

South Australia

Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019

under the *Planning, Development and Infrastructure Act 2016*

Contents

Part 1—Preliminary

- 1 Short title
- 3 Interpretation
- 3A Fees associated with the work of assessment managers
- 3B Fees associated with work of assessment panels

Part 2—Fees

- 4 Fees payable

Part 3—General

- 5 Calculation or assessment of fees
- 6 Time period suspended if fee not paid
- 7 Waiver or refund of fee

Part 4—Development assessment fees (specific provisions)

- 8 Variation of authorisation (section 128)
- 9 Staged development
- 11 Development undertaken by councils
- 12 Excluded Crown development
- 13 Development to be assessed by accredited professional
- 14 Assessment requirements—water and sewerage
- 15 Applications relating to certain electricity infrastructure—issue of certificate by Technical Regulator

Part 5—Funds and off-set schemes

- 16 Open space contribution scheme
- 17 Multi-unit buildings

Part 6—Distribution of fees

- 18 Distribution of fees
- 19 Payment requirements

Schedule 1—Fees

Part 1—Fees under *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*

Part 2—Fees relating to development assessment

Part 3—Fees relating to building activity and use

Part 4—Funds and off-set schemes

Part 5—Other fees

Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

Act means the *Planning, Development and Infrastructure Act 2016*;

allotment does not include an allotment for road or open space requirements;

authority means a person or body performing, exercising or discharging a function, power or duty under the Act or a related set of regulations;

designated entity means—

- (a) in relation to an assessment panel acting as a relevant authority under section 82(c), (d) or (e) of the Act—
 - (i) in the case of an assessment panel appointed by a joint planning board—the council for the area in which the development is to be undertaken; or
 - (ii) in the case of an assessment panel appointed by a council—the council; or
 - (iii) in the case of an assessment panel appointed by the Minister—an entity designated by the Chief Executive in the particular case; or
- (ab) the Commission; or
- (b) in relation to an assessment manager—
 - (i) in the case of an assessment manager appointed by a joint planning board—the council for the area in which the development is to be undertaken; or

- (ii) in the case of an assessment manager appointed by the chief executive of a council—the council; or
- (iii) in the case of an assessment manager appointed by the Chief Executive—an entity designated by the Chief Executive in the particular case;

development cost does not include any fit-out costs;

fee includes a charge or contribution;

GST means the tax payable under the GST law;

GST component means a component attributable to a liability to GST;

GST law means—

- (a) *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth); and
- (b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods and services;

quarter means a 3 month period commencing on any of the following days in any year:

- (a) 1 January;
- (b) 1 April;
- (c) 1 July;
- (d) 1 October;

related set of regulations means—

- (a) the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*; or
 - (b) the *Planning, Development and Infrastructure (General) Regulations 2017*.
- (2) Words and expressions used in a related set of regulations and in these regulations have the same respective meanings in these regulations as they have in the related set of regulations.
 - (3) Subregulation (2) does not apply to the extent that the context or subject matter otherwise indicates or requires.

3A—Fees associated with the work of assessment managers

- (1) For the purposes of these regulations, any fee paid or payable to an assessment manager acting as a relevant authority will be taken to be paid or payable to the designated entity that relates to the assessment manager.
- (2) For the purposes of subregulation (1), the entity under paragraph (b) of the definition of **designated entity** that applies in relation to a particular assessment manager will be taken to be the designated entity that relates to that assessment manager.

3B—Fees associated with work of assessment panels

- (1) For the purposes of these regulations, any fee paid or payable to an assessment panel acting as a relevant authority under section 82(c), (d) or (e) of the Act will be taken to be paid or payable to the designated entity that relates to the assessment panel.

- (2) For the purposes of subregulation (1), the entity under paragraph (a) of the definition of *designated entity* that applies in relation to a particular assessment panel will be taken to be the designated entity that relates to that assessment panel.

