

Queensland



Regulatory Impact Statement for SL 2003 No. 203

Coastal Protection and Management Act 1995

COASTAL PROTECTION AND MANAGEMENT REGULATION 2003

1 Working title—

Coastal Regulation

2 Name of the proposed subordinate legislation—

Coastal Protection and Management Regulation 2003

3 Name of the provision of the Act under which subordinate legislation will be made—

Section 103 of the *Coastal Protection and Management Act 1995*

4 Name of the Department that is preparing this report—

Environmental Protection Agency

5 Background

Prior to the 2001 amendments to the *Coastal Protection and Management Act 1995*, coastal development in Queensland was largely controlled through the *Harbours Act 1955*, the *Canals Act 1958* and the *Beach Protection Act 1968*. The *Coastal Protection and Management and Other Legislation Amendment Act 2001* provides for a range of coastal development approvals to be administered under the *Coastal Protection and Management Act 1995* and the *Integrated Planning Act 1997*.

The following regulations under the *Harbours Act 1955*, the *Canals Act 1958* and the *Beach Protection Act 1968* will expire when the *Coastal Protection and Management and Other Legislation Amendment Act 2001* is proclaimed—

- *Marine Land Dredging By-law 1987*;
- *Harbours (Reclamation of Land) Regulation 1979*;
- *Construction of Harbour Works (Fees) Regulation 1992*;
- *Canals Regulation 1992*; and
- *Coastal Management Control Districts (Requirements for Buildings or other Structures) Regulations 1984*.

This Regulatory Impact Statement examines the options for regulations to provide for the administration of various coastal activities to be controlled under the amendments to the *Coastal Protection and Management Act 1995* and for the payment of fees for applications and other activities.

Any new regulation could either reflect the previous regulations, or amend the way in which activities are administered and provide alternative fee structures.

6 Policy Objectives

The Queensland Government's policy is to protect and manage the coast of Queensland.

As the interface between land use and the sea, the coastline is a very limited special resource, which needs to be protected and managed carefully to protect coastal values and ensure that any development is desirable and sustainable and provides for the use of the coast for future generations.

7 Legislative intent

The object of the *Coastal Protection and Management Act 1995* (s.3) is to—

- (a) *provide for the protection, conservation, rehabilitation and management of the coast, including its resources and biological diversity; and*

- (b) *have regard to the goal, core objectives and guiding principles of the National Strategy for Ecologically Sustainable Development in the use of the coastal zone; and*
- (c) *provide, in conjunction with other legislation, a coordinated and integrated management and administrative framework for the ecologically sustainable development of the coastal zone; and*
- (d) *encourage the enhancement of knowledge of coastal resources and the effect of human activities on the coastal zone.*

In other words, the object of the legislation is to protect and manage Queensland's coast while allowing for development that improves the total quality of life, now and in the future, in a way that maintains the ecological processes on which life depends.

8 Consistency with the Authorising Law (s.44(d))

Section 103 of the amended *Coastal Protection and Management Act 1995* provides for making regulations as follows—

'103 Regulation-making power

- (1) *The Governor in Council may make regulations under this Act.*
- (2) *A regulation may make provision for coastal management, including, for example, provisions about any of the following matters—*
 - (a) *access to unallocated State land in a coastal management district;*
 - (b) *the use or development of land in a coastal management district;*
 - (c) *activities in a coastal management district;*
 - (d) *the presence and use of vehicles and vessels in a coastal management district;*
 - (e) *the impounding, removal and disposal of vehicles, vessels, aircraft or property found abandoned in a coastal management district;*
 - (ea) *requirements for erecting or altering a building or other structure on land in an erosion prone area;*
 - (f) *the matters for which fees, costs and charges are payable under this Act, the amounts of the fees, costs and charges, the persons who are liable to pay the fees, costs and charges, when the fees*

costs and charges are payable, and the recovery of any amount of the fees, costs and charges not paid;

(g) giving effect to, and enforcing compliance with, coastal plans, including, for example, giving a notice about a contravention of a coastal plan and the effect of failure to comply with it;

(h) exemption from compliance with provisions of a coastal plan.

(2A) Without limiting subsection (2)(f), a regulation may prescribe fees payable to the chief executive in relation to the chief executive's functions under the Integrated Planning Act 1997 as assessment manager or a concurrence agency.

(2B) A regulation may prescribe the circumstances under which the chief executive may waive a royalty, or waive or refund a fee, payable under this Act.

(3) A regulation may prescribe offences for contraventions of a regulation, and fix a maximum penalty of a fine of not more than 165 penalty units for the contravention.'

Options are under consideration for making a regulation to prescribe the following in accordance with the above provisions—

- application and assessment fees for applications for operational works under the *Integrated Planning Act 1997*;
- new discount fees for development applications where the applicant holds a preliminary permit for the works;
- application fees for resource allocation applications and approval of dredge management plans for the removal of dredging material from coastal management districts;
- royalties for the removal of dredging material from coastal management districts;
- waiving of the royalties for the removal of dredging material in certain cases;
- new provisions for the transfer and renewal of resource allocations and dredge management plans for dredging material;
- saving the plans which show site requirements including set back lines that have become coastal building lines for construction in coastal management districts;.
- new fees for applications for development permits which were previously administered under the *Beach Protection Act 1968*,

including an application fee for reconfiguring a lot wholly or partly within a coastal management district and an application fee for a material change of use in a coastal management district; and

- fee for works, which include both reconfiguring a lot and operational works for the construction of an artificial waterway in a coastal management district.

9 Consistency with other legislation (s.44(e))

A new single regulation would be subordinate to the amended *Coastal Protection and Management Act 1995*. The Act brings coastal approvals under the Integrated Development Approval System (IDAS) contained within the *Integrated Planning Act 1997*. The purpose of bringing the coastal approvals together under one Act is to make the legislation more manageable and this would be enhanced by also having a single piece of subordinate legislation. The regulation could be adapted from the existing legislation to suit the provisions of the *Coastal Protection and Management Act 1995*.

Fees could be based on fees in existing subordinate legislation, including the *Construction of Harbour Works (Fees) Regulation 1992*, the *Marine Land Dredging By-Law 1987*, the *Canals Regulation 1992*, the *Harbours (Reclamation of Land) Regulation 1979* and the *Coastal Management Control Districts (Requirements for Buildings or other Structures) Regulations 1984*. The fees could remain unchanged; be indexed in accordance with the consumer price index and rationalised; or be abolished. The royalties for dredging material from coastal management districts could also remain at the present level; be fully or partially indexed; or be abolished. These options are dealt with in more detail below.

The *Coastal Management Control Districts (Requirements for Buildings or other Structures) Regulations 1984* contains requirements regarding the assessment of building work applications within erosion prone areas. The opportunity is being taken to transfer these provisions to the *Standard Building Regulations 1993* as they relate to building works.

10 Fundamental Legislative Principles

A regulation would provide a fee structure for the provisions of the *Coastal Protection and Management Act 1995* and the *Integrated Planning Act 1992* to be implemented for coastal works.

The funds received for assessing applications would also contribute towards the administration of the legislation including monitoring compliance, investigating complaints, controlling unauthorised activities and, when necessary, undertaking prosecutions.

