

South Australia

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

under the *Planning, Development and Infrastructure Act 2016*

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## **Contents**

### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Variation provisions

### **Part 2—Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019***

- 4 Variation of regulation 3—Interpretation
- 5 Insertion of regulation 3A
  - 3A Fees associated with the work of assessment managers
- 6 Variation of regulation 4—Fees payable
- 7 Insertion of Part 4

#### **Part 4—Development assessment fees (specific provisions)**

- 8 Variation of authorisation (section 128)
- 9 Staged development
- 10 Calculations for building related assessments
- 11 Development undertaken by councils
- 12 Excluded Crown development
- 13 Development to be assessed by an 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
- 8 Substitution of Schedule 1

#### **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

Schedule 2—Distribution of fees

- |   |                                      |
|---|--------------------------------------|
| 1 | Fees received by a designated entity |
| 2 | Payment requirements                 |
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## **Part 1—Preliminary**

### **1—Short title**

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

### **2—Commencement**

These regulations come into operation on 1 July 2019.

### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## **Part 2—Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019***

### **4—Variation of regulation 3—Interpretation**

- (1) Regulation 3(1)—after the definition of *Act* insert:

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

- (2) Regulation 3(1)—after the definition of *authority* insert:

*designated entity* means—

- (a) an assessment panel acting as a relevant authority under section 82(c), (d) or (e) of the Act; or
- (b) in relation to an assessment manager—
  - (i) in the case of an assessment manager appointed by a joint planning board—the joint planning board; or
  - (ii) in the case of an assessment manager appointed by the chief executive of a council—the council; or

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

Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions)*  
*Regulations 2019—Part 2*

---

- (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;

- (3) Regulation 3(1)—after the definition of *fee* insert:

*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;

## **5—Insertion of regulation 3A**

After regulation 3 insert:

### **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.

## **6—Variation of regulation 4—Fees payable**

Regulation 4—after its present contents (now to be designated as subregulation (1)) insert:

- (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.

## **7—Insertion of Part 4**

After Part 3 insert:

### **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) The fee under Schedule 1 item 20 is payable in relation to an application seeking—
  - (a) a variation that is minor in nature under regulation 65(1) of the *Planning, Development and Infrastructure (General) Regulations 2017*; or
  - (b) any other variation that makes no substantive change to the development authorisation that has been previously given.

#### **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 base amount under Schedule 1 item 5 is only payable in relation to the first application.
- (2) The base amount 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 (and after taking into account the operation of section 128(2)(b) of the Act).

#### **10—Calculations for building related assessments**

The following provisions apply for the purposes of Schedule 1 items 11 and 22:

- (a) the prescribed floor area is—
  - (i) for the purpose of calculating the fee on an application for building consent that consists of the erection of a building or the demolition of a building—the aggregate of the floor areas of the building proposed to be erected or demolished; or

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

Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions)*  
Regulations 2019—Part 2

---

- (ii) for the purpose of calculating the fee on an application for building consent where the building work consists of an alteration to a building—
  - (A) the aggregate of the floor areas of the rooms or compartments to be altered; or
  - (B) if the alteration consists of the fixing or erection of an attachment that does not have a floor area—the floor area of the building within a distance of 3 metres of where the attachment is to be fixed or erected; or
- (iii) for the purpose of calculating the fee on application for assignment of a classification to, or a change in the classification of, a building—the aggregate of the floor areas of the building;
- (b) the floor area of a building is to be measured over any enclosing walls and is to include the area of the floor of any fully or partly covered carport, portico, verandah, balcony, porch or other similar structure attached or to be attached to the building;
- (c) if a building is without storeys, or has a storey of a height of more than 10 metres, the floor area is to be calculated as if the building contained floors at 10 metre intervals, measured vertically;
- (d) a building is to be taken not to have any floor area if it is principally of open framework or web construction or solid construction and without any fully or partly enclosed space intended for occupation or use by persons;
- (e) the **complexity factor** is as follows:
  - (i) except as below—1.0;
  - (ii) for building work for the erection or alteration of a building that exceeds 6 storeys—1.3;
  - (iii) for building work for the erection or alteration of a building that contains an atrium—1.3;
  - (iv) for building work for the erection or alteration of a building that contains an arcade exceeding 40 metres in length—1.3;
  - (v) for building work that consists solely of the demolition of a building—0.2;
  - (vi) for assignment of classification or a change in classification where no building work is proposed—0.8;

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

Part 2—Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*

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- (f) if a building is made up of parts that have different construction indices, the fee payable for the assessment of building work against the provisions of the Building Rules, the assignment of classification or a change in classification, is the aggregate of the fees calculated in accordance with this Schedule for those parts;
- (g) if an application for building consent incorporates an application for the assignment of a classification to, or a change in the classification of, the building, 1 fee is payable in respect of the applications, being whichever of the fees for those applications that is of the greater amount.

