stage 1, further information was requested.</i>
Approval	The proposed action was approved with conditions .

**Complexity fees will be discussed in complexity matrix section of the discussion*

Charge point structure

Current:



Case study 1a (continued): Illustrative example of assessment on Referral Information (ARI) – after Approval

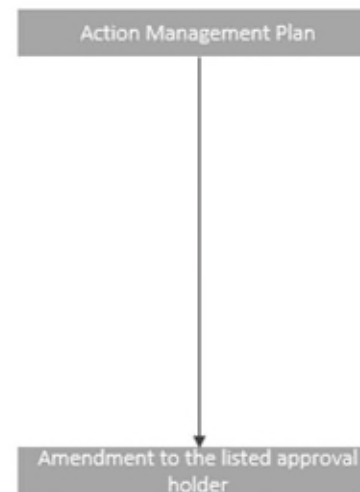
Proposed project: The Department of Roads and Transport is proposing to upgrade a section of highway, which requires clearing of up to fifty hectares of vegetation, located in an important regional habitat corridor for wildlife. .

Post Approval overview – illustrative example

Action Management Plan	The approval requires the establishment of an action management plan. The project impacts 3 threatened species where impacts to all species are well defined. This results in a low complexity action management plan being required.
Annual Compliance Report Review	The approval holder provides the report for review and processing into Department records.
Compliance Site Visit	The monitoring process determined that further investigation was required to ensure the approval holder is compliant with their approval
Change of listed approval holder	The approval holder requests the approval be transferred to another party.

Charge point structure

Current:



Option for revised structure:



Legend:

- Existing charge point
- New charge point
- Amendment to existing charge point – restructured

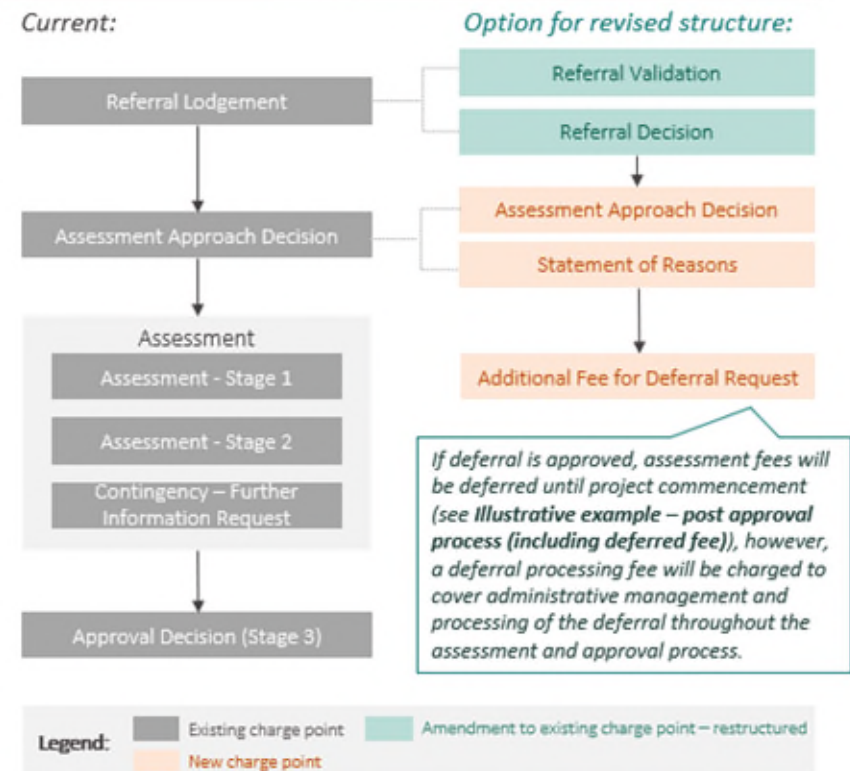
Case study 1b: Illustrative example of assessment on Referral Information (ARI) – Referral to Approval – with fees deferred to project commencement

Proposed project: The Department of Roads and Transport is proposing to upgrade a section of highway, which requires clearing of up to fifty hectares of vegetation, located in an important regional habitat corridor for wildlife.