11 National Competition Policy

National Competition Policy reviews were undertaken in 1998/99 for the *Canals Act 1958*, the *Beach Protection Act 1968* and the *Coastal Protection and Management Act 1995* and Public Benefit Test Reports were prepared from these reviews. The conclusions of the respective Reports were as follows—

The *Canals Act 1958* (Canals Act)—

‘The findings of this report may be summarised as follows—

- the Canals Act provides for the regulation and control of the construction, maintenance and use of canals, for the benefit of the public and canal allotment owners;
- the Canals Act allows for natural resources management using and incorporating State established standards as the canals are basically State-owned waterways;
- the Canals Act applies to all persons wishing to construct and/or use canals;
- the Canals Act only creates restrictions for the public benefit at large; and
- the alternatives to the Canals Act would lead to potential adverse impacts on natural waterway systems and to a resumption of the issues relating to waterway ownership, maintenance and land sales practices which were in existence prior to its enactment.

It is therefore considered that no further review is warranted beyond this short-form Public Benefit Test Report.’

‘The *Beach Protection Act 1968*—

- provides for the protection of the State’s beaches in the public interest;
- allows for natural resource management using State standards;
- reduces the potential impact of erosion on property in the public interest;

- applies only to lands adjacent to the coast within declared areas, but applies equally to all landholders or users within those areas; and
- does not set out to reduce competition.

It is therefore considered that no further review of the legislation is warranted beyond this Public Benefit Test Report’.

The *Coastal Protection and Management Act 1995* (Coastal Act):

‘In summary—

- The Coastal Act provides for the protection, conservation, rehabilitation and management of the coast, which is to the benefit of the public;
- The Coastal Act allows for natural resource management using or incorporating State and international standards;
- The Coastal Act is not specific but applies to all users of the coastal zone;
- The Coastal Act only creates the potential for restrictions on commercial activity through subordinate plans;
- plans are limited to implementing coastal management; and
- plans are subordinate legislation and subject to the NCP process for new subordinate legislation.

It is therefore considered that no further review of the legislation is warranted beyond the Public Benefit Test Report’.

Following the conclusions of the above reports, the provisions of the *Canals Act 1958*, the *Beach Protection Act 1968* and the *Coastal Protection and Management Act 1995* were retained in the public interest.

The *Harbours Act 1955* was not the subject of a National Competition Policy Review as it was repealed in 1994. Some provisions of the Act and regulations continued to have effect under the *Transport Infrastructure Act 1994* and expire with the commencement of the *Coastal Protection and Management and Other Legislation Amendment Act 2001*. This Regulatory Impact Statement includes a cost/benefit analysis of the options considered, including options based on the previous regulations under the *Harbours Act 1955*.

RISK ASSESSMENT

12 Risk to Government

The regulation is part of a package to assist in reducing risk associated with coastal-based activities. The State Coastal Management Plan sets out the policies and principles by which all coastal development within a coastal management district are to be assessed. The regulation provides the mechanism by which coastal development is assessed.

The unpredictable nature of the weather and the sea can produce high risks to the public on the coast. Catastrophic damage can occur in cyclone incidents but while there are usually adequate warnings to mitigate the impact on human life, property damage in the multi-million dollar range can occur. The risk to Government under such circumstances can be classified as being in the range of significant to high.

There are events such as high winds, storm waves, thunderstorms, floods, rainfall erosion and effects on eco-systems, which keep the coastal system dynamic. These are occasional and can result in serious injuries and moderate damage to property and the risk is assessed as medium.

There are inevitably numerous minor accidents involving coastal works and ranging from incidents with boats in harbours involving injury or property damage, to erosion of property and loss of facilities, which can occur over long periods of time and normally do not involve injury. These are frequent with minor consequences and the risk is assessed as significant.

Regulation of activities in the coastal zone provides a mechanism for moderating the risks to Government by ensuring that development proposals are undertaken in a manner which is consistent with recognised coastal management principles and to a reasonable engineering standard.

The alternative of self-regulation could be considered for the more standard items such as private jetties and pontoons. However, unlike works on private land, these are usually built on public waterways and assessment would include the appropriate location for the works and the nature of the works. Since the works are not necessarily attached to an allotment, it is not always possible to determine who is responsible for them and this would be even more difficult to control with self-regulation.

The concept of not requiring any approval could be expected to result in a significant lowering of the standard and durability of marine works, resulting in increased risk to the users and the community. This is

evidenced by the workmanship in some cases where works are constructed without approval.

There is the question of liability and duty of care for the Government if it does not take reasonable precautions to control the construction of works on State land, including tidal waters. For example, when an electricity authority erected overhead power lines without approval and the lines were subsequently hit by the mast of a sailing vessel resulting in a fatal accident, the Government was accused of failing to control such unapproved works.

13 Risk to Business

As noted above, catastrophic damage can occur in cyclonic incidents and the risk to business can also be classified as being in the range of significant to high.

Coastal engineering is a specialised area of engineering and while the solutions provided, such as rock revetments and concrete and steel structures, may appear similar to those used in other engineering environments, the design forces and durability issues are very different. There is a need to ensure that coastal works are designed by engineers competent in this field and that the design takes into account the forces and coastal processes which may impact on the works.

The coastal zone is used extensively by the tourism industry which, in areas such as the Gold Coast, is based on the quality and accessibility of the beaches. The significance of the beaches to tourism is evidenced by the major works which have been undertaken at both the Nerang River Entrance to stabilise the entrance and more recently at the Tweed River Entrance to ensure the supply of sand to the Gold Coast beaches and reduce the risk of major storm damage.

14 Risk to Community

The amended *Coastal Protection and Management Act 1995* seeks to control the risk to the community by requiring that all works in coastal management districts are subject to assessment to ensure that they comply with the accepted standards and policies. There is a risk to the community if the construction of works on the coast is not adequately supervised to provide assurance that they are undertaken in accordance with approvals and applicable standards.

Works on the coastline frequently abut or extend onto State land. There is commonly public access available to such works, either from adjacent

State land, along adjoining foreshore or by water either from vessels or by public swimming. The safety of the community and others with access to works is of great concern. This issue has been highlighted with the recent death of a boy who was playing in a rock seawall at Flying Fish Point in North Queensland.

Private waterfront property on both waterways and the open coast can be subject to the risk of erosion, which may require extensive works and expensive solutions to protect the property against future damage. Such property protection works can have detrimental impacts on adjoining public land including beaches, foreshores and public waterways.

15 Risk to the Environment

While development may improve access to the coast, there is a risk that it may result in reduced access for the general community through subdivision of land and/or obstructions along the foreshore.

Development may result in a loss of habitat for different species and may interrupt wildlife corridors. Fauna that may be affected includes turtles with nesting areas on sand dunes and seabirds that use intertidal areas.

The effects of works on the coast can have significant impacts on the environment, in particular to water quality from run-off if the works are not properly supervised and adequate precautions are not taken to mitigate potential harm to the environment. Sea grasses, mangroves and benthic fauna may be at risk from interference from development.

Works on the coast can also have a significant impact on coastal and estuarine processes leading to erosion of beaches and foreshores.

COST/BENEFIT ANALYSIS

16 Alternative Options

As outlined above, a new single regulation could be subordinate to the amended *Coastal Protection and Management Act 1995*. The Act brings coastal approvals under the Integrated Development Approval System (IDAS) contained within the *Integrated Planning Act 1997*. The purpose of bringing the coastal approvals together under one Act is to make the legislation more manageable and this would be enhanced by also having a

single piece of subordinate legislation. The regulation could be adapted from the existing legislation to suit the provisions of the *Coastal Protection and Management Act 1995*.

