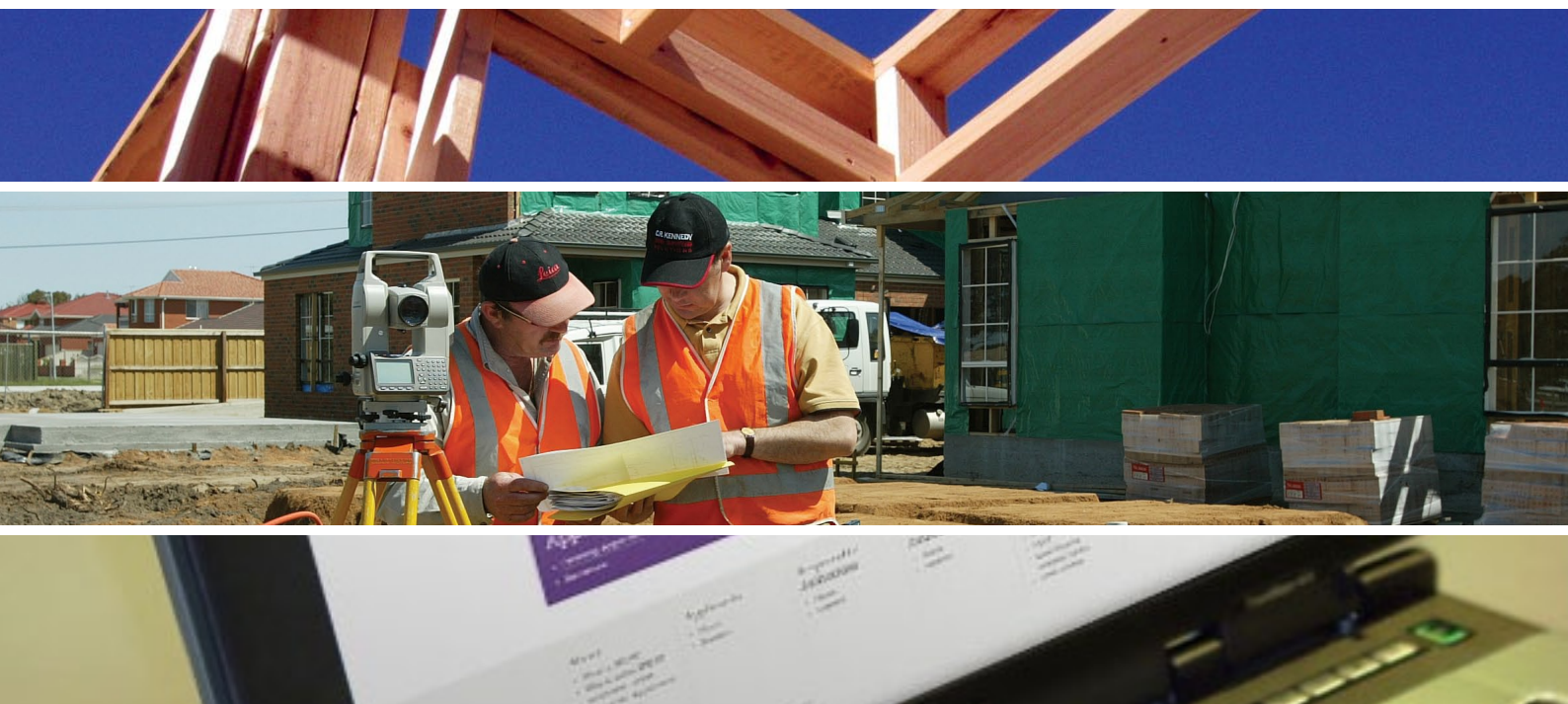


Subdivision (Registrar's Fees) (Amendment) Regulations 2011

Regulatory Impact Statement November 2011



SUBDIVISION (REGISTRAR'S FEES) (AMENDMENT) REGULATIONS 2011

REGULATORY IMPACT STATEMENT

This Regulatory Impact Statement (RIS) has been prepared to fulfil the requirements of the *Subordinate Legislation Act 1994* and to facilitate public consultation on the proposed Subdivision (Registrar's Fees) (Amendment) Regulations 2011.

In accordance with the Victorian Guide to Regulation, the Victorian Government seeks to ensure that proposed regulations are well-targeted, effective and appropriate, and impose the lowest possible burden on Victorian business and the community.

A prime function of the RIS process is to help members of the public comment on proposed statutory rules before they have been finalised. Such public input can provide valuable information and perspectives, and thus improve the overall quality of the regulations. The proposed Regulations are being circulated to key stakeholders and any other interested parties, and feedback is sought. A copy of the proposed Regulations is provided as an attachment to this RIS.

Public comments and submissions are now invited on the proposed Subdivision (Registrar's Fees) (Amendment) Regulations 2011. Unless otherwise indicated, all submissions will be treated as public documents and will be made available to other parties upon request. Written comments and submissions should be forwarded by **5:00pm, 16th December 2011** to:

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Land Victoria
Department of Sustainability and Environment
PO Box 500
East Melbourne VIC 8002

or email:
Christopher.Shea@dse.vic.gov.au

This Regulatory Impact Statement was prepared for Land Victoria by Regulatory Impact Solutions Pty Ltd.

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Abbreviations

DSE – Department of Sustainability and Environment

Fee units – fees units are defined under the *Monetary Units Act 2004*. A fee unit for 2011/12 is prescribed at \$12.22.