Assessment outcome overview – illustrative example

Referral	The referral process determined the proposed action is likely going to have a significant impact on a matter of national environmental significant and therefore must be undertaken with controlled actions .
Assessment Approach Decision	As the information provided on the referral form was comprehensive and succinct, the proposed action was determined to be assessed via Assessment by Referral Information (ARI) . <i>Following this the applicant requested a statement of reasons.</i>
Deferral of Fees Request	The approval holder requests to defer the payment of fees until the project commences
Assessment	Stage 1* - A draft recommendation report was prepared and published for public comment. Stage 2 - The recommendation report was finalised and provided to the Minister to decide on the appropriate approval actions. <i>*During Stage 1, further information was requested.</i>
Approval	The proposed action was approved with conditions .

Charge point structure



Case study 1b (continued): Illustrative example of assessment on Referral Information (ARI) – after Approval – with fees deferred to project commencement

Proposed project: The Department of Roads and Transport is proposing to upgrade a section of highway, which requires clearing of up to fifty hectares of vegetation, located in an important regional habitat corridor for wildlife.

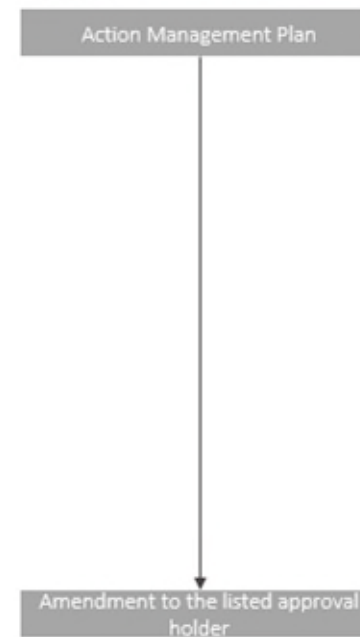
Post Approval overview – illustrative example

Action Management Plan	The approval requires the establishment of an action management plan. The project impacts 3 threatened species where impacts to all species are well defined. This results in a low complexity action management plan being required.
Project Commences	The approved project commences and deferred fees are now required to be paid.
Annual Compliance Report Review	The approval holder provides the report for review and processing into Department records.
Change of listed approval holder	The approval holder requests the approval be transferred to another party.

*Complexity fees will be discussed in complexity matrix section of the discussion

Charge point structure

Current:



Option for revised structure:



Legend:

- Existing charge point
- New charge point
- Amendment to existing charge point – restructured

Case study 2: Illustrative example of assessment by Environmental Impact Statement (EIS) – Referral to Approval

Proposed project: Mining Pty Ltd is proposing the expansion of an existing mine that includes a widening of the mine's footprint and a new rail line to a new onshore port facility. The development of the port facility also involves offshore dredging for the shipping channel and construction of a jetty for docking of ships. The dredging and the likely impacts of its plume extend into the Commonwealth marine environment. The port infrastructure is proposed to be constructed over a shoreline area that provides foraging habitat for threatened and migratory species

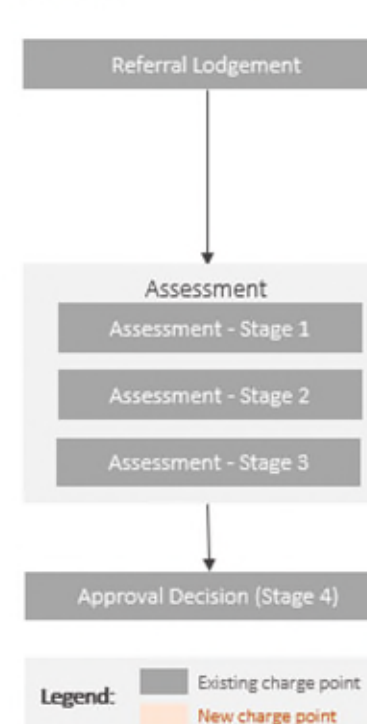
Assessment outcome overview – illustrative example

Referral	The referral process determined the proposed action is likely to have a significant impact on a matter of national environmental significance and therefore is a controlled action .
Assessment Approach Decision	The proposed action was determined of high impact and complexity and therefore requires to be assessed via Assessment by Environmental Impact Statement (EIS)
Assessment	<p>Stage 1* – A review of documentation, project information and preparation of guidelines was conducted.</p> <p>Stage 2 – A draft recommendation report was prepared and published for public comment.</p> <p>Stage 3* – A review of comments provided and publication.</p> <p><i>*During Stage 3, a site visit was required.</i></p>
Approval	The proposed action was approved with conditions .

