




# ***CR 2013/32 - Goods and services tax: GST treatment of Australian fees and charges imposed by NSW Councils for supplies in relation to building and property development applications and other related permits and approvals***

 This cover sheet is provided for information only. It does not form part of *CR 2013/32 - Goods and services tax: GST treatment of Australian fees and charges imposed by NSW Councils for supplies in relation to building and property development applications and other related permits and approvals*

 This Ruling contains references to provisions of the *A New Tax System (Goods and Services Tax) Regulations 1999*, which have been replaced by the *A New Tax System (Goods and Services Tax) Regulations 2019*. This Ruling continues to have effect in relation to the remade Regulations.

Paragraph 32 of [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed and rewritten.

A [comparison table](#) which provides the replacement provisions in the *A New Tax System (Goods and Services Tax) Regulations 2019* for regulations which are referenced in this Ruling is available.

 This document has changed over time. This is a consolidated version of the ruling which was published on *18 February 2015*



## Class Ruling

Goods and services tax: GST treatment of Australian fees and charges imposed by NSW Councils for supplies in relation to building and property development applications and other related permits and approvals

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### **This publication provides you with the following level of protection:**

This publication (excluding appendices) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

**[Note:** This is a consolidated version of this document. Refer to the Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.

## What this Ruling is about

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1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provisions identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

### Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:
- Section 9-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act)
  - Division 81 of the GST Act
  - Regulation 81 of the *A New Tax System (Goods and Services Tax) Regulations 1999* (GST Regulations).

Unless otherwise stated, all legislative references in this Ruling are to the GST Act.

### Class of entities

3. The class of entities to which this Ruling applies consists of all councils that are members of the Local Government and Shires Association of NSW.
4. Within this Ruling the class of entities is collectively referred to as Council.

### Qualifications

5. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.
6. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 10 to 15 of this Ruling.
7. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then this Ruling:
- has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
  - may be withdrawn or modified.

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## Date of effect

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9. This Ruling applies from 1 July 2013 to all entities within the specified class who entered into the specified scheme during the term of the Ruling. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

## Scheme

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10. The following description of the scheme is based on information provided by the applicant.

11. Council is registered for goods and services tax (GST).

12. By force of section 220 of the *Local Government Act 1993* (LG Act), Council is a body politic of the State of New South Wales (NSW) with perpetual succession and the legal capacity and powers of an individual, both in and outside the State.

13. Council is empowered under the LG Act to:

- provide goods, services and facilities and to carry out activities, appropriate to the current and future needs of local communities and of the wider public;
- maintain responsibility for administering the regulatory systems under the LG Act; and
- manage, improve and develop the resources of their local government areas.

14. Council levies various fees and charges in relation to property development and building applications, and other related approvals and permissions.

15. These fees are levied in accordance with the *Conveyancing Act 1919* (Conveyancing Act), *LG Act*, *Swimming Pools Act 1992* (Swimming Pools Act), *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), *Roads Act 1993* (Roads Act), *Environmental Planning and Assessment Act 1979* (EPA Act), *Strata Schemes (Freehold Development Act) 1973* (Strata Schemes Act), *Water Management Act 2000* (Water Management Act) and the *Noxious Weeds Act 1993* (Noxious Weeds Act).

## Ruling

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16. This Ruling addresses the goods and services tax (GST) treatment where Council imposes a fee or charge for the supply of the following goods or services:

- fees and charges related to property development and building construction applications, and
- other related approvals and permits, for example, in relation to such things as swimming pools and other facilities.

17. In this Ruling:

- when we indicate that a fee or charge relates to a taxable supply under section 9-5, we assume that all of the requirements of section 9-5 have been met and that the supply is not otherwise GST-free or input taxed under other provisions of the GST Act, and
- if a fee or charge is not consideration for a supply and is not subject to GST by virtue of Division 81, it is referred to as being 'exempt'.

18. The following table sets out the GST treatment.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Processing or release fees for section 88B of the Conveyancing Act instruments or section 88E of the Conveyancing Act on the use of land.	Processing and release of requests under the Conveyancing Act including fees for endorsements of, variations or amendments to, and lodgement of section 88B of the Conveyancing Act instruments. The charge may include an additional fee where Council's seal is required.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for section 88G of the Conveyancing Act-certificate of amount due	Amount payable for a certificate setting out fines due as a result of a failure to comply with a public positive covenant imposed on land under sections 88D or 88E of the Conveyancing Act. Includes fees for inspection where one required.	Exempt – subsection 81-10(5)
Council fees for services – Administration fee for refund of an application or renewal fee.	Applies to development application administration fee or withdrawn development applications, planning certificate, building certificate, complying development, construction certificate applications prior to determinations. Also includes refund processing fees for planning certificates under the EPA Act. These fees are essentially cancellation fees that are made up of council retaining a portion of the original application fee.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations or Taxable – section 9-5 (where the service can be provided in a competitive market by an entity that is not an Australian government agency). See Note 1 in Appendix 1 at paragraph 37.
LEP amendment advertising fee	Community consultation as per section 57 of the EPA Act. Before consideration is given to the making of a local environmental plan, the relevant planning authority must consult the community in accordance with the community consultation requirements for the proposed instrument.	Exempt – subsection 81-10(5) (where it is an amendment to the LEP) or Exempt – paragraph 81-15.01(1)(f) of the GST Regulations (where it is advertising of the proposed amendment).
Advertising/notification fee in relation to an application that requires advertising (other than DA)	This would include the notification /advertising of an application made under section 82A of the EPA Act (review of a determination), among other instances of required notification /advertising of an application. Could include advertising for DCPs if council resolves to exhibit the DCP. Also includes advertising of voluntary planning agreements (VPAs). <i>Environmental Planning and Assessment Regulation 2000</i> (EPA Regulation) provides that public participation is required.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Additional fees-development requiring advertising	Regulation 252 of the EPA Regulation provides for additional fees to be paid in the following cases for designated development, advertised development, prohibited development or one where an environmental planning instrument or development control plan requires notice to be given.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Advertising fees for applications under the EPBC Act	The EPBC Act is federal legislation that provides that a person must not take an action that has, will have or is likely to have a significant impact on a matter of national environmental significance [Note: Councils have no obligation to ensure that any approvals they may grant have also received any necessary EPBC Act approval as the responsibility rests with the proponent. However, where the Council is a proponent, it is the responsibility of the Council to determine if EPBC Act approval may be required for actions undertaken.]	Exempt – subsection 81-10(4). See Note 2 in Appendix 1 at paragraph 38 of this Ruling.
Fee to advertise for proposal of granting a lease, licence or other estate	Advertising as per sections 47 and 47A of the LG Act.	Taxable – section 9-5. See Note 3 in Appendix 1 at paragraph 39 of this Ruling.
Application fee for developer to lodge objection to application of regulations and local policies	Application made under section 82 of the LG Act by a developer lodging an objection that the regulations or policy does not make appropriate provisions with respect to the proposed development.	Exempt – subsection 81-10(4).
Application fee for developer to lodge objection to compliance with the Building Code of Australia	Application fee under subregulation 187(2) of the EPA Regulation for developer to lodge objection to compliance with the Building Code of Australia.	Exempt – subsection 81-10(4).
Advertising notification fee for section 96 of EPA Act application	Fees charged in relation to advertising and notification as per paragraph 96(2)(c) of the EPA Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Additional fee for a section 96 of the EPA Act application	For section 96 of the EPA Act applications an additional fee, not exceeding \$760, is payable for development to which subregulation 115(3) of the EPA Regulation applies. This clause refers to residential flat developments.	Exempt – subsection 81-10(4).
Section 96 of the EPA Act application – if consent was granted by the court	Application to modify development consent if the consent was granted by the Court.	Exempt – subsection 81-10(4).
Section 96 of the EPA Act application fees for modification of a development consent where council is the consent authority	Application to modify a development consent by lodging amended plans involving minor error, misdescription or miscalculation and/or involving minimal environmental impact (if not substantially the same must lodge a new DA) where consent, plan, or certificate has not been issued yet.	Exempt – subsection 81-10(4).

