



**Submission on cost recovery under the  
Environment Protection and Biodiversity  
Conservation Act 1999 (EPBC Act):  
Draft cost recovery impact statement  
(December 2012 - June 2017)**

---

21 June 2012

## **ABOUT UDIA**

The Urban Development Institute of Australia (UDIA) is the peak body representing the property development industry throughout Australia. Established at a state level in 1963, the Institute evolved to become a national body with a number of state-based divisions in 1970. UDIA aims to secure the economic success and future of the development industry in Australia, recognizing that national prosperity is dependent on our success in housing our communities and building and rebuilding cities for future generations.

Our members cover a wide range of specialist and industry fields, including: Developers, Valuers, Planners, Engineers, Architects, Marketers, Researchers, Project Managers, Surveyors, Landscape Architects, Community Consultants, Environmental Consultants, Lawyers, Sales and Marketing Professionals, Financial Institutions, State and Local Government Authorities, and Product Suppliers.

The property development industry is one of the major drivers of the Australian economy, directly accounting for 7.3% of Australia's GDP and employing 975,700 Australians.

## **INTRODUCTION**

The UDIA welcomes the opportunity to provide this submission on the Draft Cost Recovery Impact Statement (CRIS). UDIA does not support the Government's decision to proceed with the cost recovery under the Environment Protection and Biodiversity (EPBC) Act. We made our position known in the submission to the consultation paper on cost recovery under the EPBC Act in October 2011.

We were thus disappointed to see that the Government has decided to proceed with this measure and that revenue from this initiative was included in the 2012-13 Federal Budget. UDIA remains fundamentally opposed to this reform as it is inequitable and unjustified where the community should expect a Government agency to function within budget funding.

The EPBC Act is designed to protect a public good – the environment. Compliance with the EPBC Act provides no additional private benefit to the developer or householder. Therefore, Commonwealth Government services that fall within this category should not be cost recovered. We are aware of the difficult fiscal environment in which the Government is operating, but the administration of the EPBC Act should continue to be funded directly through taxation revenue rather than burdening the development industry with an unjustified charge that will have an inevitable negative impact on land supply and housing affordability.

## ACCREDITATION OF STATE AND TERRITORY ENVIRONMENTAL ASSESSMENT PROCESS

The Draft CRIS notes the recent agreement by the Council of Australian Governments (COAG) to reduce the duplication of environmental approval processes. Following on from the agreement, it seems that there is a strong possibility that the various State and Territory governments will conduct environmental assessments and approvals on behalf of the Commonwealth. The Draft CRIS mentions that this will lead to 'a corresponding reduction in the amount of work undertaken by the Commonwealth to which the CRIS applies'.

UDIA understands that the Commonwealth has been given a deadline of March 2013 to negotiate bilateral agreements with the States and Territories. Work on a cost recovery mechanism should not proceed until the details of these new bilateral agreements are known. Thus, UDIA believes that plans to introduce a cost recovery scheme should be shelved until the details of the bilateral agreements are released and the full extent of the Commonwealth's future involvement in environmental approvals is fully known.

## ENVIRONMENTAL IMPACT ASSESSMENTS

While UDIA welcomes the removal of the proposed business improvement, we remain concerned about a number of aspects of cost recovery on environmental impact assessments.

UDIA notes that projects referred to the Department after 8 May 2012 will be liable for fees for any stage of assessment after 1 December 2012. With little more than six months before the cost recovery regime takes effect, UDIA is concerned that the Department will struggle to offer the improved standards promised under this scheme in such a short time-frame. Delivering the improved service under tight time constraints will be particularly challenging given the new charging regime will occur amid a number of yet untried reforms to the Act.

The Department has committed to make available service level standards before 1 December. This information should be released as soon as possible so that potential proponents have sufficient time to study these standards. The Draft CRIS has also committed to establishing an industry reference group to assist the Department in the improvement of performance, including service delivery. The Department should consider assembling such a group well before 1 December so as to ensure that industry feedback is reflected in the improved service delivery from the start date of the cost recovery scheme.

Although the Draft CRIS does a good job of explaining the cost breakdown for Environmental Impact Assessments (EIS), the complexity matrix which determines the complexity cost component of EIS could be made clearer. On the *Coordination with other Legislation* indicator, the use of complexity measures such as low, medium, high and very high are vague and open to interpretation. The Department could, for instance, make a correlation between the low, medium, high and very high measures and hours worked by the various levels of Departmental staff.

UDIA acknowledges that *Adequacy of Information and Clarity of Project Scope* indicator on the complexity matrix offers an incentive for proponents to provide a high standard of information and thus reduce their fees. However, we also believe the Department has a role to play here in offering comprehensive guidance and industry-specific examples of the information that is required.

One of the reasons UDIA is opposed to cost recovery is that it will render housing in smaller developments in affected areas significantly more expensive. The Draft CRIS has raised the possibility of exempting small business from cost recovery. However, the definition used in the Draft CRIS and specified in subdivision 328c of the *Income Tax Assessment Act 1997* is unlikely to capture smaller residential development companies. The Government should review this definition, moving from a turnover focus to one of profit.

On the subject of exemptions and waivers, the Government should consider exempting projects which have an adverse affect on housing affordability. Australia is experiencing an acute shortage of affordable housing and the 'exceptional circumstances' referred to in the section on waivers should apply to projects in which cost recovery has a damaging effect on housing affordability. Another approach would be to place a lasting and definitive cap on the amount which can be recovered on a per lot basis to ensure that housing affordability is not unduly impacted.

### **STRATEGIC ASSESSMENTS**

The Draft CRIS asserts that the Government has granted policy authority for cost recovery of strategic assessments. The Draft CRIS maintains that there is 'potential for some strategic assessments to be cost recovered from private proponents', including from 'urban development companies'. The fact that strategic assessments which are appropriate for cost recovery will have expenses and revenue determined on case-by-case bases does not deliver a certain business climate for the industry.

UDIA does not believe that strategic assessments should be subject to cost recovery. Strategic assessments will go some way to easing the Department's staffing pressures for residential development projects. This is evidenced by the initial cost recovery consultation paper's estimation that the strategic assessment in Melbourne will avoid more than 250 referrals over 20 years. The Commonwealth as well as State and Territory Government's have as much to gain from strategic assessments as do private proponents.

### **CONCLUDING COMMENTS**

UDIA thanks the Department of Sustainability, Environment, Water, Population and Communities for the opportunity to provide this submission. UDIA would welcome the opportunity to discuss any aspect of this submission in greater detail. For further information, please contact UDIA National on 02 6230 0255 or at [udia@udia.com.au](mailto:udia@udia.com.au).

Yours sincerely,



Julie Katz  
UDIA National President