Part 2—Fees

4—Fees payable

- (1) The fees set out in Schedule 1 are payable as specified in that Schedule.
- (2) If an application, matter or circumstance falls within more than 1 item under Schedule 1, then the fee under each such item applies and those fees in total will be payable.

Part 3—General

5—Calculation or assessment of fees

- (1) An authority with which an application is duly lodged under a related set of regulations (including via the SA planning portal)—
 - (a) may require the applicant to provide such information as the authority may reasonably require to calculate any fee payable under these regulations or a related set of regulations; and
 - (b) may make any other determination for the purposes of these regulations or a related set of regulations (even if it is not a relevant authority).
- (2) If an authority acting under subregulation (1), or a relevant authority in any event, believes that any information provided by an applicant is incomplete or inaccurate, the authority (or relevant authority) may calculate any fee on the basis of estimates made by it.
- (3) An authority may, at any time, and despite an earlier calculation or acceptance of an amount in respect of the fee, reassess a fee payable under these regulations or a related set of regulations.
- (4) On a reassessment under subregulation (3)—
 - (a) if it appears that an overpayment has occurred, a refund is due in accordance with the reassessment; and
 - (b) if it appears that an underpayment has occurred, a further amount becomes payable under these regulations.

6—Time period suspended if fee not paid

If a fee is not paid in accordance with the Act, these regulations or a related set of regulations, any period between the date of a request for payment of the fee by an authority entitled to receive payment of the fee and the date of actual payment of the fee will not be taken into account for the purposes of any time limit or period prescribed by a related set of regulations (as relevant).

7—Waiver or refund of fee

An authority to which a fee is payable under these regulations or a related set of regulations may, as it considers appropriate to do so—

- (a) waive the payment of the fee, or the payment of part of the fee; or
- (b) refund the whole or a part of the fee.

Part 4—Development assessment fees (specific provisions)

8—Variation of authorisation (section 128)

- (1) Subject to subregulation (2), an application seeking the variation of a development authorisation previously given under the Act (including by seeking the variation of a condition imposed with respect to the development authorisation) will be subject to the fees prescribed by these regulations as if it were a new application for development authorisation, but only to the extent that a particular fee imposed in relation to the application reflects the step or steps to be undertaken by the relevant authority or another body on account of the application.
- (2) An application seeking a variation that is minor in nature under regulation 65(1) of the *Planning, Development and Infrastructure (General) Regulations 2017* must be accompanied by the prescribed fee.

9—Staged development

- (1) Subject to subregulation (2), if an application for a development authorisation is for a second or subsequent consent because the applicant is seeking the assessment of a particular development in stages, the prescribed fee for the lodgement of an application (referred to as the *base amount*) is only payable in relation to the first application.
- (2) The prescribed fee for the lodgement of an application will again be payable if the application is to be treated as a new application for development authorisation in the manner envisaged by regulation 8(1) (and after taking into account the operation of section 128(2)(b) of the Act).

11—Development undertaken by councils

No fee is payable under Schedule 1 Part 2 in respect of a development to be undertaken by a council unless the primary reason for the proposed development is to raise revenue for the council.

12—Excluded Crown development

No fee is payable under Schedule 1 in respect of a development excluded from the provisions of section 131 of the Act by regulation under section 131(4) of the Act.

13—Development to be assessed by accredited professional

- (1) Subject to subregulation (2), the fees set out in Schedule 1 Parts 2 and 3 are not payable if the relevant authority is an accredited professional, other than an assessment manager.

- (2) If an application is made to an accredited professional—
 - (a) the prescribed fee for the lodgement of an application (referred to as the *base amount*) is payable by the applicant to the accredited professional at the time that the application is lodged with the accredited professional; and
 - (b) the accredited professional must forward that fee to the Chief Executive within 5 business days of its receipt by the accredited professional in accordance with any requirements determined by the Chief Executive.
- (3) Except as provided by subregulation (2), the fee to be paid to an accredited professional (other than an assessment manager) will be determined by agreement between the applicant and the accredited professional.