Guidelines – Victoria’s Cost Recovery Guidelines (Department of Treasury and Finance)

LV – Land Victoria

MCA – Multi-criteria analysis

Premier’s Guidelines – Subordinate Legislation Act 1994 Guidelines

RIS – Regulatory Impact Statement

SPEAR – Streamlined Planning through Electronic Applications and Referrals

the Act – *Subdivision Act 1988*

the current Regulations – Subdivision (Registrar’s Fees) Regulations 2004

the proposed Regulations – Subdivision (Registrar’s Fees) (Amendment) Regulations 2011

VCEC – Victorian Competition and Efficiency Commission

VGR – Victorian Guide to Regulation (Department of Treasury and Finance)

Executive Summary

Purpose of a Regulatory Impact Statement

In Victoria the *Subordinate Legislation Act 1994* requires that new regulatory proposals that impose a ‘significant economic or social burden on a sector of the public’ will require the preparation of a Regulatory Impact Statement (RIS). Fee regulations that increase existing fees that generate additional revenue of \$500,000 or more per year also require assessment in a RIS.¹

A RIS formally assesses regulatory proposals against the requirements in the *Subordinate Legislation Act 1994* and the *Victorian Guide to Regulation*. This RIS:

- examines the problem to be addressed by the proposed Regulation;
- specifies the desired objectives of the proposed Regulation;
- identifies viable options that will achieve the desired objectives;
- assesses the costs and benefits of the options;
- identifies the preferred option and describes its effect;
- assesses the proposed Regulations’ impact on small business and undertakes a competition assessment;
- considers implementation and enforcement issues; and
- documents the consultation undertaken.

Background

SPEAR (Streamlined Planning through Electronic Applications and Referrals) is an electronic online system which streamlines the planning and subdivision process. SPEAR provides for electronic lodgement and delivery of all permit applications and other documents needed to enable better, faster, less labour-intensive and cheaper compliance with regulatory requirements. SPEAR has been fully operational since 2005. Land Victoria (LV) administers the SPEAR system. LV also administers the Torrens system for registration of all interests in land, including subdivisions and consolidations, within Victoria. LV requires funding to operate the SPEAR system.

SPEAR is providing savings to land developers, surveyors, councils and referral authorities in the form of reduced operating costs and reduced holding costs arising from SPEAR generated efficiencies. Based on objective external analysis, at current take-up rate of SPEAR, these savings have been estimated as follows:

- surveyors – \$2.3 million per annum;
- councils – \$1 million per annum; and

¹ Government of Victoria, 2011, *Victorian Guide to Regulation*, Department of Treasury and Finance, Melbourne, p. 54

- developers – \$37 million per annum, predominantly through savings in holding costs.²

The efficient functioning of the SPEAR system will lower transaction and holding costs associated with Victoria's planning and subdivision processes.

Why review the fees now?

The current fees were set in statutory rules (regulations) in 2007, which amended the Subdivision (Registrar's Fees) Regulations 2004. Given that regulations in Victoria expire after 10 years, these regulations normally would have been reviewed in 2014.³ However, given that the SPEAR system is relatively new and the fees set in 2007 were based on a number of assumptions, LV considers that after nearly five years of operation, these assumptions should be reviewed and the SPEAR fee levels re-evaluated.

Since the introduction of SPEAR there have been significant increases in the number of users with greater support costs and substantial enhancements and development of SPEAR's software and functionality, predominantly made in response to user requests. This entailed additional costs beyond those estimated in 2007. To ensure that SPEAR receives adequate funding until 2014, a review of the current cost base is considered necessary.

Objectives of the fees

It is important at the outset to recognise that this RIS does not seek to examine the costs and benefits of the SPEAR system itself. It is limited to examining the **recovery of efficient costs** associated with the SPEAR system, i.e., those costs that LV incurs as a result of administering and developing the SPEAR system (whereas the costs and benefits of SPEAR embraces a much broader concept, e.g., costs and benefits to a range of stakeholders).

The primary Victorian Government policy concerning the proposed Regulations is the Victorian Government's *Cost Recovery Guidelines*. These guidelines highlight the general government policy that regulatory fees and user charges should be set on a full cost-recovery basis because it ensures that both efficiency and equity objectives are met.⁴

Therefore, the primary objective of the Subdivision (Registrar's Fees) (Amendment) Regulations 2011 is to set subdivision fees to recover efficiently the operating costs of the SPEAR system. This will ensure that SPEAR is funded by those who use the system rather than being funded by the broader community.

Problem to be addressed

In 2007 the cost of administering the SPEAR system was estimated to be \$2.57 million per annum, and fees were set in the current Regulations to cost-recover this amount.⁵ In

² Department of Sustainability and Environmental, 2010, *Regulatory Change Measurement(s) of Change in Regulatory Burden from SPEAR: Final Report*, prepared by KPMG, August 2010, East Melbourne, p. 5

³ There is also a duty under the *Financial Management Act 1994* to review fees annually.

⁴ Department of Treasury and Finance, 2010, *Cost Recovery Guidelines*, Melbourne, p. 7

⁵ The *Monetary Units Act 2004* automatically indexes fees by an annual rate set by the Treasurer. In 2010/11 the fees raised \$2.77 million.

mid-2011 LV reviewed these costs in light of enhancements and further development of the SPEAR system. LV has now determined that the cost of administering the SPEAR system is in the order of \$4.95 million. Therefore, the current fees are under recovering LV administrative costs by around \$2.18 million per annum.