The following regulations under the *Harbours Act 1955*, the *Canals Act 1958* and the *Beach Protection Act 1968* will expire with the repeal of these Acts upon the commencement of the *Coastal Protection and Management and Other Legislation Amendment Act 2001*—

- *Marine Land Dredging By-law 1987*;
- *Harbours (Reclamation of Land) Regulation 1979*;
- *Construction of Harbour Works (Fees) Regulation 1992*;
- *Canals Regulation 1992*; and
- *Coastal Management Control Districts (Requirements for Buildings or other Structures) Regulations 1984*.

Three options available on the expiry of these regulations have been identified. These are discussed in more detail in the next sections—

17 Option A - Continue Current Situation.

Option A is make a single regulation under the amended *Coastal Protection and Management Act 1995* which would reflect the provisions of these expiring regulations. Certain changes would, however, be necessary to reflect the amendments to the Act, such as the change from a dredging permit to a resource allocation and the integration of the approvals within IDAS in the *Integrated Planning Act 1997*. The fees would be maintained at the existing level.

18 Option B - Introduce New Provisions with Updated Fees.

Option B is to make a regulation that would also be based on the expiring regulations but with fees modified to take account of consumer price index changes. As an interim measure, some existing fees were increased on 1 July 2002. Accordingly, the proposed increases would be applied in two stages with the initial increase from 1 July 2002 as applicable and the remainder of the increase applying upon commencement of the Regulation. Some fees would be discontinued. Other changes would be made to reflect the amendments in the *Coastal Protection and Management Act 1995* and to improve the administration of

the legislation. New fees are proposed for planning applications which were previously assessed free of charge.

19 Option C - No New Provisions.

Option C is to make no new provisions to replace the regulations which will expire with the proclamation of the *Coastal Protection and Management and Other Legislation Amendment Act 2001*. This would result in no fees being payable for applications for a range of approvals and no royalties being recoverable for quarry material extracted under the Act.

20 Activities covered by the legislation.

Five key activities are covered by existing legislation—

- Dredging;
- Reclamation;
- Harbour Works;
- Artificial Waterways (including canals); and
- Planning Approvals.

21 Stakeholders

The following stakeholder groups have been identified.

22 Government (including Government owned corporations)

State Government Departments (e.g. the Department of Natural Resources and Mines, the Department of Transport and the Department of Primary Industries); Federal Government Authorities, including the Great Barrier Reef Marine Park Authority; Coastal Local Governments; and Port Authorities (Brisbane, Gladstone, Rockhampton, Mackay, Townsville and Cairns) and the Ports Corporation of Queensland.

23 Business

Businesses involved in coastal activities including extractive industry, property developers, jetty builders, marine construction, water-based businesses and fishing.

24 Community

The Queensland community including the general public, traditional owners, environmental groups, community development associations, water sports clubs, surf life saving clubs, boating rescue clubs, sporting, fishing and boating clubs, coastal recreational groups and waterfront property owners.

OPTION A - CONTINUE CURRENT SITUATION

OPTION A - COSTS

25 Costs to Government

There will be a cost to Government in educating business and training staff in the operation of the new system. With fees maintained at current levels, the cost to Government would include the loss of revenue due to fees remaining at the same rate for many years despite inflation over the period. The cost of processing applications has increased over this period with little compensation for fee revenue.

The total cost to Government of assessing all coastal applications is about \$1,350,000 per annum. The total revenue from the fees and returns is about \$1,150,000 per annum. Maintaining the fees at this level would therefore be expected to result in a cost to Government of approximately \$200,000 per annum. This cost is currently funded from the Environmental Protection Agency's budget and ultimately is a charge on the public purse for the benefit of the businesses and individuals who are involved in works on waterfront and coastal properties.

In addition, if fees remain at the current level there will be future costs as the costs of assessing applications increases without a corresponding increase in fees.

26 Dredging

Dredging permits were previously granted subject to specific requirements prescribed in the *Marine Land Dredging By-law 1987*. Part 5 of the amended *Coastal Protection and Management Act 1995* requires

applications to be made for allocation of quarry material or dredge management plans. The previous application fees would be used as allocation application fees and the previous fee for removal of material would become a royalty.

The fee for the removal of material of \$1.04/m³ has not increased for 13 years and over this period there has been 44.9% inflation. Based on extraction of 550,000m³ per annum and a fee of \$1.35/m³, this would represent a loss of \$170,000 revenue per annum to Government.

Since the amended *Coastal Protection and Management Act 1995* provides for applications for approvals for up to six years instead of the previous limit of two years, the number of applications a year would be expected to reduce from the current 60, resulting in lower fee revenue and less assessment required. The loss in revenue in maintaining the application fee at \$300 instead of indexing it to \$430 would amount to \$7,800 per annum over 60 applications.

27 Reclamation

The *Harbours Act 1955* required a separate approval for reclamations and reclamation applications had to comply with specific requirements under the *Harbours (Reclamation of Land) Regulation 1979*. Under the amended *Coastal Protection and Management Act 1995* reclamations will be considered operational works and the fees would be based on the previous scale of fees for harbour works.

The cost to Government would be from any fee reduction from the change to the harbour works fees and the loss of potential revenue from current fees which had not increased for six years until 1 July 2002. For example, the minimum fee would be reduced from \$619.50 (under the *Harbours (Reclamation of Land) Regulation 1979*) to \$477.50 (under the *Construction of Harbour Works (Fees) Regulation 1992*) and the maximum fee would be reduced from the current fee of \$20,812 (under the *Harbours (Reclamation of Land) Regulation 1979*) to \$16,626 (under the *Construction of Harbour Works (Fees) Regulation 1992*). Over this six year period there has been 12.6% inflation which would represent an additional revenue of \$2,500 per annum on fees of say \$20,000 for six reclamation applications if fees were maintained in line with the inflation rate.

28 Harbour Works

The requirements for applications for harbour works were specified in the *Harbours Act 1955* and the fees were listed in the *Construction of Harbour Works (Fees) Regulation 1992*. With the repeal of the *Harbours Act 1955*, harbour works will require approval as operational works under IDAS and the existing fee schedules would be used for these works.

With fees maintained at previous levels, the cost to Government would again include the real loss of revenue from inflation due to fees remaining static over a period of six years for harbour works. The revenue from fees for 660 applications a year is around \$550,000 per annum and the potential loss of revenue based on 12.6% inflation less the increase of 2.74% on 1 July 2002 would amount to about \$54,000 per annum.

This option does not fulfil the government commitment to cost recovery on the user pays basis.

29 Artificial Waterways

Applications for canal developments are currently subject to the fees prescribed in the *Canals Regulation 1992*. Under the amended *Coastal Protection and Management Act 1995* canals will be considered as artificial waterways involving both re-configuring a lot and operational works under IDAS. The existing canal fees would be used for these applications.

The revenue from canal applications in 2000-01 was around \$24,000 per annum. If fees were maintained at current levels, the cost to Government would be the loss of potential revenue from inflation over four years of 9.9% less the increase of 2.74% on 1 July 2002, amounting to around \$1,700 per annum. There would be potential for additional applications for non-tidal artificial waterways such as lake developments within Coastal Management Districts which would also require assessment under the amended *Coastal Protection and Management Act 1995*.