14—Assessment requirements—water and sewerage

- (1) A fee under Schedule 1 item 26 is payable to the South Australian Water Corporation.
- (2) The fee is payable by the person who makes the application to divide the land.

15—Applications relating to certain electricity infrastructure—issue of certificate by Technical Regulator

The fee under Schedule 1 item 29 is payable to the Technical Regulator for the issue of a certificate required by the *Planning, Development and Infrastructure (General) Regulations 2017* to accompany an application in respect of a proposed development for the purposes of the provision of electricity generating plant with a generating capacity of more than 5 MW that is to be connected to the State's power system.

Part 5—Funds and off-set schemes

16—Open space contribution scheme

- (1) If a variation is made to an amount prescribed under Schedule 1 item 24, the amount to be applied in a particular case is the amount in force as at the time the relevant application under Part 7 of the Act was made.
- (2) In accordance with section 198(2) of the Act, if an application for the division of land under the *Community Titles Act 1996* or the *Strata Titles Act 1988* relates to an existing building unit scheme, a contribution is not payable under section 198 of the Act unless the plan divides the land into more units than existed on 22 February 1968, and in that case, the contribution will be calculated only in respect of the additional units.
- (3) For the purposes of subregulation (2), an existing building unit scheme is a scheme where—
 - (a) land was, before 22 February 1968, laid out in a building unit scheme consisting of 2 or more properties designed for separate occupation; and
 - (b) as at that date, buildings to which the scheme relates had been erected.

17—Multi-unit buildings

If a variation is made to an amount prescribed under Schedule 1 item 25, the amount to be applied in a particular case is the amount in force as at the time the relevant application under Part 7 of the Act was made.

Part 6—Distribution of fees

18—Distribution of fees

- (1) Fees relating to development assessment paid or payable under these regulations will be distributed between the Chief Executive and designated entities under a scheme established by the Chief Executive for the purposes of this regulation.
- (2) In addition, in relation to an application for planning consent that must be referred to 1 or more prescribed bodies under Schedule 9 of the *Planning, Development and Infrastructure (General) Regulations 2017*, the scheme established under subregulation (1) will—
 - (a) specify the fee payable by the applicant for each referral (but if the application must be referred to the same body under more than 1 item of that Schedule, then only 1 fee is payable with respect to the referral of the application to that body); and
 - (b) provide for an amount specified under the scheme to be paid to a prescribed body for each amount paid by an applicant under paragraph (a) on account of a referral to that prescribed body.
- (3) A reference in subregulations (1) and (2) to a fee payable under these regulations extends to a fee that, although payable, was waived (in whole or in part) by a relevant authority.

19—Payment requirements

An amount payable under these regulations must be paid—

- (a) in the case of a fee received by a payment via the SA planning portal—to the entity entitled to the amount under these regulations under a scheme established by the Chief Executive for the purposes of this paragraph; and
- (b) in any other case—to the entity entitled to the amount under these regulations within 10 business days after the end of the quarter in which the amount is received by the designated entity under a scheme established by the Chief Executive for the purposes of this paragraph.

Schedule 1—Fees

Part 1—Fees under *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*

The following fees are payable for the purposes of the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*:

- 1 Application to the accreditation authority for accreditation under the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*, other than where item 2 applies—
 - (a) in the case of an application for accreditation as an accredited professional—planning level 1; and \$760
 - (b) in any other case \$560

**Planning, Development and Infrastructure (Fees, Charges and Contributions)
Regulations 2019—31.7.2020**
Schedule 1—Fees

| | | |
|---|---|-------|
| 2 | Application to the accreditation authority for accreditation under the <i>Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019</i> where the person is a member of a professional association or body recognised by the Chief Executive for the purposes of regulation 16(2)(a) of the <i>Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019</i> and the person is applying as a member of that association or body for a corresponding level of accreditation under regulation 16(2)(a)(ii) of those regulations | \$270 |
| 3 | Application to the accreditation authority under regulation 19 of the <i>Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019</i> | \$180 |
| 4 | Late application fee under regulation 19(3) of the <i>Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019</i> | \$60 |