Options considered

LV has considered a number of options for obtaining the required funds. The first consideration assessed was whether costs should be fully or partially recovered. In cases where the benefits of consuming a good or service accrue to the individual, there is a strong case that the party consuming and benefiting from the good or services to pay for its provision. The consumption of 'subdivision services' by property owners or developers clearly has private benefits and therefore a strong case for 'beneficiary pays' can be made. Therefore, full cost-recovery was considered to be the most appropriate option.

Once the level of cost-recovery was determined (i.e., full cost-recovery), further options were considered on how to raise the fees in the most efficient, effective and equitable manner. The 'fee design' options considered in this RIS included:

Option 1 – fund SPEAR by charging councils a participation fee, or

Option 2 – fund SPEAR by increasing fees under the *Subdivision Act 1988*.

Option 1 was not considered appropriate because of the additional layer of bureaucracy and administrative complexity added in order to recover these fees from 79 councils. Option 2 was preferred because it aligns fee collections with users of subdivisional services and thus is efficient and fair.

An option examined but not considered practicable was for the Victorian Government to fund the required increase by direct expenditure. This effectively would result in a cross subsidy from members of the Victorian community. Cross subsidies are generally considered inconsistent with the government's cost recovery principles and can reduce allocative efficiency.

Preferred option and proposed fees

LV has determined the most appropriate option for funding SPEAR is to increase registration fees payable on plans of subdivision and consolidation. This option maintains a uniform increase across the market and is the most efficient option to implement. Therefore the primary benefit of the proposed Regulations is that they are considered to be the most efficient and effective means to recover costs from users to support the maintenance and development of the SPEAR system.

Given that the Government's annual cost to operate SPEAR is approximately \$4.95 million, it is proposed to change the fee levels for registration of plans of subdivision and consolidation as illustrated in Table 1 below.⁶ Attachment A contains a full list and

⁶ Land Victoria levies statutory fees for the registration of a variety of land related instruments pursuant to its powers under the *Transfer of Land Act 1958* and the *Subdivision Act 1988*. Statutory fees are already in place for the registration of plans of subdivision (see *Subdivision (Registrar's Fees) Regulations 2004*). These fees

description of the fee proposal. The proposed fee increases only relate to new initiatives or ongoing maintenance of new developments made since 2007. The proposed fees do not seek to recover any costs that have been incurred in the past.

Table 1: Impact of proposed Subdivision (Registrar's Fees) (Amendment) Regulations

Fee description	Current (\$)	Proposed (\$)	(%) Change
Fee for registering a plan of subdivision	609.90	721.30	18
Fee per lot in excess of two	133.10	157.30	18
Plus every plan supported by a survey	299.40	355.00	18

The incremental impact of the proposed fees will be that an additional \$2.18 million per annum will be collected from property developers. The total amount of revenue raised from the proposal is in the order of \$5.1 million (PV) for the remaining period of the proposed Regulations.⁷

It is important to note that the proposed fee increases will also be applied to paper-based transactions under the *Subdivision Act 1988* and *Transfer of Land Act 1958* and this will result in a temporary subsidy in the order of \$430,000 in total or about \$260 per paper application at 80 per cent uptake of SPEAR. The total subsidy reduces in direct proportion to the increases in SPEAR uptake. SPEAR has a current implementation plan to complete the signing up of the remaining metropolitan and larger provincial councils in 2011/12 year and to have all councils on SPEAR during 2012/2013, so any implied subsidy should quickly reduce. Overall, Land Victoria considers that the advantages of reducing the minor subsidy are not outweighed by creating a more complex fee structure.

In terms of the cost base for processing applications, LV considers that the total cost of processing paper-based applications has not fallen as much as expected due to a fixed cost component. Therefore, at this stage there has not been an adjustment in the cost base to take into account any reduction in costs from processing paper-based applications. The total costs for paper-based applications are expected to fall over time and will be reflected in a full cost review undertaken in 2014.

Small Business & competition impacts

It is considered that the increased level of subdivision fees will not impose a barrier to entry for smaller developers. The proposed fees form only a small proportion (less than 2 per cent) of the total cost of developing a subdivision allotment.⁷ Since the current fees were introduced in 2007, stakeholders have not raised the fee levels as an issue which may restrict competition or stifle small business. Consequently, this RIS finds that the proposed fees will not disproportionately affect small business, nor will they impose restrictions on competition.

do not cover the costs incurred by councils in processing subdivision applications. These are recovered under separate Statutory Rules.

⁷ In 2007 the cost of a subdivision was estimated at an average of \$40,000 per allotment in Victoria.

Enforcement and compliance issues

Registration fees on plans of subdivision are paid to LV at the time of plan lodgement. The plan will not be accepted for lodgement unless the full fee is paid. Given these circumstances, enforcement issues are not a concern for this proposal.

Given that similar regulations have been in operation for almost 20 years, and stakeholders are familiar with the fee arrangements, no transitional issues are expected.

Evaluation and preliminary consultation

When regulations are remade, the government assesses whether its objectives are being met, whether practical experience suggests ways in which they can be improved, or whether a different regulatory approach is warranted. Final development of the regulations is informed by public input through the RIS process. In this regard, the proposed fees will be formally **reviewed in 2014** as part of the RIS process when the Subdivision (Registrar's Fees) Regulations 2004 expire.

Conclusion

This Regulatory Impact Statement concludes that:

- the proposed fees are set in accordance with the cost-recovery principles contained in the *Victorian Guide to Regulation and Cost Recovery Guidelines*
- the proposed Regulations do not impose restrictions on competition, and
- the fee levels are unlikely to disadvantage small business.