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Application fee to create a new or amend an existing development control plan (DCP)	Application to amend DCP. Includes cases where amendments are minor or major. Could also include applications for amending building line requirements where these are set out in the DCP. May also include requests for amendment under section 94 of the EPA Act. Also includes Assessments of DCPs or Master Plans. A DCP is made by council in consultation with the community and approved by the council, according to the EPA and EPA Regulations. As per regulation 25AA of the EPA Regulation.	Exempt – subsection 81-10(4).
Application fee to amend building line policy	Fee for application to amend a council's building line policy generally for the purpose of amending a building line as per regulation 25AA of the EPA Regulation.	Exempt – subsection 81-10(4).
Amendment fee- local environmental planning (LEP) instrument	A LEP is an environmental planning instrument which contains the planning rules for development within an area. An application to amend Council LEP instrument can be made. Council must prepare and submit a planning proposal to the Department of Planning for consideration of an amendment to the LEP. Includes full extent of amendments from minor to major. Covers activities such as preparation of the planning proposal and report to council with recommendations. Includes fees to cover overhead and administration charge and cost recovery of any independent research required by Council to properly assess the proposal and any material costs associated with community consultation and any additional costs and expenses incurred by council in undertaking studies and other matters required in relation to the planning proposal. Includes external consultant fees. Includes advertising fees and fees for public hearing where requested or required. Council may charge fees on an hourly rate. As per regulation 25B of the EPA Regulation.	Exempt – subsection 81-10(5).
Fee to amend or substitute a development application	Regulation 55 of the EPA Regulation provides: 'A development application may be amended or varied by the applicant (but only with the agreement of the consent authority) at any time before the application is determined'. This fee applies to replacement development applications (regulation 90 of EPA Regulation) applications lodged by the applicant and the fee may depend upon the extent of assessment work already completed.	Exempt – subsection 81-10(4).



<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Fee to review, consider & determine development application consent condition	Fee to cover cost of the review, consideration and determination of a matter that is required by a condition of a DA or a review of a DA to be to the satisfaction of Council's consent condition and only in relation to conditions ancillary to the primary development (typically roadway or footpath construction and works in kind).	Exempt – subsection 81-10(4).
General fee for applications/approvals not otherwise specified	Where council charges a general fee for applications or approvals in the area of building and development but does not specify the exact nature of the application or approval. Where the fee relates to an application for a contestable certificate it can be provided by an entity that is a non-government related entity.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations or Taxable – section 9-5 (where supply can be provided in a competitive market by an entity that is not an Australian government agency). See Note 1 in Appendix 1 at paragraph 37.
Minor Works Application Fee	Minor Works Application Fee as per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for out of hours work permit	Fee to cover the costs of assessing permits to work outside of hours given in condition of Council approval and monitoring as per section 608 of the LG Act.	Exempt – subsection 81-10(4).
Erection of barricades fee	Erection of barricades when requested by Council and not provided by the developer. Includes associated inspection fee as per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for building sustainability index certificate	BASIX is an online program that is accessible to anyone. The user (usually the building designer) enters data relating to the house or unit design, such as location, size, building materials etc into the BASIX tool. BASIX analyses this data and determines how it scores against the Energy and Water targets. The design must pass specific targets (which vary according to location and building type) before the user can print the BASIX Certificate. This lists all the commitments the user has agreed to, and the Certifying Authority will check these at various stages of construction. As per regulations 164A and 262B of the EPA Regulation.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
BCA reports fee	Fee for issue of report. As per section 608 of the LG Act.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Additional inspections fees required before issuing section 149A of the EPA Act building certificate	Where council needs to undertake further inspections before issuing section 149A of the EPA Act building certificates. As per subregulation 260(2) of the EPA Regulation.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Application fee for a section 149A of the EPA Act building certificate	Under section 149A of the EPA Act and the fees are prescribed in regulation 260 of the EPA Regulation. Flat fee or fee per square metre. Includes fees charged for floor areas in excess of a stipulated amount. Include advertising/notification fees of a building certificate for illegal/unauthorised works. Includes fee for a copy of certificate, including fax copy; unauthorised work.	Exempt – subsection 81-10(4).
Additional fee for application for a section 149A of the EPA Act building certificate where development consent, construction certificate or complying development certificate was required but not obtained	Additional fee where development consent, construction certificate or complying development certificate was required but not obtained and applicant is the person who erected the building.	Exempt – subsection 81-10(4).
Copy of a section 149A of the EPA Act building certificate	A person may obtain a copy of a building certificate from the record with the consent of the owner of the building and on payment of the fee prescribed by the regulations. As per subregulation 260(3A) of the EPA Regulation.	Exempt – subsection 81-10(5).
Neutral or beneficial (NORBE) assessment fee	Where a development is proposed to be carried out in the hydrological catchment, a consent authority must not grant consent to the carrying out of said development unless it has considered whether the proposed development will have a neutral or beneficial effect on water quality and it is satisfied that this test is met. The fee is for council performing the neutral or beneficial assessment.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for a construction certificate	Issuing of a Construction Certificate under regulation 139 of the EPA Regulation. Also includes assessment of engineering as associated with building work. The supply of the construction certificate may be made by an entity that is not an Australian government agency.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.