30 Planning Approvals

Approvals for reconfiguring a lot and the material change of use of a premises in coastal management control districts were required under the *Coastal Management Control Districts (Requirements for Buildings or other Structures) Regulations 1984*. Under the amended *Coastal Protection and Management Act 1995* these will become development permits under IDAS within Coastal Management Districts. There are

currently no fees for these applications and the applications would continue to be processed at no charge.

The cost to Government of processing these applications is about \$220,000 per annum. There is an opportunity cost to Government in not charging the cost of assessing applications for reconfiguring a lot and material change of use. The amount foregone would depend on the level of the fee that would be considered reasonable.

31 Costs to Business

The proposed fees based on no change to existing fees set on 1 July 2002 would be as follows—

Approval	Application	Fee from 1 July 2002	Proposed fee
Dredging	Application fee < 10,000 m ³	\$100	\$100
	Application fee > 10,000 m ³	\$300	\$300
	Fee per m ³	\$1.04	\$1.04
	Rebate to local authorities	\$0.55	\$0.55
	Monthly fee for reclamation	\$330	\$330
	Monthly fee for 'nil' return	\$25	\$25
Reclamation	Application fee—	\$418.00	Fees as for operational works
	plus per 1000 m ³	\$201.50	
	up to maximum fee	\$20,812	
	Fee for other purposes	\$126.50	

Approval	Application	Fee from 1 July 2002	Proposed fee
Harbour works/Operational works	Private works with a jetty/pontoon	\$181	\$181
	Private works without jetty/pontoon	\$115	\$115
	Other than private where value of works is— < \$10,000	\$477.50	\$477.50
	\$10,000 - \$50,000	\$944	\$944
	\$50,000 - \$200,000	\$1,882	\$1,882
	\$200,000 - \$500,000	\$2,508	\$2,508
	\$500,000 - \$2.5 m	\$5,222	\$5,222
	\$2.5 m - \$10 m	\$10,457	\$10,457
	> \$10 m	\$16,626	\$16,626
Planning approvals	Reconfiguration of a lot and material change of use	Nil	Nil

As the fees would be held at existing levels, there would be no change to the cost to business from the fees, apart from the change in the calculation of fees for reclamations. Reclamations and other associated works could be included in the same application and the fee would be calculated once on the total value of the works. This could have the effect of reducing the overall fee in many cases.

32 Costs to Community

While the fees would remain at the previous levels, there would be an increased cost to the community due to inflation in subsidising the assessment of applications from private applicants and business. The community would effectively be covering the opportunity cost through the public purse in not increasing fees for applications in line with inflation.

OPTION A - BENEFITS

33 Benefits to Government

With the fees relating to the previous application fees, it would be clear that there would be no new fees imposed with the new system and this would assist in its acceptance.

34 Benefits to Business

Having the same fee structure would enable business to accommodate the fees within existing price structures and would avoid the need for price adjustments. Business would also benefit in real terms from the fees being maintained at their previous levels over a period of inflation.

The provision for dredging allocations and dredge management plans to be valid for up to six years instead of the previous limit of two years will provide business with greater certainty and the number of applications would be reduced. This will be a benefit to business in reducing both application fees and also resources required to make applications. If the number of applications is reduced from 60 to say 40 per annum, the saving to business in application fees would amount to \$6,000 per annum. In addition, the provision to renew and transfer allocation permits provides more flexibility for the extractive industry.

35 Benefits to Community

Proponents would benefit from capping of fees while other costs are generally rising and would see it as an indication that the IDAS system can deliver the desired outcome without requiring additional funding.

OPTION B - INTRODUCE NEW PROVISIONS WITH UPDATED FEES.

OPTION B COSTS

36 Costs to Government

It will be necessary for Government to incur a one-off cost for training business and the community in the use of the new system and the proposed fees.

37 Dredging

Based on 60 dredging permits a year for the extraction of 550,000 m³ per annum, under the current fees the revenue from application fees is around \$16,000 per annum and the revenue from the fee of \$1.04/m³ for removal of material is around \$570,000 per annum.

Under Option B the fees would be increased generally in line with the consumer price index. The fees were set in 1989 and the consumer price index increase since then has been 44.9%.

The amended *Coastal Protection and Management Act 1995* provides that dredging applicants require either a quarry material allocation notice or an approved dredge management plan. Previously dredging permits were issued for a maximum of two years, but the new provisions allow approval for up to six years. Combined with the provisions for renewal and transfer this will reduce the revenue from applications.

The estimated revenue would be about \$22,000 per annum from the proposed fees and about \$740,000 from royalties. This represents an increase of \$176,000 per annum. However, assessments would require wider coastal management consideration that would incur greater costs.

The fee paid by local government for removing quarry material (after applying the rebate provided in the current legislation) is \$0.49/m³. The royalty for the removal of quarry material from non-tidal waters under the *Water Resources (Quarry Material) Regulation 1992* for use by a local government or statutory body was set in 2000 also at \$0.49/m³. The proposed royalty for the removal of material by a government body or a statutory authority from tidal waters would be based on the indexed rate for non-tidal water and set at \$0.50/m³.

38 Reclamation

The new fees would vary from the existing fees, depending on the value of the work proposed. The fee of \$126.50 for works by local government for public land would be subject to the same fees as other works and this would result in an increase for these applications. The proposed fees would reflect the work required to assess these major projects.

Overall the revenue is estimated to increase to around \$25,000 per annum. However, reclamation works will be considered as operational works and treated in conjunction with other works in the same project. This will result in fewer applications and consequently a reduction in the number of application fees required, with the fees being calculated on the total cost of the works. The exact change in revenue is therefore difficult to predict and will depend largely on the nature of the projects proposed.

The table in Appendix 2 shows the fees applicable to some recent applications and indicates the variability of projects that range from a 70 m² reclamation with a value of \$1,800 through to developments around \$3 million reclaiming up to 3 hectares of land. In particular, the nominal fee of \$123.20 under the current fee schedule, applies to two of these applications, one by a local government and one by a statutory body. The proposed increase in the application fees for these two applications is greater than the increase in fees for the other applications because the new fee schedule is based on the entirety on the value of the works and applies equally to all reclamation works. This change has been proposed because it is considered that fees for all reclamation applications should be charged on a common basis to ensure cost recovery and the adoption of the 'user pays' principle.

39 Harbour works

Applications for coastal management works under the *Beach Protection Act 1968* did not attract a fee. A nil fee would be applied for beach protection and public safety works.

The cost to the Environmental Protection Agency in assessing between 5 and 10 applications for beach protection and public safety purposes without charging fees would be estimated to amount to less than \$5,000 per annum.

40 Artificial waterways

The proposed fees would be based on existing fees with indexation. There would be no cost to Government with the change in fees.

41 Planning approvals

There is currently no charge under the *Beach Protection Act 1968* for assessment for an application for reconfiguring a lot within a coastal management control district and the material change of use of land. There were 34 such applications assessed in 2000-01. The proposed fees would be introduced for the assessment of planning applications to provide consistency across all coastal development assessment under the *Coastal Protection and Management Act 1995*.

The estimated revenue under the amended legislation would be \$50,000 per annum, which is based on the projected cost recovery for the cost of assessing these applications.

Costs to Business**42 Dredging**

The current fees were set in 1988 and there has been a 44.9% increase in CPI since then. These fees were not increased on 1 July 2002.