Public Consultation

The primary objective of the RIS process is to inform members of the public and seek comment on proposed Regulations before they are finalised. While comments on any aspect of the proposed Regulations are welcome, stakeholders may wish to comment on the following consultation points.

- Is full cost recovery the appropriate level to recover fees or should partial cost recovery be considered in some instances?
- Should the proposed fee increase be applied to paper-based applications or should the proposed fee increase only be applied to SPEAR users?
- Do the advantages of having a single rate for both paper and SPEAR applications (i.e., a less complex fee structure) outweigh the disadvantages associated with the minor subsidy?
- Should the different rates contained in regulation 4 be streamlined or simplified?
- Is local government best placed to levy and collect these fees?

- Are there any practical difficulties, transitional or implementation issues associated with the preferred option?
- Are there any problems with the current fees not addressed or considered in this RIS?

Public comments and submissions are now invited on the proposed Subdivision (Registrar's Fees) (Amendment) Regulations 2011 (refer page 2 for contact details).

Description of the proposed Regulations

The draft Subdivision (Registrar's Fees) (Amendment) Regulations 2011 are attached to this RIS as attachment F. The clauses of the proposed Regulations are described below:

Regulation 1 sets the objectives of the regulations, which is to amend the Subdivision (Registrar's Fees) Regulations 2004 to increase certain fees payable to the Registrar of Titles under the *Subdivision Act 1988*.

Regulation 2 authorises that the regulations are under section 43 of the *Subdivision Act 1988* and sections 97(1) and 120 of the *Transfer of Land Act 1958*.

Regulation 3 provides that the regulations will come into operation on 1 March 2012.

Regulation 4 substitutes regulation 6(1) of the Subdivision (Registrar's Fees) Regulations 2004 with a new table of fees for lodging documents. In all, 31 fee items are prescribed, which set the fees under the *Subdivision Act 1988* with respect to sections 22, 22(1B), 23, 24(A), 26, 27E(1), 32AI, 32A, 32AD, 32B, 33(1), 34 (2), 34G(4), 34H(1), 35, 37, 44(4A), 44(5), and 44(5A).

1. What is the issue/problem to be addressed?

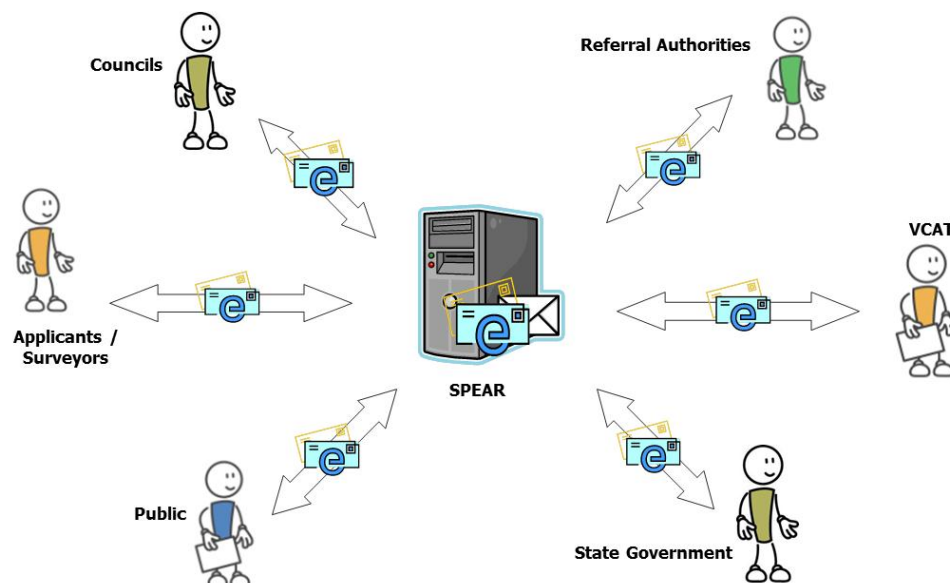
1.1 Background

LV is responsible for administering, amongst other things, the registration of plans of subdivision under the *Subdivision Act 1988* (the Act). The process leading to plan registration involves several interdependent parties:

- **land owners**, who seek to develop the land;
- **surveyors**, who the landowners employ to prepare and lodge the plan;
- **councils**, which assess the merits of the planning permit application and the proposed plan;
- **referral authorities**, (such as the Victorian water authorities and the service organisations for telecommunications, gas and electricity), who decide whether they require easements or other matters to be incorporated into the plan; and
- **Land Victoria**, which examines the plan for survey accuracy, registers the plan and creates folios for new lots created.

SPEAR is a system to automate and manage the planning, subdivision and referral process in a more efficient way. It allows for online lodgement and transmission of planning permit applications, subdivision plans and all associated communications (including objections). It provides online status of the progress of every application in the SPEAR system, alleviating the frustration and resource intensiveness of telephone calls to ascertain progress. Each of the parties accesses SPEAR via the internet allowing use of the SPEAR system, which is hosted on LV infrastructure. The parties that interact with SPEAR are illustrated below in Figure 1. Currently, 63 of Victoria's 79 councils have signed up to SPEAR, with another 10 expressing interest.