Part 2—Fees relating to development assessment

The following fees are payable in relation to development assessment under the Act (including in connection with the *Planning, Development and Infrastructure (General) Regulations 2017*):

| | | |
|---|--|--|
| 5 | Application for planning consent or building consent (the base amount)— | |
| | (a) a lodgement fee; and | \$177 |
| | (b) if the application is lodged at the principal office of the relevant authority—a processing fee | \$80 |
| 6 | Application for planning consent— | |
| | (a) if the proposed development is to be assessed as deemed-to-satisfy development under section 106 of the Act— | |
| | (i) if the total development cost is no more than \$10 000 | \$127 |
| | (ii) in any other case | \$210 |
| | (b) if the proposed development is to be assessed on its merits under section 107 of the Act | \$250 or 0.125% of the total development cost up to a maximum of \$200 000, whichever is the greater |
| | (c) if the proposed development is restricted development under section 108(1)(a) of the Act | 0.25% of the total development cost up to a maximum of \$300 000 |
| | (d) if the applicant applies for a review of the decision under section 110(15) of the Act | \$511 |
| | (e) if the proposed development is to be assessed as impact assessed development under section 111 of the Act— | |
| | (i) if the proposed development is declared as being impact assessed development by the Minister | \$1 750 plus 0.25% of the total development cost up to a maximum of \$500 000 |
| | (ii) in any other case | 0.25% of the total development cost up to a maximum of \$500 000 |
| 7 | Application for planning consent that must be notified— | |
| | (a) if section 107(3)(a) applies | \$250 |

31.7.2020—Planning, Development and Infrastructure (Fees, Charges and Contributions)
Regulations 2019
Fees—Schedule 1

| | | |
|----|--|--|
| | (b) if section 110(2)(a) applies | \$250 |
| 8 | Application for planning consent that must be referred to 1 or more prescribed bodies under Schedule 9 of the <i>Planning, Development and Infrastructure (General) Regulations 2017</i> | See regulation 18 |
| 9 | Application for building consent (a building assessment fee)— | |
| | (a) for a Class 1 building under the Building Code | \$450 or 0.25% of the total development cost, whichever is the greater |
| | (b) for a Class 10 building under the Building Code | \$130 or 0.25% of the total development cost, whichever is the greater |
| | (c) for any other class of building under the Building Code— | |
| | (i) if the total development cost is no more than \$20 000 | \$670 |
| | (ii) if the total development cost is greater than \$20 000 and no more than \$200 000 | \$670 plus 0.4% of the amount determined by subtracting \$20 000 from the total development cost |
| | (iii) if the total development cost is greater than \$200 000 and no more than \$1 000 000 | \$1 390 plus 0.25% of the amount determined by subtracting \$200 000 from the total development cost |
| | (iv) if the total development cost is greater than \$1 000 000 | \$3 390 plus 0.15% of the amount determined by subtracting \$1 000 000 from the total development cost |
| 10 | Application for building consent (a compliance fee)— | |
| | (a) for a Class 1 building under the Building Code or a swimming pool | \$240 |
| | (b) for a Class 10 building under the Building Code— | |
| | (i) if the total development cost is no more than \$10 000 | no fee |
| | (ii) if the total development cost is greater than \$10 000 | \$80 |
| | (c) for any other class of building under the Building Code | \$240 or 0.075% of the total development cost up to a maximum of \$2 500, whichever is the greater |
| 11 | Application for building consent for the demolition of a building | \$145 |
| 12 | Application for the concurrence of the Commission under section 118(2)(a) of the Act | \$345 |
| 13 | Referral of application to the Commission for an opinion under section 118(4) of the Act | \$345 |
| 14 | Application for a development authorisation under section 102(1)(c) or (d) of the Act— | |
| | (a) if the number of allotments resulting from the division is equal to or less than the existing number of allotments, or creates no more than 4 additional allotments and does not involve the creation of a public road | \$175 |