Fees and Charges	Description	GST Treatment
Fee for a construction certificate – alternative solutions assessment fee	Regulation 266 of the EPA Regulations discusses 'alternative solutions' – would include fees imposed by council for any assessment of an application for a construction certificate which contains 'alternative solutions'. Regulation 266 of the EPA Regulation provides that council is to keep certain documents relating to development applications and consents. Paragraph 266(1)(o) of the EPA Regulation provides that those documents include details of approved alternative solutions relating to construction certificates or compliance certificates. This fee can be charged by an entity that is a non-government related entity.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fee for amendment of a construction certificate	A person who has made an application for a construction certificate and a person having the benefit of a construction certificate may apply to modify the development the subject of the application or certificate. Includes fees for assessment of amendment. Fee for modification of construction certificate is pursuant to subregulation 148(1) of the EPA Regulation. This fee can be charged by an entity that is a non-government related entity.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Engineering certificate fee for road works	Engineering construction certificate – application for approval of designs. Includes a section 138 of the Roads Act certificate.	Exempt – subsection 81-10(4). See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fee for a construction certificate – where fire safety engineer is involved	Recovery of costs paid to fire safety engineer where report required for issue of construction certificate. As per regulation 144A of the EPA Regulation.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Administration fee if Roads Act approval is withdrawn	Administration fee if Roads Act approval application is withdrawn. As per section 608 of the LG Act.	Exempt -paragraph 81-15.01(1)(f) of the GST Regulations.
Assessment fee for unauthorised works outside scope of approval	Surcharge for rectification of unauthorised road openings plus an additional fee depending on the extent of rectification work to be done charged at appropriate rates. This fee is in the nature of a fine.	Out of scope as is in the nature of a fine. See Note 5 in Appendix 1 at paragraph 41 of this Ruling.
Engineering inspection fee	Fee for assessing and approving engineering plans – per hour or part thereof. Also based upon cost of work being inspected. May also apply to engineering inspections for kerbs and gutters, new roads/footpaths, restoration/reinstatement of roads/footpaths. Also includes an inspection and supervision of the construction site. As per section 608 of the LG Act and section 138 of the Roads Act. This fee also describes inspections associated with building construction which can be performed by private certifiers.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations. Taxable – section 9-5 (where supply can be provided in a competitive market by an entity that is not an Australian government agency). See Note 1 in Appendix 1 at paragraph 37 of this Ruling.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Fee for review of construction certificate	Where Council is acting as PCA but where construction certificate has been issued by a Private Accredited Certifier.	Exempt – subsection 81-10(5).
Additional fee for complying development certificate applications of added complexity	Where an application for a complying development certificate is lodged and requires extra consideration or work, such as complicated assessments, or national housing code alternative solution.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Application fee for complying development certificate (CDC)	<p>A complying development certificate is a certificate:</p> <p>(a) that states that particular proposed development is complying development and (if carried out as specified in the certificate) will comply with all development standards applicable to the development and with other requirements prescribed by the regulations concerning the issue of a complying development certificate, and</p> <p>(b) in the case of development involving the erection of a building, that identifies the classification of the building in accordance with the Building Code of Australia</p> <p>Applying for a Complying Development Certificate for erection of a building, subdivision, bushfire attack certification (BAL certificate), (consultation and development consent for bushfire prone land). Includes all classes of buildings including development that does not involve building work.</p> <p>Includes advertising fee for adjoining neighbours.</p>	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Application fee to modify a complying development	Where certificate has already been issued or plans have already been submitted. As per section 87 of the EPA Act.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fee for a section 101 notification fee for complying development certificate issued	Validity of development consents and complying development certificates as per section 101 of the EPA.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fee for a complying development assessment	Section 266 of EPA Regulation discusses 'alternative solutions' – would include fees imposed by council for any assessment of an application for a construction certificate which contains 'alternative solutions'.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
General inspection fee for complying development certificate	Where council has a general fee for all or most inspections relating to obtaining a complying development certificate (CDC). Also includes inspections where Council had not issued the CC / CDC. As per Clause 85A of the EPA Act.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Fee for certificate under section 37 of the Strata Schemes Act.	Fee for strata certificate. Includes fees charged for amendments made to applications or amendments made to applications. As per section 37 of the Strata Schemes Act. Private certifiers can also issue strata certificate under section 37A of the Strata Schemes Act.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fee for classification of certificates for building or proposed building	Incl. certificate of classification and statement of classification.	Exempt – subsection 81-10(5).
Fee for providing a certified copy of a certificate required to be provided by council	For certified copies of documents, map or plan.	Exempt – subsection 81-10(5).
Fee for certificate of complying development restrictions	This is a fee for a Planning Certificate that states whether the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (c) and (d) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.	Exempt – subsection 81-10(5).
Bundled fees for certificates issued by PCA (council is a PCA)	Bundled fee for certificates issued as PCA by Council (all certificates required under headings of particular developments such as swimming pools, new dwellings, alterations and additions etc. Do not use as catch-all. Only to be used when fees are bundled together. Includes fee for inspections and amendments certificates.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fees for compliance certificates where council is not the PCA	Issuing of a Part 4A Certificate under the EPA Act. Includes base fee plus fee per hour of work over a specified time. Includes fee for a compliance certificate when Council is not the PCA. Includes fees for inspections where Council is not the PCA.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fee for certificate of title	From the NSW Department of Lands.	Exempt – subsection 81-10(5).
Fee for certificate of council	'Certificate of Council' required by Land Titles Office for land subdivision not requiring Council approval.	Exempt – subsection 81-10(5).
Fee for site compatibility certificate (SCC) opinion	SCC ensures some development proposals are broadly compatible with surrounding land uses before they proceed to lodgement, assessment and determination stage. The fee is not for the SCC it is for the comments received by council before the director general issues the SCC.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Level certification fee	Includes fees charged for certification of levels; ascertaining the level of a property or a part of a property such as a driveway or a boundary. Also includes council supervision of driveway construction to known levels when a private contractor is engaged to do the work by the resident and this work crosses over Council land. Covers fee for vehicle crossing design levels and inspections and street boundary alignment levels. Charged under section 223 of the Roads Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Application fee for section 22 Swimming Pool Act Exemption certificate	Council may grant exemptions from barrier requirements that are impracticable or unreasonable in particular cases. As per section 22 of the Swimming Pool Act.	Exempt – subsection 81-10(4).
Application fee for section 24 of the Swimming Pool Act compliance certificate	Certificate of compliance to certify that a pool complies with Part 2 of the Swimming Pool Act dealing with access to swimming pools. Also includes the fee for lodging an application for an exemption.	Exempt – subsection 81-10(4).
Fee for a chemical closet at a building site	Fee for a chemical closet at a building site.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for a compliance certificate under Part 4A of the EPA Act	Issuing of a compliance certificate under Part 4A of the EPA Act. Includes base fee plus fee per hour of work over a specified time including inspections. Includes the fee for a compliance certificate when Council is the PCA. Also includes amendments and re-issue of compliance certificate. Compliance certificates can cover various things set out in paragraph 109C(1)(a) of the EPA Act which can include landscape plan inspections and landscape inspections.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fee for a critical stage inspection	If council is appointed as the Principal Certifying Authority Council will monitor the development throughout construction to ensure that local planning policies, and decisions made under them, are achieving their desired outcomes and that the building work complies with the Building Code of Australia and relevant Australian Standards. If the development does not comply with the development consent, Building Code of Australia and/or Australian Standards the applicant can be fined, ordered to make changes or taken to the Land and Environment Court. As per regulation 162A of the EPA Regulation.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fee for certificate of completion for a caravan park	Fee for Certificate of Completion pursuant to Regulation 69 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. Includes inspection and reinspection.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Application to surrender a development consent or existing use right	Includes application for voluntary surrender of development consent or existing use right.	Exempt – subsection 81-10(4).
Application for covenant certificate	Includes a certificate regarding restrictive and / or positive covenants. Includes fees for any inspections where required.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for a crime risk assessment	Where council requires a crime risk assessment on new large-scale developments like subdivisions, integrated housing developments, other large scale residential developments, and/or industrial / commercial / recreational development involving direct public access. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Development approval fee for the installation of a manufactured home, moveable dwelling or associated structure on land; construction of a temporary enclosure for the purposes of entertainment, temporary structures on public land	Install a manufactured home, moveable dwelling or associated structure on land as Structures or places of public entertainment, or a temporary structure on public land – not development Involving the Erection of a Building, the Carrying Out of a Work, the Subdivision of Land or the Demolition of a Building or Work. Also includes fee to transfer approval to a different entity or person. Also includes approval fee for the construction of a temporary enclosure in connection with the extension or demolition of a building. Also includes advertising fees and associated inspection fees. As per Parts A and D of section 68 of the LG Act.	Exempt – subsection 81-10(4).
Development application with staging of development within the application	Some large developments are built over stages and the basis of the staging can be approved as part of the development application. As per regulations 70A and 70B of the EPA Regulation.	Exempt – subsection 81-10(4).
Fee for exempt development certificate	Fee for council certifying that certain development is exempt development either under an environmental planning instrument. As per subsection 76(2) of the EPA Act. This fee can be charged by an entity that is a non-government entity.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Application fee for council's consent to development application on council owned land	Where an occupier or tenant of council owned property wants to undertake a development council charges a fee to give its consent for the applicant to lodge a DA. May include separate fee for minor and/or major DAs. As per section 608 of the LG Act.	Exempt – subsection 81-10(4).
Fee for application for inclusion of a development proposal	Fee payable to apply for inclusion of, for example, a Development Proposal in, Council's 3D Planning Model. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for staging of existing approval of DA	Staged development applications as per section 83B of the EPA Act.	Exempt – subsection 81-10(4).
Fee for state significant development	Section 89E of the EPA Act and regulations 256C to 256P of the EPA Regulation.	Exempt – subsection 81-10(4).

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Additional fee – design review panel	Additional fee payable for development which is required to be referred to a design review panel under State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Flat Development. Includes lodgement fee, administration fee, and additional meeting fee. Also includes fee for notification of modification.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Additional fee – residential flat development	Additional fee payable for development which is required to be referred to a design review panel under SEPP No. 65. Includes lodgement fee, administration fee and additional meeting fee. Also includes fee for notification of modification.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Additional fee for starting works prior to consent	Section 608 of the LG Act.	Exempt – subsection 81-10(4).
Additional processing fee for development requiring concurrence	Additional processing fee for development that requires concurrence of an Authority under the EPA Act or under an Environmental Planning Instrument (where concurrence cannot be assumed). Processing fee is in addition to the money collected to be forwarded to other authorities. May be the combined relevant development application or renewal fee, plus the additional fee as per regulation 252A of the EPA Regulation.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Additional processing fee in respect of an application for integrated development	Additional processing fee for integrated development. Processing fee is in addition to the money collected to be forwarded to an approval body under Clause 66 of the EPA Act. May be the combined relevant DA or renewal fee, plus the additional fee as per regulation 253 of the EPA Regulation. May entail only the fee payable to the external approval body. Includes fees collected by Council to be forwarded to approval bodies (usually in the form of a payment made out to the approval body but given to council to be forwarded).	Exempt – subsection 81-10(4).
Application for approval in principle to any building matter not complying with council's policy	Application for approval in principle to any building matter not complying with Council's policy. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Application for owners consent to lodgement of development application	Application for owners consent to lodgement of development application. Example is a shop that is leased and the lessee wants to run a business for which a development approval is required.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.