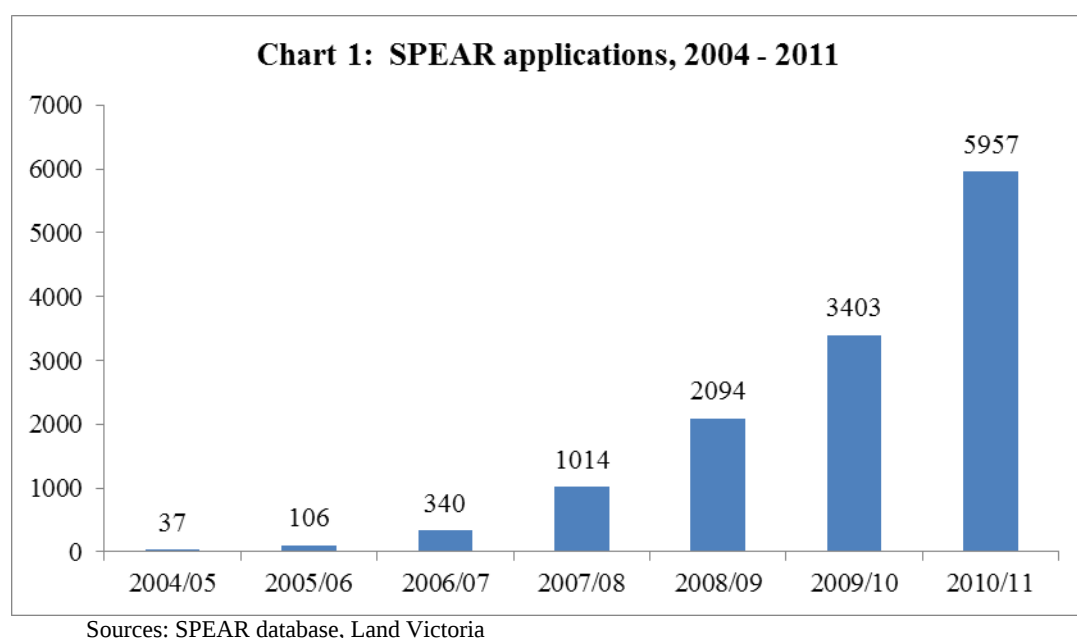
Figure 1: The SPEAR-based approval system



Prior to the introduction of SPEAR, communication between these parties largely occurred by post. This meant that the process of planning approvals took much longer than under the SPEAR system, resulting in delays and uncertainty concerning the stage in the process applications had reached.

Any delay in obtaining planning permission and subdivision approval is costly. In the first instance, the cost falls on developers. Delays mean a longer development phase and either payment of more interest on borrowed funds, or loss of developers' own capital. This leads to higher housing prices as the developer seeks to recoup costs from the ultimate house or land purchaser.

Chart 1 below illustrates that SPEAR has been embraced by developers, surveyors, councils and others. The vast majority of applications submitted to councils use SPEAR. From 2004/05 to 2010/11 there were between 8,000 to 8,500 total applications lodged per annum in Victoria. About 70 per cent were submitted via SPEAR in 2010/11, while currently approximately 80 per cent of applications (monthly) are being received via SPEAR.



1.2 Problem to be addressed

The specific problem the proposed Regulations seek to address is that of cost-recovery. The *Victorian Guide to Regulation* states that the preferred approach is that regulatory fees and user charges should be set on a **full cost-recovery basis** because it ensures that both efficiency and equity objectives are met.⁸ Full cost represents the value of all the resources used or consumed in the provision of an output or activity.

In the absence of the proposed Regulations the Victorian Government would not recover the full regulatory costs incurred by LV associated with activities covered by the current Regulations. This would amount to a short-fall of approximately \$2.18 million in cost recovery. The current and additional costs are shown in Table 2 below. Other things being equal, LV would need to reduce resources to other areas or receive funding from general

⁸ DTF 2011, *ibid.*, Section 3.2.13 and DTF 2011, *ibid.*, p. 7

revenue (i.e., receive a subsidy from the community). The alternative to this would be that LV would need to significantly reduce SPEAR services.

Table 2: Costs of SPEAR system

Cost Item	2010/11 SPEAR Allocation** (\$'000)	2012/13 SPEAR Allocation** (\$'000)	Difference (\$'000)
<i>Facilities Management Costs*</i>			
Annual hosting, hardware and database facilities management	374	374	0
Annual software licences fees	37	37	0
Hardware refresh and disaster recovery services (amortised over 3 years)	0	332	332
<i>Software Applications Support / Enhancement Costs*</i>			
User support for production and technical services	410	650	240
	(0.8 FTE)	(1.2 FTE)	
User enhancements and increased functionality	818	1750	932
	(1.2 FTE)	(1.8 FTE)	
<i>SPEAR Business Costs</i>			
Help desk, user registration and account management, user training, user group management, and operating	878	1434	556
	(8.6 FTE)	(12.6 FTE)	
<i>Land Victoria Costs</i>			
Survey, legal and plan registration expertise	253	370	117
	(2.4 FTE)	(3.5 FTE)	
Total SPEAR costs	2,770	4,947	2,177

Source: Land Victoria

An explanation of these figures is contained in [Attachment B](#).

2. Objectives

2.1 Subdivision Act and Transfer of Land Act objectives

The purposes of the *Subdivision Act 1988* include setting out ‘the procedure for the subdivision and consolidation of land, including buildings and airspace’. The purpose of the *Transfer of Land (Electronic Transactions) Act 2004* (which has been incorporated into the *Transfer of Land Act 1958*) is ‘to amend the *Transfer of Land Act 1958* to provide for the lodgement and registration of electronic instruments’.⁹

Together these objectives allow for the Registrar of Titles to develop an electronic system for the processing and lodgement of plans of subdivision and consolidation. In support of these objectives, the *Transfer of Land Act 1958* gives the Registrar of Titles power to provide an ‘electronic lodgement network’ through which electronic instruments may be processed and ultimately lodged for registration.