**Planning, Development and Infrastructure (Fees, Charges and Contributions)
Regulations 2019—31.7.2020**
Schedule 1—Fees

| | | |
|----|---|--|
| | (b) if the division creates more than 4 additional allotments | \$175 plus \$16 for each additional allotment created |
| | (c) if the division involves the creation of a public road (regardless of the number of additional allotments created) | \$175 plus \$16 for each additional allotment created |
| 15 | Advice of the Commission under regulation 76 of the <i>Planning, Development and Infrastructure (General) Regulations 2017</i> (payable by the applicant at the time of lodgement of the application) | \$200 |
| 16 | A Certificate of Approval Fee for the purposes of section 138 of the Act | \$1 028 |
| 17 | Application under section 130 or 131 of the Act (fee payable to the Commission) | 0.25% of the total development cost up to a maximum of \$300 000 |
| 18 | Application for a variation of a development authorisation previously given that is minor in nature | \$127 |
| 19 | Application to assessment panel for review of a prescribed matter under section 202(1)(b)(i)(A) of the Act | \$511 |

Part 3—Fees relating to building activity and use

The following fees are payable in relation to building activity and use (including in connection with the *Planning, Development and Infrastructure (General) Regulations 2017*):

| | | |
|----|--|-------|
| 21 | Issue of a certificate relating to essential safety provisions under regulation 94 of the <i>Planning, Development and Infrastructure (General) Regulations 2017</i> | \$240 |
| 22 | Application for assignment of a classification to a building or a change in the classification of a building under section 151 of the Act | \$170 |
| 23 | Application for a certificate of occupancy under section 152 of the Act | \$50 |

Part 4—Funds and off-set schemes

The following fees are payable in relation to funds and off-set schemes:

| | | |
|----|--|---|
| 24 | Rates of contribution under section 198(1)(d), (2)(c) or (8) of the Act— | |
| | (a) where the land to be divided is within Greater Adelaide | \$7 761 for each new allotment or strata lot delineated by the relevant plan that does not exceed 1 hectare in area |

| | | |
|----|---|---|
| | (b) where the land to be divided is within any other part of South Australia | \$3 116 for each new allotment or strata lot delineated by the relevant plan that does not exceed 1 hectare in area |
| 25 | Rates of contribution for the purposes of section 199(1) of the Act— | |
| | (a) where the prescribed building is within Greater Adelaide | \$7 761 for each apartment or allotment delineated by the relevant plan |
| | (b) where the prescribed building is within any other part of South Australia | \$3 116 for each apartment or allotment delineated by the relevant plan |

Part 5—Other fees

The following fees are also payable:

| | | |
|-----|---|---|
| 26 | An assessment, or the update of an assessment, under regulation 79 of the <i>Planning, Development and Infrastructure (General) Regulations 2017</i> — | |
| | (a) in relation to an original assessment | \$402.00 |
| | (b) in relation to an updating of the original or a subsequent assessment (including where the update is required because of an amended plan of division) | \$116.00 |
| 27 | Amount for the purposes of section 127(6) of the Act | \$150 for each replacement tree that is not planted |
| 28 | Application for approval of relevant authority under section 128(2)(d) of the Act— | |
| | (a) if the development authorisation relates to development assessed as restricted development under section 108(1)(a) of the Act or impact assessed development under section 111 of the Act, or relates to development assessed under section 130 or 131 of the Act | \$127.00 |
| | (b) in any other case | \$107.00 |
| 28A | Request for initiation of infrastructure scheme under section 163(3)(b) of the Act | \$3 671.00 |
| 29 | Certificate from Technical Regulator | \$402.00 |
| 30 | Application to register an agreement under section 192 or 193 of the Act | \$80.00 |
| 31 | Fee for the purposes of section 192(7) or 193(7) of the Act | \$14.90 |
| 31A | Fee for approval under section 197(5) of the Act | \$372.00 |
| 32 | Application for the approval of the Minister under section 235 of the Act | \$159.00 |