<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Asset and Environmental Protection fee	Non-refundable fee used for the restoration of damaged Council property such as kerb and guttering, footpath paving, drainage pits, road reserves and the removal of contaminants from Council's assets, where the person who damaged the property cannot be identified. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Building right	Development application building right per assessment.	Exempt – subsection 81-10(4).
Development application fee for building, works or demolition	Where fees are based on the cost of works. [See the relevant law outlined to the right]. Works can include activities such as addition of a rainwater storage tank. Includes fee for amending application that has been submitted after final report prepared. Also includes a development application for moorings & pontoons. Inc extractive industry. Includes construction works on council property. As per regulation 246B of the EPA Regulation.	Exempt – subsection 81-10(4).
Development application fee for development by a public authority	Public authority; hospital, school, police station, council, etc.	Exempt – subsection 81-10(4).
Development application fee for development not involving the erection of a building, works, subdivision of land or demolition of a building or work	Development not involving the erection of a building, the carrying out of a work, the subdivision of land or the demolition of a building or work. Includes change of use or prune or removal of a heritage tree; application to keep horses; application to keep a home business; Includes DA fee for a cultural heritage assessment. Includes the fee for development for a temporary swimming pool (inflatable). As per regulation 250 of the EPA Regulation.	Exempt – subsection 81-10(4).
Development application fee for dwelling houses, additions to dwelling houses where estimated cost is \$100,000 or less	Where cost of construction is estimated to be \$100,000 or less. As per regulation 247 of the EPA Regulation.	Exempt – subsection 81-10(4).
Development application for advertising	For the erection or display of advertisements. According to the definitions section in the EPA Act, advertisement means 'a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.' As per regulation 246B of the EPA Regulation.	Exempt – subsection 81-10(4).
Fee for applications requiring referral to an independent accredited certifier	Fee for applications requiring referral to an independent accredited certifier.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Fee for development application collected by council on behalf of an approval authority	Fee for a development application requiring concurrence or application for integrated development collected by Council on behalf of an approval authority or authorities where Council is possibly acting as an agent of the approval authority May include a referral fee collected on behalf of public authority pursuant to Part 5 of the EPA Act.	No supply made by council. Supply is being made by another Australian government agency that needs to assess the GST treatment.  See Note 4 in Appendix 1 at paragraph 40 of this Ruling.
Fee for development applications requiring 3D models	Fee payable to Council and can include 3D Model lodgement include initial data extraction, resubmission of 3D file. Also includes access to 3D model for commercial photography. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for exempt development under SEPP No. 4	SEPP No. 4 – Development Without Consent and Miscellaneous Exempt and Complying Development. The aim for the policy is to allow development, which is considered by Council to be of very minor environmental significance, to be carried out without development consent. The Policy also allows certain development by public authorities certain types of filming and the installation of rainwater tanks to be carried out without consent.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
SEPP No. 33 application fee	SEPP No. 33 – Hazardous and Offensive Development.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee to verify estimated cost of works	The estimate cost of works in a development application is the estimate indicated in the application unless the consent authority is satisfied that the estimated cost indicated in the DA is neither genuine nor accurate. As per regulation 255 of the EPA Regulation.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Urban design excellence application fee	Successful applicants may be eligible for additional height and floor space ratios.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Development application (bundled fee) and any certificates such as construction or occupation certificates	Where fee for construction or occupation certificate is lodged together with a Development Application, a discount may be provided on the combined fee. Miscellaneous, ancillary class 10; residential and residential additions/alterations class 1 single dwelling; Plus Building Code of Australia (BCA) Alternative Solution proposed; demolition or removal of residential building; medium density housing, residential flats and other residential buildings; new commercial building; addition or alteration of existing commercial building; new industrial building; addition or alteration to existing industrial building fit out, alteration; partitioning swimming pools; almost all flat fees but can be hourly, generally for larger applications.	Exempt subsection 81-10(4) (where the fee is for the development application) or Taxable – section 9-5 (where supply, for example the construction and occupation certificates, can be provided in a competitive market by an entity that is not an Australian government agency).  See Note 9 in Appendix 1 at paragraph 45 of this Ruling.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Fee for design assessment	Where Council is required to design or give advice on the suitability of proposed works for a particular development on works external to the site or belonging to Council. Design Assessment of road design; CBD road, urban roads, rural residential roads, culverts and culverts other than pipes. Other civil works design assessments; drainage design assessment, access ways. Bridges, reinforced concrete structures, truck drainage structures, parking areas, earth retaining structures, pathways and cycle ways.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations or Taxable – section 9-5 (where supply can be provided in a competitive market by an entity that is not an Australian government agency). See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Section 305 of the Water Management Act certificate	Application fee for certificate of compliance. A person may apply to a water supply authority for a certificate of compliance for development carried out, or proposed to be carried out, within the water supply authority's area. As per section 305 of the Water Management Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Additional fee – designated development	Part 1 of Schedule 3 of the EPA Regulation lists 34 industry types that are potentially designated development fees for a development application for a designated development.	Exempt – subsection 81-10(4).
Voluntary planning agreement assessment fee	Fee charged by Council to assess a Voluntary Planning Agreement provided to it by, say, a developer. May include a full range of fees, such as those for a preliminary assessment, or for the assessment of a minor or major VPA. As per section 93F of the EPA Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Wind turbine community enhancement fee	Annual community enhancement fee payable to council by developer for the commission of a wind turbine tower. This fee is a type of developer contribution government by section 94 of the EPA Act.	Exempt – subsection 81-10(4).
Build over council service or easement application	Build over council service or easement application. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Encroachment of building line fee	Includes application for encroachment of building line. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Environmental enforcement levy	To be charged on each development application at the time of lodgement to partly offset the costs associated with providing regulatory services relating to certification and other post development consent matters and is authorised under section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(d) of the GST Regulations.
Application or renewal fee for extension of lapsing date	Extend lapsing date of a development consent. A development consent is valid for 5 years under subsection 95(1) of the EPA Act. However the council can reduce that 5 year period to a period not less than 2 years. If the council has reduced the period to less than 5 years the applicant can apply to extend that reduced period by 1 year.	Exempt – subsection 81-10(4).

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Application fee to install fencing	Section 608 of the LG Act.	Exempt – subsection 81-10(4).
Additional fee where development consent, construction certificate or complying development certificate was required but not obtained	Where a penalty notice is issued as per subsection 76A(1) of the LG Act or an order issued as per subsection 121B(1) of the LG Act it is because an offence proved or court finding that a building erected in contravention of the Act.	Out of scope because it is a penalty. See Note 5 in Appendix 1 at paragraph 41 of this Ruling.
Fee for initial fire safety report	Initial Fire Safety Reports (or certificate) from NSW Fire and Rescue. Precedes the issuance of an Occupation Certificate. Council collects this fee and passes the fee onto the Fire and Rescue NSW. Council is not making a supply in relation to this fee.	No supply made by council. Supply is being made by another Australian government agency that needs to assess the GST treatment. See Note 4 in Appendix 1 at paragraph 40 of this Ruling.
Rural fire service fee	Depot Assessment fee including report. This fee for a bushfire attack level (BAL) assessment that may be required prior to the issue of a complying development certificate. The service may be provided by a non government entity.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fee for final fire safety report	Final Fire Safety Report from NSW Fire and Rescue. Cost recovery from applicant of fees imposed upon Council acting as certifying authority and/or PCA, by the NSW Fire Brigades. Includes fire safety inspections where applicable. Council collects this fee and passes the fee onto the Fire and Rescue NSW. Council is not making a supply in relation to this fee.	No supply made by council. Supply is being made by another Australian government agency that needs to assess the GST treatment. See Note 4 in Appendix 1 at paragraph 40 of this Ruling.
Fee for meeting with the fire brigade for fire engineering brief	Section 608 of the LG Act. Council collects the fee and passes the same fee onto Fire and Rescue NSW. Council is acting as agent for Fire and Rescue NSW in collecting the fee.	No supply made by council. Supply is being made by another Australian government agency that needs to assess the GST treatment. See Note 4 in Appendix 1 at paragraph 40 of this Ruling.
Building application in flood affected areas fee	Section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Heritage floor space (HFS) fees	Includes fees charged by council (City of Sydney, for example) associated with the registration or sale of HFS. Once conservation works to a heritage item have been completed, the owner may be awarded HFS. This HFS may then be allocated (sold) to a site which requires the purchase of HFS as part of an approved development application. As per Regulation 62 of the Sydney Local Environmental Plan 2005.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Payment in lieu of works	Payment in lieu of works required by development consent. Sometimes a condition of consent is for the developer to undertake works. An option may be given for the developer to pay money instead of undertaking the works. As per section 80A of the EPA Act.	Exempt – subsection 81-10(4).