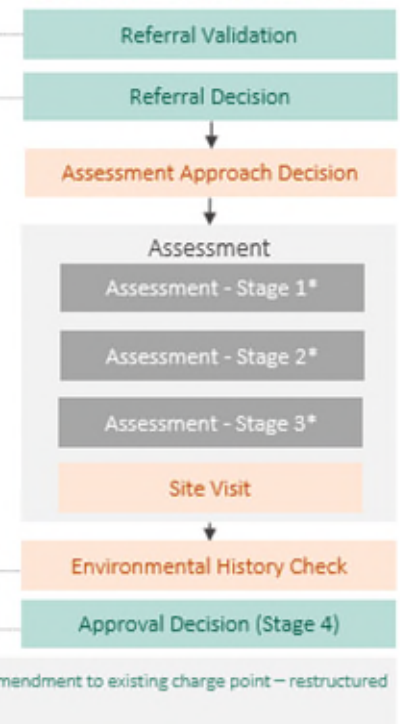
**Complexity fees will be discussed in complexity matrix section of the discussion*

Charge point structure

Current:



Option for revised structure:



Case study 2 (continued): Illustrative example of assessment by Environmental Impact Statement (EIS) – after Approval

Proposed project: Mining Pty Ltd is proposing the expansion of an existing mine that includes a widening of the mine's footprint and a new rail line to a new onshore port facility. The development of the port facility also involves offshore dredging for the shipping channel and construction of a jetty for docking of ships. The dredging and the likely impacts of its plume extend into the Commonwealth marine environment. The port infrastructure is proposed to be constructed over a shoreline area that provides foraging habitat for threatened and migratory species

Post Approval overview – illustrative example

Conservation Agreement	The approval requires the establishment of a conservation agreement. The project impacts 8 threatened species where impacts to 1 species and the ecological community are not well understood. This results in a high complexity conservation agreement being required.
Reassessment	The approval holder did not commence the project before the specified date and applies to have the project reassessed.
Annual Compliance Report Review	The approval holder provides the report for review and processing into Department records.
Termination of conservation agreement	The projects impact on the threatened species has changed and therefore the approval holder would like the Department to consider the termination of the conservation agreement.

Charge point structure

Current:

Action Management Plan

Option for revised structure:

High Action Management Plan

High Conservation Agreement

Reassessment fee

Annual compliance report

Termination of Conservation Agreement

Legend:

Existing charge point
New charge point

Amendment to existing charge point – restructured

Attachment D: Option for complexity tiers

Each assessment would be categorised as moderate, high or very high. A project would be upgraded to high or very high if two or more of the criteria in the higher category are met. If this approach is used, additional fees would apply for additional project components and legislative coordination. A multiplier would be applied for the number of protected matters impacted within the controlling provisions triggered.

Table 12: Options for complexity tiers

Complexity element:	Moderate	High	Very high
Impact to matters of national environmental significance	Well understood	Mostly well understood	Not well understood
Available options to manage the impact	Well understood	Mostly well understood	Not well understood
Technology	Well understood	Well understood	New and unproven
Site surveys	Complete for all projects	Not complete for at least one project component	Not complete for multiple project components
Management measures including mitigations and offsets	Proposed and well defined	Poorly defined, with a high degree of uncertainty about the effectiveness of the measures and/or the way in which they will be implemented. Technical review of information likely to be required	Not proposed or untested. Technical review of information likely to be required.
Project scope	Includes alternatives, with each alternative well defined	Includes alternatives, with further clarification required	Unclear or alternative options are poorly defined