The proposed dredging fees are as follows—

Dredging	Fee schedule	Current fee	Option B Proposed fee
Application fee	< 10,000 m ³	\$100	\$140
	> 10,000 m ³	\$300	\$430
Renewal fee	< 10,000 m ³	not permitted	\$100
	> 10,000 m ³	not permitted	\$300
Transfer fee	< 10,000 m ³	not permitted	\$50
	> 10,000 m ³	not permitted	\$150

Dredging	Fee schedule	Current fee	Option B Proposed fee
Removal of dredging material	Fee per m ³ material	\$1.04	\$1.35
	Rebate to local authorities per m ³	\$0.55	\$0.85
Monthly fee	For reclamation	\$330	Nil
	For 'nil' return	\$25	Nil

The amended *Coastal Protection and Management Act 1995* provides that dredging applicants must either apply for a quarry material allocation notice or an approved dredge management plan.

Dredging permits under the *Marine Land Dredging By-law 1987* were not renewable or transferable. The amendments to the *Coastal Protection and Management Act 1995* will allow allocation notices for extractive industry dredging to be renewed or transferred. The renewal fees have been set at \$100 and \$300 (approximately 70% of the application fee) in recognition that there are savings in the assessment of renewals from the previous assessment information. The transfer fees would be set at \$50 and \$150 (approximately 35% of the application fee) to reflect the administrative cost of processing the transfer.

There are currently around 60 dredging applications a year. However, the maximum duration of a dredging allocation notice is six years compared to the dredging permit which was for a maximum of two years and notices can also be renewed or transferred, while permits could not. This is expected to reduce the amount of fees collected in future years.

The fee for removing quarry material is currently \$1.04/m³ (set in January 1989). This compares with royalties for the removal of quarry material from non-tidal waters which were set in 2000 by the *Water Resources (Quarry Material) Regulation 1992* at \$1.30/m³.

In order to provide consistency between the extraction of quarry material from State tidal waters and non-tidal waters, a royalty would be based on the Water Resources royalty, increased by 4% for inflation since 2000 and set at \$1.35/m³. (If the full consumer price index on the existing fee were adopted, a fee of \$1.50/m³ would apply for quarry extraction in tidal waters.)

The impact on the cost of dredging material would be an increase of \$0.31/m³. Based on a conversion rate of 1.8 tonnes/m³, this would give an increase on \$0.17/tonne. With an average sale price of around \$13.40/tonne, this would represent a 1.3% increase in price. Based on an annual extraction rate of 550,000m³ from tidal waters of the State, this would amount to an increase of \$170,000 per annum.

43 Reclamation

The *Harbours (Reclamation of Land) Regulation 1979* prescribes an application fee from 1 July 2002 of \$418.00 plus \$201.50 per 1,000 m² of land reclaimed for harbour, manufacturing, industrial, residential or business purposes up to a maximum fee of \$20,812. For other purposes the application fee is a flat \$126.50. Under the *Integrated Planning Act 1997*, reclamation will require an approval as operational works and the application fee will be based on the cost of the works. There were only six applications for reclamation in Queensland in 2000-01.

A table showing fees for recent applications is included in Appendix 2 and shows the wide range of projects and fees. There would be a general increase in fees, particularly for larger projects. The proposed fees would reflect the cost of assessing these major projects.

Since the reclamation would form part of the application for operational works, a single fee would apply to the cost of the whole project and would incorporate the fee for the reclamation works in many cases.

Reclamation applications vary considerably over the years, but it is estimated that the increased fees would amount to about \$25,000 per annum with about half this amount coming from business and half from Government entities, including local government.

Under this option the maximum fee of \$20,812 would be reduced to \$20,000 in line with the fee applicable for other operational works, where the cost of the works exceeded \$25 million.

44 Harbour works

(a) Works for private residential use

The fee for the construction of works associated with a private residential allotment such as a jetty or pontoon or with the use of a private pleasure craft ('private residential works') would be a single fee of \$200 per application. This would be a total increase of \$24 on the previous fee

of \$176 for such works, which was set in December 1995. The fee was increased to \$181 from 1 July 2002. The cost of such works is frequently in the order of \$25,000 to \$30,000 with some up to \$60,000. The fee for the assessment of such applications amounts to around 1% of the cost of the works and the increase of \$24 would represent an increase of 0.1% based on the typical value of \$25,000 for such works. The proposed fee of \$200 for applications for private residential works would impact on businesses involved in the construction of pontoons and jetties. Some local governments also require applications and additional fees to be submitted for such works and the fee of \$200 would be reasonable compared to many local government charges for approvals for the same works (see Appendix 1).

There is also a fee of \$115 (from 1 July 2002) for minor applications for private residential works that do not include a jetty or pontoon. This is for works such as revetment walls and boat ramps. Only a few applications are received in this category and the resources taken to assess the applications are similar to those required to assess applications including a jetty or pontoon. The reduced fee for these applications is not considered justifiable for the additional administration it would require under IDAS. It is therefore proposed to eliminate this special category and simplify the fee to a single fixed fee for applications for private residential works.

The marine construction industry would pass on the increased fee to the customers, and the fee increase is not considered sufficient to have any impact on the demand for works. The total additional cost of fees of \$24 per application for 420 applications a year amounts to about \$10,000 per annum.

Harbour Works Fees

Type of approval	Application	Previous fee (Dec 1995)	Fee from 1 July 02	Option B Proposed fee
Private residential works in tidal waters	With a jetty or pontoon	\$176	\$181	\$200
	Without a jetty or pontoon	\$112	\$115	

(b) Works other than private residential works.

The fee scale for works other than private residential works currently has six steps for various values of work.

Under this option the number of steps in the scale would be increased to eleven to provide smaller steps in the fees than previously. Based on 240 applications a year, the 12.6% indexed increase would be estimated to amount to \$57,000 per annum.

Harbour Works Fees

Approval Type	Current Range	Previous fee from Dec 95	Fee from 1 July 02	Previous fee indexed +12.6% (Mar 02)	Proposed Range	Proposed Fee
Works other than private residential works where the value of works is between the values shown.	Under \$10,000	\$465	\$477.50	\$524	Under \$10,000	\$520
	\$10,000 to \$50,000	\$919	\$944	\$1,035	\$10,000 to \$25,000	\$920
					\$25,000 to \$50,000	\$1,100
	\$50,000 to \$200,000	\$1,832	\$1,882	\$2,063	\$50,000 to \$100,000	\$1,830
					\$100,000 to \$200,000	\$2,200
	\$200,000 to \$500,000	\$2,441	\$2,508	\$2,749	200,000 to \$250,000	\$2,200
					\$250,000 to \$500,000	\$2,900
	\$500,000 to \$2.5 m	\$5,083	\$5,222	\$5,724	\$500,000 to \$1m	\$5,100
					\$1m to \$2.5m	\$6,200
	\$2.5m to \$10m	\$10,178	\$10,457	\$11,463	\$2.5m to \$5m	\$10,400
					\$5m to \$10m	\$12,000
	Over \$10m	\$16,183	\$16,626	\$18,226	\$10m to \$25m	\$17,000
					Over \$25m	\$20,000

45 Artificial Waterways

The construction of canals is currently administered under the *Canals Act 1958*. Under the amended *Coastal Protection and Management Act 1995* such works will be assessed as artificial waterways which will require approval for both a material change of use and operational works. In addition, non-tidal artificial waterways will require assessment under the *Coastal Protection and Management Act 1995*.