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Stamping fee for additional building plans	Section 608 of the LG Act.	Exempt – subsection 81-10(5).
Fee for a copy of DCP (including any map, plan, diagram, illustration or other material)	Purchase of copies of development control plans as per regulation 25AC of the EPA Regulation.	Exempt – subsection 81-10(5).
Fee for a copy of draft contributions plan for sections 94 or 94A of the EPA Act contribution plans	A copy of draft contributions plans to be publicly available as per regulation 29 of the EPA Regulation.	Exempt – subsection 81-10(5).
Fee for copy of development applications lodged	Extracts of development applications to be publicly available as per regulation 56 of the EPA Regulation.	Exempt – subsection 81-10(5).
Copy of survey plans and search fees	Fixed price after the agreement or minimum charge per hour. As per section 608 of the LG Act.	Exempt – subsection 81-10(5).
Fees for plans of management	Section 608 of the LG Act.	Exempt – subsection 81-10(5).
Building inspection fee	Building Inspections includes where Council is the Principal Certifying Authority (PCA). Also includes inspection fee for rainwater tank and pool building inspections. Includes where council charges a fee for an inspection package to include all inspections associated with a particular DA as well as critical stage inspections/packages. Officers are at times required to carry out multiple inspections of sites in response to claims by applicants that a development is complete when in fact all relevant conditions have not been complied with. As per section 109E of the EPA Act.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Development consent compliance inspection fee	Development consent compliance inspection – works required to be done to comply – per hour; including landscaping inspections. As per section 109E of the EPA Act.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Fee for inspection of civil works	Inspection of CBD roads, urban roads, rural residential roads and rural roads. To include reinspection fee per inspection and out of hour inspection and other civil works inspections: Drainage design assessment, access ways, and culverts other than pipes. Bridges, reinforced concrete structures, truck drainage structures, kerb and gutter, footpaths, parking areas, earth retaining structures, pathways, cycle ways. Inspections of works within. Works may also include landscaping construction and traffic facilities. Also includes reinspections due to a previous failed inspection. Includes drainage and civil plan certification. Includes Benkelman Beam testing and retesting. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations or Taxable – section 9-5 (if fee can be charged in a competitive market by an entity that is a non Australian government agency). See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Fee for inspection of dwelling for relocation	Relocating or removing of building in council area or outside council area. Additional inspections; Also includes road inspection for relocating the dwelling.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for inspection of public infrastructure	For inspections required prior to the release of maintenance, path paving, vehicular crossing, turfing and outstanding works and bonds where they are held; or a damage inspection following construction activity. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Inspection for issue of a strata certificate	Inspection for issue of a strata certificate. As per section 608 of the LGA Act. This can also be completed by a private certifier under section 37A of the Strata Schemes Act.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Inspection fee for an inspection associated with the assessment of a DA	This fee is for inspections associated with a development application that has been lodged but for which council has not yet given consent.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Inspection fee for confirmation of commencement of development	Confirmation of commencement of development (inspection). As per section 608 of the LG Act. This fee can be charged by an entity that is a non-government related entity.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Re-inspection fee	Inspection fee where officers are required to re-inspect as a result of such a premature request for inspection; a fee will be charged. No re-inspection will be carried out until this fee is paid.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations or Taxable – section 9-5 (where fee can be charged in a competitive market by an entity that is a non Australian government agency). See Note 1 in Appendix 1 at paragraph 37 of this Ruling.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Planning proposals LEP fee	Actual cost plus advertising costs. Also includes DCP. Also includes a fee for reviewing proposals. Includes fee for assessment of Master Plan. Preparation of plans fee – minor or major; research.	Exempt – subsection 81-10(5).
Rezoning fee	Application for amendment to environmental planning instrument (rezoning related specifically to an individual development proposal and including the reclassification of land) and assessment by council of the draft precinct plan. Includes where there are minor anomalies and a range of different land values. Also includes application to reconsider application and assessment fee for additional studies following Gateway Determination. Includes incidentals at cost eg: advertisement.	Exempt – subsection 81-10(5).
State Government planning levy	Fee paid to the Department of Planning where development exceeds \$50,000 in value. Planning reform fee.	No supply made by council. Supply is being made by another Australian government agency that needs to assess the GST treatment.  See Note 4 in Appendix 1 at paragraph 40 of this Ruling.
Building and construction long service levy	The New South Wales Parliament has put a levy on building and construction work costing \$25,000 and above (inclusive of GST) in New South Wales. The levy is paid into a fund administered by the Long Service Corporation, and from this fund, the Corporation makes long service payments to building and construction workers. The Levy is payable for building and construction projects costing \$25,000 or more (inclusive of GST) and is payable online, at local councils or direct to the Corporation.	No supply made by Council. Supply is being made by another Australian government agency that needs to assess the GST treatment.  See Note 4 in Appendix 1 at paragraph 40 of this Ruling.
Black powder coated light poles and street furniture maintenance fee	To cover ongoing maintenance and fee charged per lot created. This fee is charged as a condition of consent for development work.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Nationwide House Energy Rating Scheme Assessment reports	Nationwide House Energy Rating Scheme is a regulatory framework that sets the national standards for building thermal assessment computer software tools to rate the energy efficiency of dwellings in Australia. According to Building Code of Australia a minimum standard for energy efficiency of new homes must be met in order to meet the compliance with the requirements of BCA.	Taxable – section 9-5.  See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Adjoining/affected landowner notification fee in relation to a development application	Fee for notification of adjoining or affected landowners of a development application. Fee charged by council for notification of adjoining or affected landowners where general advertising is not required.	Exempt – subsection 81-10(4).

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Noxious plant certificate	Noxious Plant Certificate. Noxious weeds certificate, includes reinspection fee for work not carried out for weed control as per section 18 of the Noxious Weeds Act or application for consideration of exemption. Constructed management plan by council. Includes fees for weed control and noxious weeds notices. Certificate as per section 64 of the Noxious Weeds Act.	Exempt – subsection 81-10(5).
Noxious weed spraying fee	Noxious Weeds Spraying by council staff, one, two or more crew with inspector. Includes cost of chemicals where applicable and fees associated with service of notices. As per section 36 of the Noxious Weeds Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Noxious weeds property inspection fee	Noxious Weeds Property Inspection includes preparation of subsequent report, if required. As per section 36 of the Noxious Weeds Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
House numbering application	Includes matters such as house numbering/renumbering application fees and house renumbering approval fees. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Occupation certificate fee	Fee for certificates where council is appointed as PCA (section 109M of the EPA Act). A final occupation certificate authorises a person to commence occupation or use of a new building, or to commence a new use of a building resulting from a change of building use for an existing building. May also include fee for interim occupation certificate. This fee can be issued by a private certifier as well as a government related entity.	Taxable – section 9-5 See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Permit to occupy	Permissive occupancy fees in the context of building and development. Includes permission to occupy a temporary dwelling.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee to issue an order or notice of intention to issue an order	Fee to issue an Order or Notice of Intention to Issue an Order under Section 121B of the EPA Act; Includes the fee to issue an order on behalf of a private certifier. Also known as Compliance Cost notice.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee to appoint council as principal certifying authority (PCA) for building certification work	Those who hold development consent must appoint a PCA, either council or a private certifier (section 109E EPA Act). Fees charged as PCA includes the cost of inspection of Construction works under a construction certificate. Includes the administration fee that may be charged if a critical stage inspection was missed.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Building certification work fees (PCA fees) where council contracts to independent accredited certifiers	Some councils sub contract their building certification services to independent certifiers and usually add a margin to cover handling fees etc. fees charged to developers is in the same nature as if council did the certification work themselves.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.