Attachment E: Current complexity matrix

COMPLEXITY FEE MATRIX			MODERATE COMPLEXITY		HIGH COMPLEXITY		VERY HIGH COMPLEXITY	
			DESCRIPTI ON	Fee	DESCRIPTI ON	Fee	DESCRIPTI ON	Fee
CONTROLLING PROVISIONS								
Part A Fees	A	Listed threatened species and ecological communities	<ul style="list-style-type: none">• 1-5 species or ecological communities require assessment; AND• Impacts to all species and ecological communities are well understood; AND• Available options to manage impacts to all species and ecological communities are well understood.	\$6,742	<ul style="list-style-type: none">• Up to 14 species or ecological communities require assessment; AND• Impacts to <u>most</u> species and ecological communities are well understood; AND• Available options to manage impacts to <u>most</u> species and ecological communities are well understood.	\$25,615	<ul style="list-style-type: none">• ≥15 species or ecological communities require assessment; OR• Impacts to >7 species or ecological communities are not well understood; OR• Available options to manage impacts to >7 species or ecological communities are not well understood	\$48,931
	B	Listed migratory species	<ul style="list-style-type: none">• 1-5 migratory species require assessment; AND• Impacts to all migratory species are well understood; AND• Available options to manage impacts to all migratory species are well understood.	\$6,742	<ul style="list-style-type: none">• Up to 14 migratory species require assessment; AND• Impacts to <u>most</u> species are well understood; AND• Available options to manage impacts to <u>most</u> migratory species are well understood.	\$25,615	<ul style="list-style-type: none">• ≥15 migratory species require assessment; OR• Impacts to >7 migratory species are not well understood; OR• Available options to manage impacts to >7 migratory species are not well understood.	\$48,931
			NOTE: If a listed migratory species is also a listed threatened species, it is not counted in the 'tally' of species for this component.					
	C	Wetlands of international importance	<ul style="list-style-type: none">• Impacts on the ecological character of the wetland are well understood; AND• Available options to manage impacts are well understood.	\$6,742	<ul style="list-style-type: none">• Impacts to the ecological character of the wetland are not well understood; OR• Available options to manage impacts are not well understood	\$25,615	<ul style="list-style-type: none">• Impacts to the ecological character of the wetland are not well understood; AND• Available options to manage impacts are not well understood	\$48,931
	D	Environment of the Commonweal th marine area	<ul style="list-style-type: none">• Impacts on the environment of the Commonwealth marine area and its conservation values are well understood; AND• Available options to manage impacts are well understood.	\$6,742	<ul style="list-style-type: none">• Impacts to the environment of the Commonwealth marine area and its conservation values are not well understood; OR• Available options to manage impacts are not well understood	\$25,615	<ul style="list-style-type: none">• Impacts to the environment of the Commonwealth marine area and its conservation values are not well understood; AND• Available options to manage impacts are not well understood	\$48,931
	E	World heritage properties	<ul style="list-style-type: none">• Impacts on the World Heritage values are well understood; AND• Available options to manage impacts are well understood.	\$6,742	<ul style="list-style-type: none">• Impacts to the World Heritage values are not well understood; OR• Available options to manage impacts are not well understood	\$25,615	<ul style="list-style-type: none">• Impacts to the World Heritage values are not well understood; AND• Available options to manage impacts are not well understood	\$48,931
	F	National heritage places	<ul style="list-style-type: none">• Impacts on the National Heritage values are well understood; AND• Available options to manage impacts are well understood.	\$6,742	<ul style="list-style-type: none">• Impacts to the National Heritage values are not well understood; OR• Available options to manage impacts are not well understood	\$25,615	<ul style="list-style-type: none">• Impacts to the National Heritage values are not well understood; AND• Available options to manage impacts are not well understood	\$48,931
	G	NOTE: If the listed national heritage place is also a listed world heritage property, this component does not apply						
	H	Nuclear actions	<ul style="list-style-type: none">• The technology is well understood; AND• The impacts are well understood; AND• Available options to manage impacts are well understood.	\$6,742	<ul style="list-style-type: none">• The technology is well understood; AND• Impacts are not well understood; OR• Available options to manage impacts are not well understood	\$25,615	<ul style="list-style-type: none">• Technology proposed is new and unproven; OR• Impacts are not well understood; AND• Available options to manage impacts are not well understood.	\$48,931
			<ul style="list-style-type: none">• Impacts to the environment of the Great Barrier Reef Marine Park are well understood; AND• Available options to manage impacts are well understood.	\$6,742	<ul style="list-style-type: none">• Impacts to the environment of the Great Barrier Reef Marine Park are not well understood; OR• Available options to manage impacts are not well understood	\$25,615	<ul style="list-style-type: none">• Impacts to the environment of the Great Barrier Reef Marine Park are not well understood; AND• Available options to manage impacts are not well understood	\$48,931