2.2 Objective of the proposed statutory rule

The objective of the proposed Regulations is to recover government costs in an efficient, effective and equitable manner with respect to the processing and lodgement of subdivision plans under the *Subdivision Act 1988*. This objective has regard to the following considerations:

- Efficiency – fees should be set to enhance allocative efficiency and to minimise distortions and calls on general revenue;
- Effectiveness – fees need to be easy to understand, set in a way to encourage compliance and set at a level to achieve the government’s policy objective; and
- Equity – fees should not create a barrier for smaller businesses to enter the market and should not cross-subsidise services (vertical and horizontal equity).

2.3 Authorising provision

The proposed Regulations are authorised under section 43 of the *Subdivision Act 1988* and sections 97(1) and 120 of the *Transfer of Land Act 1958*:

- Section 43(1)(j) of the *Subdivision Act 1988* authorises the Registrar to prescribe fees for anything done under the *Subdivision Act 1988*;
- Section 120(2)(a) of the *Transfer of Land Act 1958* permits the making of regulations for or with respect to the fees, charges and expenses recoverable by the Registrar in the administration of the Act;
- Section 120(2)(c) of the *Transfer of Land Act 1958* permits the making of regulations for or with respect to the amount to be paid to lodge an instrument or document for registration; and
- Section 97(1) of the *Transfer of Land Act 1958* provides that the *Transfer of Land Act 1958* and the *Subdivision Act 1988* are to be read as one Act.

⁹ The *Subdivision Act 1988* and the *Transfer of Land Act 1958* are to be read as one Act (see section 97(1) *Transfer of Land Act 1958*).

3. Options to achieve the objectives

3.1 Principles of Fee Setting

In May 2010 the Department of Treasury and Finance released its revised *Cost Recovery Guidelines* (the Guidelines) to clarify the policy principles underpinning cost-recovery arrangements.¹⁰ The Guidelines establish a whole-of-government framework thereby ensuring that cost-recovery arrangements in Victoria are transparent, efficient, effective and consistent with legislative requirements and government policy. The Guidelines follow the principle that properly designed cost-recovery arrangements can deliver both equity and efficiency benefits to the community. Equity has two aspects: vertical and horizontal.

Horizontal equity refers to treating people in similar situations in similar ways. In the case of cost recovery, horizontal equity refers to those who benefit from government activities, or those that contribute to the need for government regulation, having to pay the associated costs. This improves equity because it avoids the situation where *all* taxpayers have to pay the associated costs regardless of whether or not they benefit from – or give rise to the need for – the government activity/regulation. *Vertical equity*, on the other hand, refers to those with greater means contributing proportionately more than those with lesser means. In the context of cost recovery, vertical equity may be affected if different charging arrangements apply to different groups of users or industries. For example, concessions may be provided on certain charges to particular user groups (e.g., those on low incomes).¹¹

Cost-recovery may be defined as recouping the costs of government-provided or funded products, services or activities that, at least in part, provide private benefits to individuals, entities or groups, or reflect the costs imposed by their actions. The Guidelines apply to cost-recovery arrangements of government departments and general government agencies and include the recovery of the costs incurred by government in administering regulation (e.g., registration, licensing, issuing of certificates, etc).

As stated in the Guidelines, general government policy is that regulatory fees and user charges should generally be set on a **full cost-recovery basis**; however if it is determined that full cost-recovery is not consistent with other policy objectives of the government then it may not be appropriate to introduce a full cost-recovery regime.

It is also important to ensure that cost-recovery is based on recovery of ‘efficient costs’. Poorly designed arrangements can create incentives for inefficiency and ‘cost padding’. For example, costs may be inflated by poor administration or other practices when departments and agencies know that costs will ultimately be recovered from other parties. Best practice cost recovery arrangements need to ensure that charges based on the minimum cost recovery necessary to deliver the product/activity and still maintain quality or achieve government objectives over time.

¹⁰ DTF 2010, *ibid.*

¹¹ Cost Recovery Guidelines, *ibid.*, pp. 6-7

3.2 Options – Limited to Regulations

In identifying options, it seems reasonable to assume that in certain cases regulatory instruments are the only viable options because they ‘give effect’ or ‘operationalise’ key elements of the Act. While these suppositions should generally be avoided, clause 51 of the Subordinate Legislation Act 1994 Guidelines (the Premier’s Guidelines) states when the Act requires that a thing or matter be prescribed in regulations, then the legislation will dictate the kind of instrument that may be created:

“where the authorising legislation provides for fees to be prescribed in statutory rules, there may be no discretion to set those fees by another method.”¹²

Given the limited discretion, options in this RIS will focus on fee design elements contained in a statutory rule, rather than considering alternative funding options or use of alternative regulatory/economic instruments.

This RIS analyses the proposed fees in two steps: first the level of costs recovered will be considered (i.e., full or partial cost-recovery); and second, individual fees will be designed to recover costs efficiently, equitably and effectively.