The fees under the *Canals Regulation 1992* were set in 1997 and the proposed fees would be indexed from the previous fees as shown below. The existing system under the *Canals Act 1958* provides for a provisional approval, a final approval to construct the works and then certification that the works are completed. The system under the amended *Coastal Protection and Management Act 1995* would require an approval for reconfiguring a lot and an approval for operational works. The existing fees would be transferred to these applications. As with other applications under IDAS, there is an option to apply for preliminary approval or to apply for a development permit directly.

There will no longer be any requirement for a transfer fee as under IDAS the approvals will attach to the property rather than the applicant and the approvals will automatically transfer with the property if there is a change of ownership.

The additional cost is minor in relation to the cost of the works, which are generally multi-million dollar developments. The number of applications a year is small, with 13 applications approved in 2000-01, although this will increase with the addition of non-tidal artificial waterways.

Artificial Waterways including Canals

Approval fees				Option B proposed fees	
Canals Approvals	Previous fees (set in 1997)	Fees from 1 July 02	Previous fees indexed to Mar 02	Artificial waterways approvals	Option B Proposed fee
Application for provisional approval	\$13,906	\$14,287	\$15,287	Application for reconfiguring a lot	\$15,000
Application for final approval - rate per metre of waterfront	\$9.60 per metre	\$9.85	\$10.55 per metre	Application for operational works per linear metre of waterfront	\$10.50 per metre
Transfer of approval	\$91	\$93.50	\$100	Not applicable	-

46 Planning approvals

Under the amended *Coastal Protection and Management Act 1995*, a development permit is required for reconfiguring a lot and for material change of use of premises wholly or partly within a coastal management district.

There was previously no charge under the *Beach Protection Act 1968* for assessment for an application for reconfiguring a lot or for the material change of use of a lot within a coastal management control district. In order to provide consistency in the treatment of development applications and operational works it is considered that applications for development permits should be subject to a fee based on the recovery of the cost of assessing the applications.

The fee under option B for a development permit for reconfiguring a lot wholly or partly within a coastal management district would be \$250 per lot, with a minimum fee of \$500 and a maximum fee of \$1500. This would exclude the reconfiguration of a lot that provides for an artificial waterway, which is covered by the fees for canals, as above.

The proposed fixed fee for assessment of a development permit for a material change of use of premises wholly or partly within a coastal management district would be \$1,500.

These fees are being introduced in accordance with the principle of cost recovery whereby those who stand to benefit from successful applications are charged fees to cover the cost of assessing applications. This also eliminates the anomaly whereby applications under the *Beach Protection Act 1968* were not subject to fees whereas applications for the same developments were charged application fees for construction approvals.

There would be an increased cost to business from the introduction of fees for development permits in coastal management districts. The additional fees are estimated at about \$35,000 per annum from business applications. The fees would be a very small percentage in terms of the cost of the majority of applications that are for major developments.

Costs to the Community

47 Dredging

The community is the end user for many uses of sand supplies, such as concrete and fill material for building works. These usages represent a significant portion of the total quantity of 550,000 m³ of material extracted per annum from tidal waters. The proposed increase in the royalty would amount to an increase in the end price of the material of 1.3%, which would be expected to be passed on to the community.

48 Reclamation

Waterfront property owners who wish to reclaim land abutting their property would be affected by the changes in fees, which would be based on the value of the works. However, the application under the *Coastal Protection and Management Act 1995* would be combined with the application for any other associated waterfront works, such as revetment walls, which will simplify the application process and may result in a reduction of the overall fees required for a project when compared with the current individual fees.

49 Harbour works

The application fees for private residential works such as jetties and pontoons would increase from \$181 to \$200. The increase represents about 0.1% of the average cost of these types of works (\$25,000). The increase in fees would represent an additional cost of about \$8,000 per annum for around 420 applications a year currently processed.

Previously legislation was not specific as to whether an application by a body corporate for multiple berth facilities would be considered as an application for private residential or other works. The Environmental Protection Agency's practice has been to treat these as private residential works, with the fee calculated per berth provided in the application in order to establish parity with normal single berth applications. This issue would be clarified in the regulation and applications by bodies corporate would be considered as applications for private residential works providing there were no business conducted on the premises, and the fee of \$200 would apply per berth. There are 5-10 applications a year by bodies corporate for multiple berth facilities.

50 Artificial Waterways

The fees for the construction of a canal under the *Canals Regulation 1992* from 1 July 2002 are \$14,287 for an application for a provisional approval and \$9.85 per metre of waterfront for a final approval. The proposed fees for artificial waterways would be \$15,000 for reconfiguring a lot and \$10.50 per metre of waterfront for the operational works.

The additional cost to the community due to the increase in the fees for artificial waterways would be around \$20 per lot. The fee would also apply to lake developments located in Coastal Management Districts as well as canals. Since these waterfront lots are generally worth over \$100,000 each, the increase is not considered significant.

51 Planning approvals

There are only a few applications a year from private residential waterfront property owners for approval for a material change of use or reconfiguring a lot. The total cost to the community of the introduction of fees for planning approvals in coastal management districts for about 4-5 private residential applications a year is estimated at about \$5,000 per annum.

OPTION B - BENEFITS

Benefits to Government

52 *Dredging*

Under option B the royalty for dredging material would be increased from \$1.04/m³ to \$1.35/m³. This increase would be the first increase for 13 years and the price has not kept up with the commercial reality of selling this State resource for resale. The increase in revenue for the extraction of 550,000 m³ of sand and gravel per year would be \$170,000 per annum.

This increase would bring the royalty in line with the Water Resources royalty adjusted for inflation, which would provide more consistency across the different sectors of the extractive industry.

The proposed royalty for the removal of material by a government body or a statutory authority from tidal waters is based on the indexed rate for non-tidal water at \$0.50/m³.

This is a benefit in keeping this rate low for local government in maintaining the cost of material for works.

53 *Reclamation*

The number and size of reclamation applications vary considerably over the years, but it is estimated that the increased fees would amount to \$25,000 per annum based on six applications a year.

54 *Harbour works*

With a single fee for all private residential works, there would be no requirement to examine the construction details of the works in order to establish whether the correct fee has been paid. This would simplify determining whether an application is complete with the correct fee paid.

Due to the smaller steps in the scale of fees for other than private works, an application for works with a slightly higher value than a fee increment would incur a smaller step in the fee than previously. This would reduce the disincentive to declaring the full costs of the works that would result in a higher fee.

The cost of assessing applications is related to some degree to the value of the works. Larger projects tend to have more issues involved; the issues tend to be more complex and significant; there are generally more plans; more consultation is required; and there is the possibility of more environmental impacts, and so such applications require more resources to assess. However, there are many factors involved in the assessment of applications, and it is not always the case that an application for a large, expensive project will require more resources to assess than a smaller more sensitive project. The challenge lies in measuring the resources that are required and particularly in determining the cost of them at the time of application so that a fee can be established. It is also of benefit to the applicant to know what cost will be incurred at the time of making an application.