<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Fee to appoint council as replacement principal certifying authority	Where Council is required to replace a privately accredited PCA.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
PCA service agreement fee	When council is the PCA. May include a schedule of fee calculations based upon cost of work. Also additional inspections. This category also applies to fees collected when the PCA Service Agreement with Council is entered into retrospectively. May include cost of completion report and occupation certificate. Letters of Confirmation of Inspection results.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Registration fee for privately issued construction, complying development, compliance and occupation certificates	For privately issued construction, compliance and occupation certificates and may also include subdivision certificates. Applicants who have been issued a development consent can appoint a private certifier as the PCA. If so the certificate issued by the PCA needs to be registered with council. Also includes fee related to document management, such as the related activities of scanning, registering certificates. Also includes fees for a request for modification, amendment or withdrawal of complying/ compliance development certificate. Fee for registration of a certificate that was privately certified – such as a construction, compliance, occupation certificate. Fees for archiving.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations. (The registration of the certificates with Council is exempt. However, the issuing of the certificates is taxable).
Processing fee for registration of privately issued certificates	Processing fee for registration of privately issued certificates.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations. (The processing of the certificates by Council is exempt. However, the issue of the certificates would be taxable).
Administration fee or processing fee charged (where council is the PCA) associated with the issue of Part 4A certificates	Council may charge a fee for associated with the issue of certificates.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Preparation of plans fee	Preparation of traffic management plans for works on roads. Covers administration fees for whole range of assessment levels and any ancillary charges, such as road closures, traffic control, and consultations with RTA or Police etc. Also includes preparation of drainage diagrams and plan where there are no existing plans or new plans are required.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Plan FIRST levy	This fee is paid to the State Government via Council and applies for each Development Application or Complying Development Certificate if the estimated or contract value of the project exceeds \$50,000.	No supply made by council. Supply is being made by another Australian government agency that needs to assess the GST treatment. See Note 4 in Appendix 1 at paragraph 40 of this Ruling.
Application fee for section 149 of the EPA Act planning certificate	Application fee for section 149 of the EPA Act Planning Certificate or copy of certificate. Includes subsection 149(2) of the EPA Act and subsection 149(5) of the EPA Act certificates. Includes complying development advice under subsection 149(2) of the EPA Act.	Exempt – subsection 81-10(5).
Application fee for section 149 of the EPA Act planning certificate including urgency fee	Application fee for section 149 of the EPA Act Planning Certificate including urgency fee. Includes subsection 149(2) of the EPA Act and subsection 149(5) of the EPA Act certificates.	Exempt – subsection 81-10(5).
Copy of section 149 of the EPA Act planning certificate	Copy of section 149 of the EPA Act planning certificate.	Exempt – subsection 81-10(5).
Urgency fee for the issue of certificates	Additional fee for urgent provision of GST exempt certificates or inspections. Examples includes section 149 of the EPA Act planning certificate, section 149A of the EPA Act Building Certificate, section 735A of the LG Act certificate of notices, section 121ZP of the EPA Act certificates as to orders and section 603 of the LG Act certificate as to rates and charges.	Exempt – subsection 81-10(5) (provided the fee to which it relates is also exempt).
Pre-lodgement meeting for construction certificate or complying development certificate	Fee for pre lodgement meetings to be paid at or before lodgement of construction certificate. Also includes a fee for confirmation in writing that development is complying development prior to lodgement of Complying Development Certificate. It is not compulsory to have these pre-lodgement meetings.	Taxable – section 9-5. See Note 6 in Appendix 1 at paragraph 42 of this Ruling.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Pre DA meeting	Fee for pre DA lodgement meetings to be paid at or before lodgement and costs for post lodgement meetings to be paid prior to issue of consent. May be written response with advice and/or an actual meeting. Includes concept or consultation meetings. May also apply to meetings held after lodgement but before determination of the DA. Includes fees for heritage advisor referrals. It is not compulsory to have these pre-lodgement meetings.	Taxable – section 9-5. See Note 6 in Appendix 1 at paragraph 42 of this Ruling.
Recovery of costs incurred in performing a function or reaching a decision	Where council states it will recover (not charge a flat fee for example) costs, could be costs incurred by council in seeking professional advice in the process of deciding an application, certifying matters including a rezoning application; includes holding a public hearing in relation to the amendment of an LEP; includes environmental studies in relation to amendment of a DCP or LEP; Also includes recovery of cost of entry and inspection under section 118G of the EPA Act. Australia.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Registration of dwelling houses fee	For the registration of dwelling houses. As per section 608 of the LG Act.	Exempt – subsection 81-10(5).
Reinstatement fee	Special inspections / reinspections; stockpile inspection; includes an asset integrity charge to cover cost of damage to and accelerated failure of council's adjoining infrastructure due to the impact of road opening, for example.	Out of scope. See Note 7 in Appendix 1 at paragraph 43 of this Ruling.
Review of decision to reject a development application and not determine it	For review of decisions under s82B of the EPA Act. This section applies if a council as consent authority determines that a development application is to be rejected and not determined.	Exempt – subsection 81-10(4).
Review of determination of development application	For review of decisions under section 82A where council has determined a development application. Does not include all development applications but could include the erection of building or work the demolition of a work or building. Includes reviews for DAs not for erection of a building, carrying out of work or demolition; DAs for the erection of a dwelling house less than \$100,000 and for all other DAs of value across a range.	Exempt – subsection 81-10(4).
Fee for review of rejection of development application	Where DA has been rejected and not determined – application is for review of the decision to reject the DA.	Exempt – subsection 81-10(4).
Review of determination of section 96 of the EPA Act modification application	Fee for review of a section 96 of the EPA Act Application.	Exempt – subsection 81-10(4).

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Review of section 96 of the EPA Act or section 96AA of the EPA Act determination	If the person who made an application under section 96 of the EPA Act or section 96AA of the EPA Act is not satisfied with the determination made by council they can apply under section 96AB of the EPA Act for a review of the determination made.	Exempt – subsection 81-10(4).
Review of determination of development application – additional fee if notice of the application is required to be given under section 82A of the EPA Act	In addition to the fee for the review of the determination an additional amount of not more than \$620 if notice of the application is required to be given under section 82A of the EPA Act.	Exempt – subsection 81-10(4).
Fee for change of property address (application fee to alter street address of a property)	Change of property address (application fee to alter street address of a property), renaming or naming of a road, including application, advertising, and gazettal fees. Includes fees charged for certification of levels; ascertaining the level of a property. Also known as Road renaming Fee. As per section 608 of the LG Act.	Exempt – subsection 81-10(5).
Road opening permit fee	This charge is for a permit to open the road or footpath; additional fees may apply for restoration / reinstatement of road or footpath. Includes administration fees and inspection fees associated with the road opening. As per section 138 of the Roads Act.	Exempt – subsection 81-10(4).
Footpath/road damage inspection fee in connection with a building construction certificate	Also includes inspections of footpaths to determine their condition. Reinspection fee of site where inspection requested but work not complete. Fee can only be charged by an entity that is a government related entity.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for application and assessment of traffic management plan	Fee for assessments of traffic management plan and report to traffic committee and includes advertising fee if required. [Could also fit under 'Preparation of Plans fee']. As per section 223 of the Roads Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Road lease fees	Domestic or private uses of roads: hard stand area for car parking purpose, carport structure with hard stand, garage. Also includes fee for assignment of lease. Includes associated advertising fees, if any. May apply where the ratepayer is using council land to park a car, for example, and council allows the ratepayer to lease the space to make the occupation lawful. Includes application and administration fees associated with the lease. As per section 608 of the LG Act.	Taxable – section 9-5. See Note 8 in Appendix 1 at paragraph 44 of this Ruling.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Supervision fee	Admin and supervision charges for new path paving. This fee can be in relation to a council facility or alternatively council may require a council officer or employee to be present when a contractor or entity other than council engages in road or footpath construction, subdivision development or other regulatory activity.	Taxable – section 9-5 (where relates to the hire, use of, or entry to a facility) or Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Identification of road boundaries investigation fee	In accordance with section 18 of the Roads Act, a Roads Authority may cause surveys to be carried out to identify the boundaries of a public road if those boundaries have not previously been identified or if the survey marks used to identify those boundaries cannot be located or ascertained. If the surveys are conducted on the application of a person other than a public authority, the applicant is liable to pay to the Roads Authority the costs incurred in carrying out the surveys including public notice and plan registration costs.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for road widening certificate	Application to widen road; road widening order. As per sections 22 to 28 of the Roads Act.	Exempt – subsection 81-10(5).
Rock anchor placement fee	Rock anchor placement fee. Rock anchors are used to support council land adjoining development sites under construction. Some councils have a rock anchor policy in place that requires council's approval prior to placement of a rock anchor. This fee is for the permission to place the rock anchor. As per section 608 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for application to NSW Planning for concurrence under SEPP No. 1 – Development Standards.	Under NSW planning legislation a person who has lodged a development application may, under the provisions of SEPP No. 1, request that development standards be varied.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Strata certificate	Fee for a strata certificate (including for a Complying Development Strata Certificate); Includes the fee for termination of a strata scheme – signature of council. Also includes inspection. As per section 37 of the Strata Schemes Act. This can be issued by a private certifier under section 37A of the Strata Schemes Act.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Subdivision certificate fee	Issuing of a Part 4A certificate under the EPA Act. Includes fees for subdivision under paragraph 109C(1)(d) of the EPA.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations. or Exempt – subsection 81-10(5) (where it is for a copy of certificate).