	I	NOTE: If the action also triggers the World Heritage controlling provision and/or the National Heritage controlling provision, the lower fee is charged.						
	J	Water Resources	<ul style="list-style-type: none">• Impacts to water resources are well understood; AND• Available options to manage impacts are well understood.	\$6,742	<ul style="list-style-type: none">• Impacts to water resources are not well understood; OR• Available options to manage impacts are not well understood	\$25,615	<ul style="list-style-type: none">• Impacts to water resources are not well understood; AND• Available options to manage impacts are not well understood	\$48,931
		Commonweal th Land/ Agency/ Heritage Places Overseas	<ul style="list-style-type: none">• Impacts to the environment are well understood; AND• Available options to manage impacts are well understood.	\$6,742	<ul style="list-style-type: none">• Impacts to the environment are not well understood; OR• Available options to manage impacts are not well understood	\$25,615	<ul style="list-style-type: none">• Impacts to the environment are not well understood; AND• Available options to manage impacts are not well understood	\$48,931
NUMBER OF PROJECT COMPONENTS								
Part A Fee	K	Project components	<ul style="list-style-type: none">• Two project components	Base fee x 1	<ul style="list-style-type: none">• Three project components	Base fee x 2	<ul style="list-style-type: none">• (Y) number of project components	Base fee x(Y-1)
COORDINATION WITH OTHER LEGISLATION								
Part A Fee	L	Coordinatio n with other legislation	<ul style="list-style-type: none">• Requires coordination with two known legislative processes; OR• Requires coordination with one legislative process of some other type.	\$8,033	<ul style="list-style-type: none">• Requires coordination with one known legislative process; AND• Requires coordination with one legislative process of some other type.	\$16,065	<ul style="list-style-type: none">• Requires coordination with three or more legislative processes, at least one of which is a known legislative process; OR• Requires coordination with two or more legislative processes of some other type.	\$33,162
ADEQUACY OF INFORMATION AND CLARITY OF PROJECT SCOPE								
Part B Fees	M	Site surveys/ knowledge of environment	<ul style="list-style-type: none">• Site surveys partially complete for all project components.	\$10,982	<ul style="list-style-type: none">• Site surveys not complete for a least one of the project components.	\$34,949	<ul style="list-style-type: none">• Site surveys not complete for multiple project components	\$84,311
	N	Manageme nt measures (including mitigation and offsets)	<ul style="list-style-type: none">• Management measures proposed, but clarification is required.	\$10,982	<ul style="list-style-type: none">• Management measures poorly defined, with a high degree of uncertainty about the effectiveness of the measures and/or the way in which they will be implemented. Technical review of information likely to be required.	\$34,949	<ul style="list-style-type: none">• Management measures not proposed or untested. Technical review of information likely to be required.	\$95,311
	O							
		Project scope	<ul style="list-style-type: none">• Project scope includes alternatives, but each alternative clearly defined.	\$10,982	<ul style="list-style-type: none">• Project scope includes alternatives, with further clarification required.	\$34,949	<ul style="list-style-type: none">• Project scope is unclear; OR• Alternative options poorly defined.	\$62,399
EXCEPTIONAL CIRCUMSTANCES								
Part A fee	P	Exceptional circumstanc es	N/A	-	N/A	-	<ul style="list-style-type: none">• Novel scope of work/ action/ process or location, and potential impacts are unclear; OR• Action is understood, but environmental consequences are very high and carry the potential for severe/ irreversible/ long-term impacts.	\$592,086

Note – in the context of this complexity matrix:

- ‘require assessment’ means work needs to be done during the assessment to understand the impacts to a particular species or ecological community (see Table 9 on page 30);
- ‘well understood’ means the information necessary to understand the impacts to the matter and the available measures to manage the impacts are readily available to the department and/or provided in the referral documentation (see Table 9 on page 30);
- ‘available options’ means one or more proven strategies to avoid, mitigate, manage and/or offset impacts (see Table 9 on page 30); and
- ‘known legislative processes’ means legislative processes that are covered by a bilateral agreement or section 160 of the EPBC Act (see Table 9 on page 30).

Attachment F: Version control

The table below will provide a summary of key changes associated with each new iteration of this document.

Table 13: Consultation paper version control summary

Date	Version	Description
9 December 2022	V1.0	The first version of the discussion paper distributed for feedback during the targeted consultation
12 December 2022	V1.1	Updates to feedback questions relating to the complexity matrix
20 January 2023	V1.2	Updates to improve web accessibility, add Appendix E documenting the current complexity matrix, clarified consultation questions, added charge point for review of draft assessment documentation and made minor edits to wording to clarify based on feedback received.