**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 an accredited professional**

- (1) 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) However—
  - (a) if an application is made to an accredited professional for planning consent, a fee of 5% of the fee that would be payable under Schedule 1 item 6(a), is payable by the applicant to the accredited professional at the time that the application is lodged with the accredited professional; and
  - (b) if an application is made to an accredited professional for building consent, a fee of 7% of the fee that would be payable under Schedule 1 item 11 is payable by the applicant to the accredited professional at the time that the application is lodged with the accredited professional.
- (3) A fee paid under subregulation (2) must be forwarded by the accredited professional 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.
- (4) Except as provided by subregulations (2) and (3), 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.

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

Part 2—Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*

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**Part 6—Distribution of fees**

**18—Distribution of fees**

Schedule 2 has effect in relation to the distribution of fees between various persons and bodies for the purposes of the Act and any relevant related set of regulations.

**8—Substitution of Schedule 1**

Schedule 1—delete the Schedule and substitute:

**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 <i>Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019</i> , 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 |
| 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*):

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| 5 | Application for planning consent—a lodgement fee (the <i>base amount</i> ) | \$67.00 |
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**Planning, Development and Infrastructure (Fees, Charges and Contributions) Variation  
Regulations 2019**

*Variation of Planning, Development and Infrastructure (Fees, Charges and Contributions)  
Regulations 2019—Part 2*

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 development cost does not exceed \$10 000	\$41.75
	(ii) if the development cost exceeds \$10 000 but does not exceed \$100 000	\$114.00
	(iii) if the development cost exceeds \$100 000	0.125% of the total development cost up to a maximum of \$200 000
	(b) if the proposed development is to be assessed on its merits under section 107 of the Act—	
	(i) if the development cost does not exceed \$10 000	\$41.75
	(ii) if the development cost exceeds \$10 000 but does not exceed \$100 000	\$114.00
	(iii) if the development cost exceeds \$100 000	0.125% of the total development cost up to a maximum of \$200 000
	(c) if the proposed development is restricted development under section 108(1)(a) of the Act—	
	(i) a preliminary determination fee (including in a case where the Commission, after the application is made, determines to refuse the application without proceeding to make an assessment)	\$137.00
	(ii) if the Commission determines to proceed to assess the development—	
	(A) if the development cost does not exceed \$10 000	\$57.00
	(B) if the development cost exceeds \$10 000 but does not exceed \$100 000	\$137.00
	(C) if the development cost exceeds \$100 000	0.125% of the total development cost up to a maximum of \$200 000

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

Part 2—Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*

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	(d) if the applicant applies for a review of the decision under section 110(15) of the Act	\$137.00
	(e) if the proposed development is to be assessed as impact assessed development under section 111 of the Act	\$2 034.00 plus 0.25% of the total development cost, up to a maximum determined by the Minister
7	Application for planning consent that must be notified—	
	(a) if section 107(3)(a) applies	\$114.00
	(b) if section 110(2)(a) applies	\$114.00 plus an amount determined by the Commission as being appropriate to cover its reasonable costs in giving notice of the application under section 110(2)(a)(iv)
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> (and 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)	\$398.00, for each referral
9	Application for building consent—a lodgement fee (the <i>base amount</i> )	\$67.00
10	Application for building consent—	
	(a) if the development involves building work and the development cost exceeds \$5 000 (including a case where the relevant assessment is undertaken by a building certifier) other than development consisting solely of a swimming pool, spa pool, or a safety fence or barrier for a swimming pool or spa pool; and	\$75.50
	(b) if the development involves the construction or alteration of, or addition to, a swimming pool or spa pool, or a safety fence or barrier for a swimming pool or spa pool	\$200.00
11	Application for building consent—	
	(a) in the case of a building that has a floor area	$F = 0.00236 \times CI \times A \times CF$ , or \$73.00, whichever is the greater

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

Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions)*  
*Regulations 2019—Part 2*

- (b) in the case of a building that does not have a floor area  $F = 0.00236 \times CI \times S \times CF$ ,  
or \$73.00, whichever is the greater
- where—
- F* is the fee (in dollars) payable under this component (unless the \$73.00 minimum applies)
- CI* is the construction index determined by the Minister from time to time and set out in the Schedule of Construction Indices published in the Gazette
- A* is the prescribed floor area
- S* is the projected area of the largest side or plane of the building
- CF* is the complexity factor
- 12 If the application relates to a proposed development consisting of the construction or alteration of, or addition to, a protective tree netting structure that requires assessment against the provisions of the Building Rules \$452.00 plus \$47.25 for each 10 000 square metres (or part of 10 000 square metres) of netting for the protective tree netting structure
- 13 If the application requires a relevant authority to grant consent to a development that is at variance with the Building Rules \$167.00
- 14 Application for the concurrence of the Commission under section 118 of the Act \$336.00
- 15 If an application must be referred to the Commission under section 118(4) of the Act—
- (a) for a Class 1 or 10 building under the Building Code \$527.00
- (b) for any other Class of building under the Building Code \$1 156.00
- 16 Application for a development authorisation under section 102(1)(c) or (d) of the Act—
- (a) other than where the application relates to deemed-to-satisfy development under these regulations or the Development Plan, a **Land Division Fee** of the following amount:
- (i) if the number of allotments resulting from the division is equal to or less than the number of existing allotments \$77.50