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Subdivision inspection fee	Fees for inspections associated with subdivision including roads standards inspections. After 1st requested inspection of site in response to claims by applicants that a development is complete and ready for linen release when in fact all the relevant conditions have not been complied with, all other subsequent inspections to be charged. Also includes compliance inspections of engineering works in subdivisions. Linen checking fee.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Consolidation of lots application fee	Where various connected parcels of land need to be consolidated under one title.	Exempt – subsection 81-10(4).
Development application fee for subdivisions of land or strata subdivisions	Development Application fee for subdivisions of land or strata subdivisions, involving or not involving the opening of a road. Includes 'final plan fees' where applicable.	Exempt – subsection 81-10(4).
Fee for resigning subdivision plans	Also includes the fee for resigning of incorrect strata plans. As per section 608 of the LG Act.	Exempt – subsection 81-10(5).
Linen plan checking fee	Also includes Linen plan handling for all types of subdivisions, DCPs, LEPs, Policies. As per section 608 of the LG Act.	Exempt – subsection 81-10(5).
Fee for costs incurred in undertaking activities, under sections 23 and 23A of the Swimming Pools Act	Fee for the inspection of a private swimming pool and other activities carried out by council pursuant to enforcement powers under the Swimming Pools Act (e.g. fences and signs). As per sections 23 and 23A of the Swimming Pools Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for inspection /reinspection of public swimming pools and spas, including testing of water	Inspection/ reinspection of Public Swimming Pools and spas, including testing of water. As per section 192 of the LG Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Fee for planting trees	Planting trees in a subdivision, for example. Charge per tree. As per section 608 of the LG Act.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.
Change of use fee	A person must not effect a change of building use for the whole or any part of an existing building unless an occupation certificate has been issued in relation to the building or part. Fee for change of use of premises where no building work, other than exempt development, is proposed. As per regulation 250 of the EPA Regulation.	Exempt – subsection 81-10(4).
Excavation and other services or supplies charge	Fee for provision of excavation and other related services, as well as provision for any accessories involved in any such works, such as drainage pipes, removal of excavated matter, construction of manhole, gully pit, kerb interfaces etc. As per section 608 of the LG Act.	Taxable – section 9-5. See Note 1 in Appendix 1 at paragraph 37 of this Ruling.

<b>Fees and Charges</b>	<b>Description</b>	<b>GST Treatment</b>
Application fee for section 54 of LG Act certificate	Fees associated with obtaining a certificate for the current classification of council land. As per section 54 of the LG Act.	Exempt – subsection 81-10(5).
Application fee for activity requiring special consideration under Part 5 of the EPA Act – Environmental Impact Statement	Application fee for activity requiring special consideration under Part 5 EPA Act – Environmental Impact Statement. As per section 111 of the EPA Act.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.
Joint regional planning panel assessment fees	The joint regional planning panels provide independent, merit based decision making on regional development. Regional development is development which is notified and assessed by a local council and then determined by the relevant regional panel. It is the responsibility of the relevant local council to carry out a proper and professional assessment of a proposal for the panel's determination of the DA. Upon completion by the council assessment officer, the assessment report and recommendation on the DA is forwarded to the Panel Secretariat and form a part of the business papers which are distributed to each panel member of the relevant panel one working week prior to the public panel meeting.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations.

## Appendix 1 – Explanation

**❶** *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

### Taxable supply

19. Subsection 7-1(1) provides that GST is payable on taxable supplies. As such, Council is liable to pay the GST payable on any taxable supply it makes. Section 9-5 states:

#### **9-5 Taxable supplies**

You make a **taxable supply** if:

- (a) you make the supply for \*consideration;
- (b) the supply is made in the course or furtherance of an \*enterprise that you carry on;
- (c) the supply is \*connected with Australia; and
- (d) you are \*registered, or \*required to be registered.

However, the supply is not a \*taxable supply to the extent that it is \*GST-free or \*input taxed.

(\*Asterisked terms are defined in the Dictionary in section 195-1.)

20. As Council is registered for GST and makes supplies in carrying on its enterprise in Australia, the issue that arises under section 9-5 is whether such supplies are supplies for consideration.

21. Section 9-39 provides special rules in relation to making taxable supplies. In particular, item 8 in the table in section 9-39 provides that where there is a payment of taxes, fees and charges the special rules in Division 81 may apply.

### Division 81

#### **Australian tax**

22. Section 81-5 considers the effect of the payment of a tax. It states:

#### **81-5 Effect of payment of tax**

##### *Australian tax not consideration*

- (1) A payment, or the discharging of a liability to make a payment, is not the provision of \*consideration to the extent the payment is an \*Australian tax.

##### *Regulations may provide for exceptions*

- (2) However, a payment you make, or a discharging of your liability to make a payment, is treated as the provision of \*consideration to the extent that payment is an \*Australian tax that is, or is of a kind, prescribed by the regulations.



- (3) For the purposes of subsection (2), the \*consideration is taken to be provided to the entity to which the tax is payable, for a supply that the entity makes to you.

23. The term 'Australian tax' is defined in section 195-1 as:

**Australian tax** means a tax (however described) imposed under an \*Australian law.

## ***Australian fees and charges***

24. Sections 81-10 and 81-15 consider the effect of certain fees and charges and state:

### **81-10 Effect of payment of certain fees and charges**

#### *Certain fees and charges not consideration*

- (1) A payment, or the discharging of a liability to make a payment, it is not the provision of \*consideration to the extent the payment is an \*Australian fee or charge that is of a kind covered by subsection (4) or (5).

#### *Prescribed fees and charges treated as consideration*

- (2) However, a payment you make, or a discharging of your liability to make a payment, is treated as the provision of consideration to the extent the payment is an \*Australian fee or charge that is, or is of a kind, prescribed by the regulations.
- (3) For the purposes of subsection (2), the consideration is taken to be provided to the entity to which the fee or charge is payable, for a supply that the entity makes to you.

#### *Fees or charges paid for permissions etc.*

- (4) This subsection covers a fee or charge if the fee or charge:
  - (a) relates to; or
  - (b) relates to an application for;

the provision, retention, or amendment, under an \*Australian law, of a permission, exemption, authority or licence (however described).

#### *Fees or charges relating to information and record-keeping etc.*

- (5) This subsection covers a fee or charge paid to an \*Australian government agency if the fee or charge relates to the agency doing any of the following:
  - (a) recording information;
  - (b) copying information;
  - (c) modifying information;
  - (d) allowing access to information;

- (e) receiving information;
- (f) processing information;
- (g) searching for information.

#### **81-15 Other fees and charges that do not constitute consideration**

The regulations may provide that the payment of a prescribed \*Australian fee or charge, or of an Australian fee or charge of a prescribed kind, or the discharging of a liability to make such a payment, is not the provision of \*consideration.

25. The term 'Australian fee or charge' is defined in section 195-1 as:

**Australian fee or charge** means a fee or charge (however described), other than an Australian tax, imposed under an \*Australian law and payable to an \*Australian government agency.

#### ***Australian law***

26. The term 'Australian law' is defined by section 995-1 of the *Income Tax Assessment Act 1997* (ITAA 1997) and relevantly includes a State law. It includes acts and law making powers which are delegated by parliaments, such as regulations, by –laws, proclamations and orders made under Acts.

#### ***Australian government agency***

27. The term 'Australian government agency' is defined by section 995-1 of the ITAA 1997. 'Australian government agency' means:

- the Commonwealth, a State or Territory; or
- an authority of the Commonwealth or of a State or a Territory.

28. For the purposes of Division 81, it is accepted that Council comes within the definition of an Australian government agency.

#### ***GST Regulations***

29. Division 81 gives effect to the principles contained in the *Intergovernmental Agreement on Federal Financial Relations* (Intergovernmental Agreement). Payments of taxes are exempt from the GST. Payments of fees and charges generally constitute consideration and if the requirements of section 9-5 are satisfied, the payment is for a taxable supply. Some supplies are excluded and are exempt. Division 81 provides for Regulations that prescribe payments that constitute consideration for a supply and, conversely, prescribe payments that do not constitute consideration.

## **Australian fees and charges that constitute consideration**

30. Regulation 81-10.01 of the GST Regulations sets out those fees and charges that do not fall within the principles contained in the Intergovernmental Agreement, and therefore supplies to which they relate are not intended to be exempt from GST. These fees or charges include a fee for the non-regulatory provision of information and a payment for a commercial sale of books by a government bookshop. These fees or charges are treated as consideration for a taxable supply if the other conditions of section 9-5 are met.

