

Considerations for waiving or refunding fees for modification requests made under Part 13.5A of the State Environmental Planning Policy (Biodiversity and Conservation) 2021

There are number of fees that are applicable in relation to a modification request made under Part 13.5A of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (B&C SEPP). This policy outlines the fees payable when making a request for a proposed modification of certified and avoided land under the Cumberland Plain Conservation Plan.¹

Section 13.16C(3)(c) of the B&C SEPP requires a modification request to be accompanied by an application fee, and section 13.16D(3)(b)(i) of the B&C SEPP states that written notice of a further assessment may require the payment of a fee.

The fees payable in relation to a modification request are:

1. \$1,000 fee (excluding GST) – for consideration of the modification request under s 13.16C of the B&C SEPP
2. \$14,000 fee (excluding GST) – for further assessment of the modification request involving a lot with an area of more than 2 ha under s 13.16D of the B&C SEPP
3. \$15,000 (excluding GST) maximum additional fee – if the modification request requires the Minister (or delegate) to review significant ecological data.

See section 269A and Schedule 4 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation).

There is an ability to waive or refund a fee if the relevant decision-maker considers it appropriate to do so (see section 253(1) of the EP&A Regulation).

Waiver of a fee

In deciding whether it is appropriate to waive a fee, the Minister (or a delegate) may take the following matters into account:

- Whether the relevant land is not owned by an organisation, company or Government entity. Note that a family trust does not fall within this consideration

¹ This policy is for guidance purposes only and does not purport to fetter the discretion of a decision-maker that would otherwise be available in relation to fees payable for a modification request made under the B&C SEPP

- Whether the application relates to a small (less than 15 hectares) or large site (15 hectares or more)

Refund of a fee

Refunds may be considered on a case-by-case basis having regard to matters such as:

- Whether the application has been withdrawn prior to a determination under the B&C SEPP
- The level and extent of any assessment already undertaken.

A refund must be:

- Requested by the applicant, and
- Approved by the Minister (or delegate) and in line with financial delegations.

The Department of Planning, Housing and Infrastructure may use its discretion to provide a refund partially or in full.

Note: Modification requests that are progressed with the intention that it will form part of the Minister for Planning and Public Space's modification application to the Minister for Environment under section 8.22 of the *Biodiversity Conservation Act 2016* will not be issued a refund. This is regardless of whether the modification application is approved or refused by the Minister for Environment.