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

Part 2—Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*

	(ii)	if the number of allotments resulting from the division is greater than the number of existing allotments	\$169.00 plus \$16.00 for each allotment up to a maximum of \$7 737.00
	and		
	(b)	a <b>Statement of Requirements Fee</b> for the purposes of section 102(1)(c) or (d) of the Act—	
	(i)	if the number of allotments resulting from the division is equal to or less than the existing number of allotments	\$316.00
	(ii)	if the number of allotments resulting from the division is greater than the number of existing allotments	\$447.00
17		Advice of the Commission under regulation 76 of the <i>Planning, Development and Infrastructure (General) Regulations 2017</i> —	
	(a)	if the number of allotments resulting from the division is equal to or less than the existing number of allotments	\$74.50
	(b)	if the number of allotments resulting from the division is greater than the existing number of allotments	\$224.00
18		A <b>Certificate of Approval Fee</b> for the purposes of section 138 of the Act—	
	(a)	if the number of allotments resulting from the division is equal to or less than the existing number of allotments	\$111.00
	(b)	if the number of allotments resulting from the division is greater than the existing number of allotments	\$373.00
19		Application under section 130 or 131 of the Act—a fee payable to the Commission if—	
	(a)	the total development cost is greater than \$100 000; or	The fee that would be payable under item 5, 6, 7, 16, 17 or 18 if the

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

*Variation of Planning, Development and Infrastructure (Fees, Charges and Contributions)  
Regulations 2019—Part 2*

- |     |   |  |
|-----|---|--|
| (b) | the development involves the division of land and the number of allotments resulting from the division will be greater than the existing number of allotments | application were to be assessed by a relevant authority on an application under section 119 of the Act rather than under section 130 or 131 (as the case may be) |
| 20  | Application for a variation that is minor in nature or makes no substantive change to a development authorisation that has previously been given              | \$67.00  |

**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> | \$103.00  |
| 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                            |   |
| (a) | in the case of a building that has a floor area  | $F = 0.00184 \times CI \times A \times CF,$<br>or \$71.50, whichever is the greater |
| (b) | in the case of a building that does not have a floor area  | $F = 0.00184 \times CI \times S \times CF,$<br>or \$71.50, whichever is the greater |

where—

*F* is the fee (in dollars) payable under this component (unless the \$71.50 minimum applies)

*CI* is the construction index determined by the Minister from time to time and set out in the Schedule of Construction Indices published in the Gazette

*A* is the prescribed floor area

*S* is the projected area of the largest side or plane of the building

*CF* is the complexity factor.

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|----|---|---------|
| 23 | Application for a certificate of occupancy under section 152 of the Act | \$48.00 |
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**Part 4—Funds and off-set schemes**

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

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

Part 2—Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*

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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	\$7 616 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	\$3 058 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	\$7 616 for each apartment or allotment delineated by the relevant plan
(b)	where the prescribed building is within any other part of South Australia	\$3 058 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	\$94.00 for each replacement tree that is not planted
28	Application for the extension of a development authorisation	\$107.00
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
32	Application for the approval of the Minister under section 235 of the Act	\$159.00

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

Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions)  
Regulations 2019—Part 2*

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**Note—**

Fees for the purposes of section 99(3) of the Act and for the purposes of regulation 47(4)(b) of the *Planning, Development and Infrastructure (General) Regulations 2017* to be prescribed when required.

## **Schedule 2—Distribution of fees**

### **1—Fees received by a designated entity**

- (1) A designated entity—
  - (a) is liable to pay to the Chief Executive—
    - (i) 5% of any fee paid or payable to the designated entity under Schedule 1 item 6(a); and
    - (ii) 7% of any fee paid or payable to the designated entity under Schedule 1 item 11, exclusive of any GST component; and
    - (iii) the total amount of any fee paid or payable to the designated entity under Schedule 1 item 14, 15, 16(b), 17 or 18; and
  - (b) is liable to pay to a prescribed body under Schedule 9 of the *Planning, Development and Infrastructure (General) Regulations 2017* \$353 for each amount paid by an applicant under Schedule 1 item 8 on account of a referral to that prescribed body.
- (2) A reference in subclause (1) to a fee payable under a particular item of Schedule 1 extends to a fee that, although payable, was waived (in whole or in part) by a relevant authority.

### **2—Payment requirements**

An amount payable under this Schedule must be paid—

- (a) in the case of a fee received by a designated entity by a payment via the SA planning portal—to the entity entitled to the amount under this Schedule 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 this Schedule 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.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

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

Part 2—Variation of *Planning, Development and Infrastructure (Fees, Charges and Contributions)  
Regulations 2019*

---

**Made by the Governor**

with the advice and consent of the Executive Council  
on 27 June 2019

No 173 of 2019

MPL19/006CS