31. Regulation 81-10.01 of the GST Regulations also ensures that the regulatory activities of government made in competition with the private sector are subject to GST where the other requirements of section 9-5 are satisfied.

32. The ES explains that the regulations ensure that the regulatory activities of government made in competition with the private sector are subject to GST where the other requirements of section 9-5 are satisfied. It states:

Fees and charges in this category are not excluded from being consideration for a taxable supply. This is consistent with the National Competition and Consumer Policy guidelines and ensures that a government entity is not given a competitive advantage over a private sector supplier making the same type of supply

This covers situation in which government agencies have authorised private agencies to perform activities that form part of a regulatory process to be followed. Where government agencies, as well as government certifiers, have authorised private certifiers to perform certification activities these fees and charges will continue to be consideration for a supply that is subject to GST. This ensures competitive neutrality between supplies made by government and non-government agencies.

This paragraph applies only where a government agency is providing a supply in a competitive market, or where private suppliers have been accredited or authorised to make a supply over which the agency would otherwise have a monopoly.

This paragraph does not cover supplies of information that are regulatory in nature and can only be supplied by government agencies, notwithstanding that the public may obtain such information through a private sector supplier acting as a conduit for the information from the government agency. The supply is only a taxable supply where the private sector entity charges for the supply in its own right.

## **Australian fees and charges that do not constitute consideration**

33. Regulation 81-15.01 of the GST Regulations sets out those fees and charges that are prescribed for section 81-15 and which do not constitute consideration. Because these fees and charges do not constitute consideration, the supplies to which they relate, if any, do not satisfy the requirements of section 9-5 and are not taxable supplies.

34. Those prescribed include a fee or charge imposed on an industry to finance regulatory or other government activities connected with the industry and a fee or charge for a supply of a regulatory nature made by an Australian government agency.

35. If a payment is not the provision of consideration because it is covered by subsections 9-17(3) or (4), then it is not a prescribed fee or charge to which subsection 81-10(2) would apply.

**Australian fees and charges covered by both regulations 81-10.01 and 81-15.01 of the GST Regulations**

36. If a fee or charge is covered by both regulations 81-10.01 and 81-15.01 of the GST Regulations, regulation 81-15.02 of the GST Regulations determines which regulation would prevail. For example, a fee for recovering the costs for usage of facilities is covered by both paragraph 81-10.01(c) and paragraph 81-15.01(d) of the GST Regulations. In such a situation, subregulation 81-15.02(2) of the GST Regulations provides that paragraph 81-10.01(c) of the GST Regulations would prevail and the fee would constitute consideration.

**Notes**

37. **Note 1** – Where fees and charges are for a supply that can be provided in a competitive market by an entity that is a non Australian government agency they are not exempt under Division 81. These supplies may satisfy subsection 81-10(4) as being the provision of a permission or paragraph 81-15.01(1)(f) of the GST Regulations as being for a supply of a regulatory nature by virtue of section 81-15, however, subregulation 81-15.02(2) applies to treat the payment as being for consideration if the fee or charge is also covered by paragraph 81-10.01(1)(h) of the GST Regulations.

Paragraph 81-10.01(1)(h) of the GST Regulations is about a fee or charge for a supply that can also be made in a competitive market by an entity that is not an Australian government agency.

38. **Note 2** – Advertising fees for applications under the EPBC Act were previously treated as taxable supplies. However, the effect of the Division 81 amendments mean that from 1 July 2011 the fee and charge can be treated as exempt as it is the provision of a permission for the purposes of subsection 81-10(4).

39. **Note 3** – Some fees or charges were previously treated as exempt because the fee or charge was listed in the Treasurer's Determination. However, the fee or charge becomes taxable from 1 July 2013, for example because it is a fee or charge to which paragraph 81-10.01(1)(h) of the GST Regulations applies.

40. **Note 4** – A fee, for example a development application collected by council on behalf of an approval authority, is not the provision of consideration for any supply Council has made. However, it may be for the provision of consideration for a supply made by another entity. The entity making the supply is required to assess the GST treatment of the supply.

41. **Note 5** – An additional fee, where for example a development consent, construction certificate or complying development certificate was not obtained and a penalty was issued as a result, does not satisfy the requirements of section 9-5 and is therefore exempt. Additionally, other fees, for example a fee to issue an order or notice of intention to issue an order, are exempt because they do not satisfy the requirements of section 9-5 and are in the nature of a penalty or fine.

42. **Note 6** – The fee for a pre-lodgement meeting for a construction certificate or complying development certificate and the fee for a pre-DA meeting is for the provision of consideration because of paragraph 81-10.01(1)(e) of the GST Regulations and is a taxable supply. This advice is pre-lodgement advice that relates to the provision of a permission for the purposes of subsection 81-10(4) and it is not compulsory to seek the advice.

43. **Note 7** – Reinstatement fee does not satisfy section 9-5 because there is no supply being made and is merely a supply for damages (Goods and Services Tax Ruling GSTR 2001/4 *Goods and services tax: GST consequences of court orders and out-of-court settlements*).

44. **Note 8** – Road lease fee is for the provision of consideration and is a taxable supply under section 9-5 because of paragraph 81-10.01(1)(g) of the GST Regulations. The fee is of a non-regulatory nature.

45. **Note 9** – The development application (bundled fee) and any certificates such as construction or occupation certificates requires unbundling to ascertain the GST treatment of the individual fees. The fee for the development application is exempt under subsection 81-10(4). However, the fee for the construction and occupation certificates is taxable under subsection 81-10(2) as these supplies can be provided in a competitive market by an entity that is not an Australian government agency (see Note 1 at paragraph 37 of this Ruling).

## **Appendix 2 – Detailed contents list**

46. The following is a detailed contents list for this Ruling:

	<b>Paragraph</b>
<b>What this Ruling is about</b>	<b>1</b>
Relevant provision(s)	2
Class of entities	3
Qualifications	5
<b>Date of effect</b>	<b>9</b>
<b>Scheme</b>	<b>10</b>
<b>Ruling</b>	<b>16</b>
<b>Appendix 1 – Explanation</b>	<b>19</b>
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Australian fees and charges that constitute consideration	30
Australian fees and charges that do not constitute consideration	33
Australian fees and charges covered by both regulations 81-10.01 and 81-15.01 of the GST Regulations	36
<i>Notes</i>	37
<b>Appendix 2 – Detailed contents list</b>	<b>46</b>

## References

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

TR 2006/10

*Subject references:*

- Goods and services tax
- government entities
- government related entities
- local government

*Legislative references:*

- ANTS(GST)A99 81
- ANTS(GST)A99 81-5
- ANTS(GST)A99 81-5(1)
- ANTS(GST)A99 81-10
- ANTS(GST)A99 81-10(2)
- ANTS(GST)A99 81-10(4)
- ANTS(GST)A99 81-10(5)
- ANTS(GST)A99 81-15
- ANTS(GST)A99 195-1
- ANTS(GST)R99 81-10.01
- ANTS(GST)R99 81-10.01(1)(e)
- ANTS(GST)R99 81-10.01(1)(f)
- ANTS(GST)R99 81-10.01(1)(g)
- ANTS(GST)R99 81-15.01
- ANTS(GST)R99 81-15.01(1)(d)
- ANTS(GST)R99 81-15.01(1)(f)
- ANTS(GST)R99 81-15.01(1)(h)
- ITAA 1997 995-1
- Local Government Act 1993
- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- Conveyancing Act 1919
- Swimming Pools Act 1992

- Roads Act 1993
- Strata Schemes (Freehold Development) Act 1973
- Water Management Act 2000
- Noxious Weeds Act 1993
- Environmental Protection and Biodiversity Conservation Act 1999
- TAA 1953
- Copyright Act 1968

*Case references:*

- Roy Morgan Research Pty Ltd v. CMR of Taxation [2011] HCA 35
- Matthews v. Chicory Marketing Board (Vict) (1938) 60 CLR 263
- Air Caledonie International v. Commonwealth (1988) 165 CLR 462

*Other references:*

- ANTS(GST)(ETFC) 2011 No.1
- EM to Tax Laws Amendment (2011 Measures No. 2) Act 2011
- State Environmental Planning Policy No. 1
- State Environmental Planning Policy No. 4
- State Environmental Planning Policy No. 5
- State Environmental Planning Policy No. 33
- Sydney Local Environmental Plan 2005
- Sydney Local Environmental Plan 2005 62
- ANTS(GST) Amendment Regulation 2012 (No.2) (ES)

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ATO references

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