Thus, most authorities have adopted a policy of setting a scale of fees to reflect the different resources required to assess applications based on readily measurable information. The most common measure is the cost of the works, as this is a measurable quantity that is usually available. Other measures that are used are the number of lots of land, the number of units in a Building Unit Plan, the area of the land and the quantity of material involved. The expense of verifying the actual cost of resources used to assess individual applications is not considered justifiable. Instead figures are based on averages and the fees provide a differential between projects of different scales, taking into account the ability to meet the fee within the project budget.

Fees received in 2000-01 for all harbour works applications amounted to almost \$550,000. Based on the CPI increase of 12.6%, the total increase in revenue from these fees is estimated at \$70,000 per annum, of which \$15,000 would come from the increase on 1 July 2002. The value of applications for works in the year was around \$280 million and the fees represent about 0.2% of the value of the works.

55 *Artificial Waterways*

The fees for artificial waterways would be indexed based on the existing fee for canals and the benefit for Government would be to recover costs in line with increasing costs.

Government will also benefit from the IDAS system, which will enable the development to be assessed as a whole rather than as a series of individual applications. The fees would provide for the resources required

to adequately assess the application and the system will provide for different authorities views to be taken into account.

56 *Planning approvals*

Under the amended *Coastal Protection and Management Act 1995*, a development permit is required for reconfiguring a lot and for material change of use of premises wholly or partly within a coastal management district.

There was previously no charge for assessment for these applications. It is proposed to introduce fees based on the cost of processing applications to provide consistency with other coastal development assessments that require fees.

Government would benefit from the introduction of fees, which is consistent with the 'user pays' principle. The revenue based on 34 applications is estimated at \$40,000 per annum.

Benefits to Business

57 *Dredging*

The amended *Coastal Protection and Management Act 1995* provides that dredging applicants require either a quarry material allocation notice or an approved dredge management plan. Approvals can now be given for up to six years, giving additional value to the cost of an application.

Previously the dredging permits were not renewable or transferable, but now the allocations can be renewed or transferred. The renewal fees would be set at \$100 and \$300 respectively (around 70% of the application fee) in recognition that there are savings in the assessment of renewals from the previous assessment information. The transfer fees are set at \$50 and \$150 respectively (around 35% of the application fee) to reflect the administrative cost of processing the transfer. These lower fees represent direct savings to business.

In addition, the previous permits were subject to a minimum monthly fee of \$25 per month for extractive industry and \$330 per month where material was dredged for reclamation. These minimum monthly fees would be discontinued, resulting in additional savings in cases where the dredger did not undertake any dredging in a particular month for any reason. This would be beneficial where dredging operations were

prevented for reasons beyond the control of the dredger, such as extreme weather conditions.

Business would benefit from long-term planning which could provide more certainty for the future, with permits validity increased up to six years and the additional right of renewal and transfer of permits.

58 Reclamation

Under this option reclamations would be assessed under the same provisions as other operational works. Business will benefit overall from a more streamlined assessment procedure.

59 Harbour works

For other than private residential works, business would benefit overall from the additional steps in the scale of fees with smaller increments in that it would not be penalised for works that might be marginally over the range limit and incur an unduly large fee increase. However, applications will generally incur an increased fee.

60 Artificial Waterways

Artificial waterways will be assessed under the IDAS and business will benefit from the greater certainty that the system will give in that obtaining an approval will ensure that all aspects of the proposal are approved.

61 Planning Approvals

The introduction of fees for planning approvals will provide for fees for all sections of business rather than the current situation where land developers are not contributing to the cost of providing assessments. This will provide a more level playing field for business overall.

62 Benefits to the Community

Increasing the fees in line with the consumer price index provides an increase in funding for the assessment of applications and thus reduces the need for public subsidy due to inflationary trends.

63 Dredging

The protection of the environment is of direct benefit to the community, particularly as dredging operations are often carried out in sensitive areas near centres of population. Dredging for navigation is of economic and social importance to maintain access for water-based transport. However, dredging can result in adverse impacts on coastal resources and their values, if the dredging process is not properly managed. Consideration of the wider coastal management criteria in the assessment of dredging applications provides for better coastal management outcomes.

64 Reclamation

Proponents who wish to apply for reclamation of waterfront properties will benefit from a more streamlined assessment procedure and from assessment in the Regions.

65 Harbour works

Applications for coastal management approvals under the *Beach Protection Act 1958* do not currently attract a fee. Under this option it is proposed to continue to charge no fee for several beach protection works and for certain works by a voluntary community organisation. This would assist community groups that may be financially challenged in funding such projects.

66 Artificial Waterways

The benefit to the community in increasing fees in line with inflation is that the increased cost of assessing applications is not a burden on the public purse. Further development of artificial waterways will be subject to the requirement that they do not contribute to degradation of water quality; an increased risk of flooding; degradation and loss of coastal wetlands; degradation and loss of declared Fish Habitat Areas; or degradation and loss of shorebird roost areas. Option B provides for cost recovery to safeguard these social and environmental issues.

67 Planning approvals

The introduction of fees for the assessment of applications for development permits in coastal management districts conforms to the

principle of the user paying for government services. While individual members of the public who use the service will incur a cost that did not previously exist, the community would no longer be subsidising this free service.

Planning applications will be assessed in relation to trends in climate change; erosion prone areas; the consequences of physical coastal processes; risks associated with natural hazards; and the nature of the topography and physical features of coastal dune systems. The revenue from fees provides the funding for assessment that takes these issues into account and provides a better coastal management outcome for the community.

OPTION C - NO NEW PROVISIONS

OPTION C - COSTS

68 Costs to Government

This option is to have no new provisions and so, when the amendments to the Coastal Protection and Management Act commence, the existing fees would no longer apply.

The major cost would be the loss in revenue from application and royalty fees of some \$1,150,000 per annum. The current cost of assessing applications of about \$1,350,000 per annum would have to be funded as a public service. This means the community would fully pay for the benefits of developers and operators such as extractive industry.

There would be an anomaly where other Government agencies charge for application fees and royalties while under the *Coastal Protection and Management Act 1995* no fees and royalties would be charged.

Government could expect to receive criticism if waterfront property owners are allowed to enlarge their properties into adjacent waterways without compensating the State. This could be compared to allowing proprietors adjacent to parkland to extend their properties into the park without purchasing the land acquired.

There would also be no fee for the assessment of applications for development permits in coastal management districts. There would be no

change in the costs to Government for this as there are currently no fees paid.

69 Costs to Business

The lack of fees for quarry allocations, dredging applications and royalties would be a major change in the extractive industry. It could be expected to draw more operators into the dredging industry if other entry costs are not prohibitive. This could create some unrest in the industry where other operators in non-tidal extractive industries are paying royalties that are not applied to tidal operations.

There would be no cost to business if the fees for reclamations, harbour works and canals were removed providing that the resources for assessing applications were maintained. However, the lack of fees may lead to reduced funding of resources to assess applications, which could result in delays and subsequent costs to business.

There would be no change to business if no fees are introduced for applications for planning approvals for works in coastal management districts.

70 Costs to the Community

Without fees there would be a benefit to a section of the community with interests on the waterfront and waterfront development in having applications assessed without incurring a fee. The wider community would fund the cost of providing the assessments through the public purse. The revenue received for all applications is \$1,150,000 per annum.

OPTION C - BENEFITS

71 Benefits to Government

The only benefit to the Government from not having any fees for dredging, reclamation, harbour works and canal applications would be not having to collect and receipt the fees. However, this would be insignificant compared to the cost of processing the applications and is estimated to amount to clerical costs of less than \$10,000 per annum.