3.3 Full or partial cost-recovery

When designed and implemented appropriately, the adoption of cost-recovery has the potential to advance efficiency and equity objectives. However, the Guidelines note that “efficiency and equity considerations may need to be balanced against each other in determining the appropriate form of cost-recovery”.¹³

The Guidelines also set as the main objective, full cost-recovery from the regulatory activity. While this does not preclude partial cost-recovery, it does set out conditions under which partial cost-recovery would be considered appropriate. Partial cost-recovery may be deemed appropriate where:

- merit goods are being provided or where activities generate benefits to unrelated third parties;
- objectives of income redistribution or social insurance are important;
- concessions are deemed appropriate;
- full cost-recovery may undermine innovation and product development;
- the government is providing goods and services on a commercial basis in competition with the private sector; and/or
- cost charging could undermine other objectives.

A departure from full cost-recovery would result in the Victorian community providing a subsidy to landowners and developers of up to \$4.95 million per annum. On the other hand, it is important to set fees at a level that does not deter businesses from participating in the industry.

¹² Subordinate Legislation Act 1994 Guidelines, Revised 2011, clause 51.

¹³ DTF 2010, *ibid*.

In deciding the appropriate nature of fee regimes, an assessment should be made of where the good or service sits on the public-private good continuum. At one end of the public-private good continuum are 'pure public goods', which are non-excludable and non-rivalrous, so that consumption of the good and the benefits arising from that consumption are available to the community as a whole. Such goods are often associated with the free rider problem, which exists when people enjoy the benefits of government-provided goods/services regardless of whether or not they pay for them. Defence, lighthouses or public parks are examples of public goods.¹⁴

At the opposite end of the public-private good continuum are 'private goods', where consumption by one party conflicts with its use by another, and where benefits of consumption only accrue to the consuming party. Under these circumstances, there is a strong case for the party consuming and benefiting from the private good to pay for its provision. The provision of 'subdivision services' to property owners or developers clearly has private good characteristics and therefore a strong case for 'beneficiary pays' can be made.

3.4 Cost recovery for SPEAR

LV has analysed projected ongoing costs for SPEAR over the next three years. This analysis concluded that the profile of SPEAR costs will change over time owing to enhancements and increased functionality. It is anticipated that the new resourcing, which is needed to meet these changes, can be met from the documented cost model (see [Attachment B](#) for details of these costs).

In this RIS, the cost to LV of maintaining and operating the SPEAR system is the target for cost-recovery. Based on detailed consultation with relevant areas of LV, the cost determined to be recovered is \$4.95 million per annum. This amount has increased from \$2.57 million per annum in 2007 (currently \$2.77 million due to indexation). The increased fees will allow LV to continue to administer and develop SPEAR, while recovering the cost of its operations.

It is considered that the costs to be recovered by the proposed Regulations are 'efficient costs'. Of the \$4.95 million, almost 60 per cent of the costs associated with providing SPEAR (i.e., facility management, software applications support and enhancements) will be contestable in the marketplace by way of tendering for service provision. In terms of the additional \$2.18 million associated with the proposed Regulations, LV advise that more than 60 per cent will be contestable. This means that market forces will impose a discipline on the majority of costs to ensure they are efficient.

3.5 SPEAR changes since 2007

The required additional cost-recovery of \$2.18 million has arisen as a result of a significant increase in the number of users and greater support costs, software and hardware enhancements and increased functionality, predominantly provided in response to user requests. Given that SPEAR was a new system there was an element of 'learning by doing', and a large proportion of these costs were not anticipated when the fees were made in 2007.

¹⁴ DTF 2010, *ibid.*, p. 12

Since 2007, the operation of SPEAR has been significantly enhanced. Key changes include:

- the addition of SPEAR Planning (which allows for the processing of planning permits);
- the SPEAR application has been extended to allow for all subdivision types to be lodged in SPEAR;
- the ePlan component of SPEAR has been added; and
- modifications to allow street addressing to be processed efficiently in SPEAR.

Furthermore, the speed and reliability of SPEAR has been improved markedly from the initial service offered with the purchase of new hardware, the setting up of a Disaster Recovery site and the fine-tuning of the way SPEAR works to increase its speed.

In addition there have been many modifications to improve and enhance the work flows for each of the user groups to improve efficiency. Many of these improvements are still currently being made and finalised. LV also conducts two User Group Meetings annually. This group consults with SPEAR users on how the system could be improved. As a result of the process over fifteen hundred user requested enhancements have been logged. LV has developed a detailed list of priority actions to improve SPEAR over the next three years. Details of major changes to the SPEAR system are documented in the Attachment C.

Finally, the business support for subdivision users offered by the SPEAR Service Desk has been significantly enhanced. SPEAR has added support officers and integrated their roles so that the Service Desk offers a prompt, complete and timely addressing of issues and problems and seeks to resolve problems as soon as possible. The SPEAR IT support has also been extended as there are many more subdivision users (now more than 2,500, up from fewer than 100 in 2007) who have technical problems that need to be investigated and resolved in a timeframe that does not hold up their processing or statutory decision-making.

It is important to note that the proposed fee increases recover only new additional costs, not seek to recover costs incurred in previous years. To the extent that LV was under recovering these costs, these have been borne by LV as a whole.

3.6 Fee design options

Given that the level of cost-recovery has been determined (i.e., full cost-recovery), further options were considered in order to raise the fees in the most efficient, effective and equitable manner. The 'fee design' options considered in this RIS included:

Option 1 – fund SPEAR by charging councils a participation fee, or

Option 2 – fund SPEAR by increasing fees under the *Subdivision Act 1988*.