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations and variations

New entries appear in bold.

| Year | No | Reference | Commencement |
|-------------|------------|---|--|
| 2019 | 12 | <i>Gazette 7.2.2019 p441</i> | 1.4.2019: r 2 |
| 2019 | 173 | <i>Gazette 27.6.2019 p2536</i> | 1.7.2019: r 2 |
| 2020 | 235 | <i>Gazette 16.7.2020 p3821</i> as revoked by 251/2020 | uncommenced—revoked without coming into operation: r 2 |
| 2020 | 251 | <i>Gazette 30.7.2020 p4147</i> | 30.7.2020: r 2 |
| 2020 | 252 | <i>Gazette 30.7.2020 p4148</i> | 31.7.2020: r 2 |

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

| Provision | How varied | Commencement |
|-------------------|--|------------------|
| Pt 1 | | |
| r 2 | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>1.7.2019</i> |
| r 3 | | |
| r 3(1) | | |
| allotment | inserted by 173/2019 r 4(1) | 1.7.2019 |
| designated entity | inserted by 173/2019 r 4(2) | 1.7.2019 |
| | varied by 252/2020 r 4(1), (2) | 31.7.2020 |
| development cost | inserted by 173/2019 r 4(2) | 1.7.2019 |
| GST | inserted by 173/2019 r 4(3) | 1.7.2019 |
| GST component | inserted by 173/2019 r 4(3) | 1.7.2019 |
| GST law | inserted by 173/2019 r 4(3) | 1.7.2019 |
| quarter | inserted by 173/2019 r 4(3) | 1.7.2019 |
| r 3A | inserted by 173/2019 r 5 | 1.7.2019 |
| r 3B | inserted by 252/2020 r 5 | 31.7.2020 |
| Pt 2 | | |

| | | |
|---------------|--|------------------|
| r 4 | | |
| r 4(1) | r 4 redesignated as r 4(1) by 173/2019 r 6 | 1.7.2019 |
| r 4(2) | inserted by 173/2019 r 6 | 1.7.2019 |
| Pt 4 | inserted by 173/2019 r 7 | 1.7.2019 |
| r 8 | | |
| r 8(2) | substituted by 252/2020 r 6 | 31.7.2020 |
| r 9 | | |
| r 9(1) | varied by 252/2020 r 7(1) | 31.7.2020 |
| r 9(2) | varied by 252/2020 r 7(2), (3) | 31.7.2020 |
| <i>r 10</i> | <i>deleted by 252/2020 r 8</i> | <i>31.7.2020</i> |
| r 13 | substituted by 252/2020 r 9 | 31.7.2020 |
| Pt 5 | inserted by 173/2019 r 7 | 1.7.2019 |
| Pt 6 | inserted by 173/2019 r 7 | 1.7.2019 |
| r 18 | substituted by 252/2020 r 10 | 31.7.2020 |
| r 19 | inserted by 252/2020 r 10 | 31.7.2020 |
| Sch 1 | substituted by 173/2019 r 8 | 1.7.2019 |
| Pt 2 | substituted by 252/2020 r 11(1) | 31.7.2020 |
| Pt 3 | varied by 252/2020 r 11(2)—(4) | 31.7.2020 |
| Pt 4 | varied by 252/2020 r 11(5)—(8) | 31.7.2020 |
| Pt 5 | varied by 252/2020 r 11(9)—(11) | 31.7.2020 |
| <i>Sch 2</i> | <i>inserted by 173/2019 r 8</i> | <i>1.7.2019</i> |
| | <i>deleted by 252/2020 r 12</i> | <i>31.7.2020</i> |

Historical versions

1.7.2019