72 Benefits to Business

Business would benefit from not having any application, royalty and monthly fees, providing resources were made available to process applications.

73 Benefits to Community

The cost of dredging material would drop by around \$0.50/tonne or around 3%. Since the market tends to have rising costs, this cost saving may not result in a reduction of the price paid by the community but may cause price increases to be deferred.

Waterfront property owners could make applications to reclaim land or construct works below high water mark without paying fees. This may be seen as inappropriate by the public at large.

There would be no benefit to the community to having no fees for the construction of canals, as the savings to the developers would be too insignificant to be reflected in the sale price.

74 Basis for proceeding with the proposed regulation

The existing legislation has provided a framework for the assessment of proposed works on the coast. The framework has been changed to provide an integrated assessment of proposals through the provisions of the *Integrated Planning Act 1997*. Three options have been examined.

75 Option A, *Continue Current Situation*

Is to continue the existing fee structure and transfer the provisions into the new regulations. The advantages for business in freezing the fees, some of which have not been adjusted for 13 years, would be matched by an equivalent cost to Government, which would have to bear the increased real cost of assessing applications through the budget. This option does not comply with the principle that users of government services should pay for the service and is not considered justifiable.

76 Option B, *Introduce New Provisions with Updated Fees*

Is to amend the fees as detailed above. Most of the fees would be increased in line with the consumer price index, with variations as detailed.

Some fees have not been increased for 13 years, while other fees had not been increased for between 4 and 7 years until the partial increase on 1 July 2002. However, relative to the value of works and the projects involved, the increase in fees would not be considered significant. The costs and benefits are reasonably matched in the cases where the fees have the full consumer price index increase or a partial increase. Where it is proposed for fees to be removed, there are costs and benefits to both parties, but they are considered reasonable and the changes are made to simplify the system. This provides the opportunity to overcome drawbacks that have previously been encountered in the administration of the system over the past years and improve the system for the users.

77 Option C, No New Provisions

Is to allow the existing provisions to expire without re-making them in further regulations. To adopt this option would result in the Environmental Protection Agency being committed to assessing many hundreds of applications under the *Coastal Protection and Management Act 1995* and the *Integrated Planning Act 1997* without receiving any fees for this service. This already occurs to a limited extent with the free service provided by the Beach Protection Authority for applications for planning approvals. This option would, in effect, result in the community providing funding for the benefit of individual applicants for works in coastal management districts through the public purse. This may be considered acceptable for some works that are of potential benefit for the whole community and a nil fee could be set for assessing these works. However, for the majority of works the cost of providing assessment should be based on the fundamental principle that the user, including private waterfront proprietors, marine contractors and major property developers, should pay for the service provided.

78 National Competition Policy relating to Option B

The proposed regulation is based on fees contained in existing subordinate legislation. The aim of the proposed regulation is to bring these fees into a single regulation and to modify the fees to take account of consumer price index changes that have occurred since the fees were last updated. This will result in additional cost for business in some cases and cost savings in others. The only possible restriction on competition in this instance would occur if the costs were sufficiently high to create a barrier to entry or cause businesses to leave the market. The increase in fees

resulting from the proposed regulation is not expected to be significant and therefore such circumstances do not apply in the case of the proposed regulation. As a result, it is not considered that the proposed regulation contains any measures that restrict competition.

RECOMMENDATION

79 Option B, *Introduce New Provisions with Updated Fees*

Is considered the reasonable course of action as it limits the need for public subsidy of the assessment whilst holding fee increases to the cost of inflation for most types of applications. In the case of those applications previously considered under the *Beach Protection Act 1968* and where no application fee applied, option B provides consistency with the other types of development applications which do require the payment of assessment fees. Option B is also consistent with the principle that the users of government services should pay for the services.

This Regulatory Impact Statement will be subject to public comment and particular consideration will be given to any arguments for any variation in the detail that may be proposed as a consequence of such consultation.

APPENDIX 1

Summary of fees for coastal structures in a selection of different jurisdictions in Queensland and Interstate (August 2001).

Administrative Body	Application subject to approvals other than s 86	Fees for Private Jetties/ Pontoons	Fees for Commercial works	Notes
Brisbane City Council	Yes. Requires separate Council approval	\$600 min	\$600 min	Subject to an additional application to BCC. Council comments on s 86 applications included in this fixed price
Gold Coast City Council	Yes. Requires separate Council approval	\$85	\$85 or \$150	\$150 for works >\$50,000. Fee schedule distinguishes between the cost of the works, not between commercial and private use
Maroochy Shire Council	No	\$159.75	\$159.75	No distinction between commercial and private structures
Cardwell Shire Council	No	Nil	Nil	
Thuringowa Shire Council	No	Nil	Nil	No fee schedule formulated because so few jetty/pontoon approvals are sought in Council's jurisdiction
Caloundra City Council	No	\$185.50	\$185.50	No distinction between commercial and private structures
Noosa Shire Council	Yes. Requires separate Council approval	\$700 (+\$500 bond)	\$700 (+\$500 bond)	Subject to an additional approval by NSC. Council comments on s86 applications included in fixed price. Bond returned on completion of the application

Administrative Body	Application subject to approvals other than s 86	Fees for Private Jetties/ Pontoons	Fees for Commercial works	Notes
New South Wales - Local Councils	Yes. Environmental Planning & Assessment Act (NSW)	Approx. \$200 for a \$10,000 jetty	Approx. \$200 for a \$10,000 jetty	Powers for approval of minor works structures devolved to local authorities. Fees schedule based on the cost of the structure. Fees standard across all NSW local authorities
South Australia - Transport SA	Yes. Environmental Protection (fees & levy) Reg. 1994 & Environmental Protection Act 1993 (SA)	Approx. \$106 for a \$10,000 jetty	Approx. \$106 for a \$10,000 jetty	Council generally the authority unless outside Council area, then application referred to Development Assessment Commission (EPA). Crown developments assessed by Minister for Transport and Urban Planning

APPENDIX 2

1 Reclamation Fees

Table of the reclamation fees charged for reclamation projects over the past two years showing the proposed fees under Option B if the reclamation applications were to be submitted for operational works under the new legislation.

Project	Area of reclamation m ²	Fee paid under Harbours Act \$	Value of the works \$	Proposed fee as operational works \$	Increase (+) or decrease (-) in fees \$
1	29,795	\$6,295.80	\$1,600,000	\$6,200	-\$95.80
2	28,000	\$123.20	\$3,500,000	\$10,400	\$10,276.80
3	27,500	\$5,903.20	\$3,000,000	\$10,400	\$4,496.80
4	17,790	\$3,940.20	\$2,075,000	\$6,200	\$2,259.80
5	9,566	\$123.20	\$1,250,000	\$6,200	\$6,076.80
6	6,225	\$1,780.90	\$550,000	\$5,100	\$3,319.10
7	2,140	\$995.70	\$160,000	\$2,200	\$1,204.30
8	1,600	\$799.40	\$1,500,000	\$6,200	\$5,400.60
9	500	\$603.10	\$200,000	\$2,200	\$1,596.90
10	200	\$603.10	\$10,000	\$520	-\$83.10
11	70	\$603.10	\$1,800	\$520	-\$83.10
Total		\$21,770.90	\$13,846,800	\$56,140	\$34,369.10

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Environmental Protection Agency.