Option 1 – Fund SPEAR by charging councils a participation fee

An alternative to the internal funding of SPEAR is to levy the proposed fees on the councils. This approach would ensure that the operating costs of the SPEAR system could be recovered by levying a participation fee on councils that make use of the system. It would

be expected that councils would subsequently pass on this cost through increased fees to their customers (or by increasing rates).

If this approach were taken, considerable time and effort would be necessary to devise an administrative strategy firstly for council to collect the fees from its customers, and secondly for LV to recover the fees collected by council. This approach would require the duplication of administrative systems for recovering fees and would probably involve further legislation and/or regulation. Given the large number of councils that exist with varying levels of resources, it is likely that different mechanisms for recovering fees would be adopted. It may also lead to inconsistencies in the way fees are recovered from local council customers and could delay the input of funding into the SPEAR system.

Option 2 – Fund SPEAR operation through increased subdivision fees

Option 2 proposes to operate SPEAR using revenue raised from increased LV lodging fees; specifically, the lodging fees payable on plans of subdivision under the *Subdivision Act 1988*. This option aligns most closely with the government's cost-for-service policy, as people with the opportunity to use SPEAR (land developers) will pay for it, rather than funding coming from general revenue or from other fees collected by LV.

Others options

An option examined but not considered practicable was for the Victorian Government to fund the required increase by direct expenditure. This effectively would result in a cross subsidy from members of the Victorian community. Cross subsidies are generally considered inconsistent with the government's cost recovery principles and can reduce allocative efficiency.

4. Costs and benefits of the options

4.1 Base Case

The ‘base case’ describes the regulatory position that would exist in the absence of the proposed Regulations. For the purposes of regulatory analysis, the base case of ‘doing nothing’ is not considered an alternative given that the government has identified a problem that needs to be addressed (i.e., the need to recover a short-fall in regulatory costs). However, it is necessary to establish this position in order to make a considered assessment of the incremental costs and benefits of the viable options. Given that fees are currently prescribed, the base case is represented by continuation of the current 2004 Regulations, which include the 2007 amendments. Therefore, for the purposes of analysis in this RIS the base case is represented by the current fees, which are under-recovering regulatory costs in the order of \$2.18 million per annum.

4.2 Comparison of options – Multi-criteria analysis (MCA)

Full recovery of the costs will ensure the continuance of the SPEAR system so that Victoria’s subdivision processes can be streamlined and the cost savings previously identified can be maintained.¹⁵ While fully recovering the operating costs of the SPEAR system is important, it is equally important that these fees be recovered in an efficient and equitable manner and that the administrative costs of recovering these fees is minimised.

Reflecting the objectives of the proposed Regulations (section 2.2) and the Government’s *Cost Recovery Guidelines*, a Multi-criteria Analysis (MCA) was used to assess the preferred fee option. MCA is presented in this RIS as an assessment tool to assist in analysing options. The MCA approach is described in the *Victorian Guide to Regulation* and represents a convenient means of comparing a range of alternative approaches.¹⁶

This technique requires judgements about how proposals will contribute to a series of criteria that are chosen to reflect the benefits and costs associated with the proposals. A qualitative score is assigned, depending on the impact of the proposal on each of the criterion weightings, and an overall score can be derived by multiplying the score assigned to each measure by its weighting and summing the result. If a number of options are being compared then the option with the highest score would represent the preferred approach.

Reflecting good design principles of fees and the objectives of the proposed Regulations, three criteria were chosen and weightings selected. Equal weighting has been assigned to each criterion based on government policy for efficiently obtaining, processing, storing and providing access to the agency’s information and doing so in ways that meet government requirements to efficiently recover the costs of government services from those that directly benefit from the provision of those services. These are described in Table 3 below.

¹⁵ Department of Sustainability and Environmental, 2007, *Regulatory Impact Statement: Subdivision (Registrar’s fees)(Amendment) Regulations 2007*, East Melbourne

¹⁶ DTF, *ibid.*, pp. 85–86

Table 3: Multi-criteria Analysis criteria and weightings

Criteria	Weighting
Efficiency – fully recover the operating costs of the SPEAR system to enhance allocative efficiency and to minimise distortions and calls on general revenue.	1/3
Effectiveness – fees need to be easy to understand and set in a way to encourage compliance.	1/3
Equity – fees should not create a barrier for small business to enter the market (i.e. ability to pay - vertical equity) and should not cross subsidise services (i.e. user pays - horizontal equity)	1/3

For the purposes of an MCA assessment, an assigned score of zero (0) represents the base case, while a score of plus ten (+10) means that the alternative fully achieves the objectives. A score of minus ten (-10) means that the proposal does not achieve any of the objectives. In terms of assessment using the MCA, under the base case each criterion is awarded a score of zero reflecting the default position (i.e., the regulatory position in the absence of the proposed Regulations). Accordingly, the base case scenario overall receives a net score of zero.

Based on an assessment of the identified options, a score (-10 to +10) is assigned against each of the three criteria. The scores for each identified option are summed to provide an estimate of the highest ranking option. Given that the weightings are equal, the scores are additive. The MCA assessment is presented in Table 4 below.

Table 4: Multi-criteria Analysis for funding options

MCA criteria	Option 1 Levy on councils	Option 2 Increase subdivision fees
Efficiency	+10.0	+10.0
Effectiveness	-10.0	0.0
Equity	+5.0	+5.0
Total	+5.0	+15.0

Option 1 – fund SPEAR by charging councils a participation fee

Option 1 would result in fees being collected from those directly involved in the subdivision transaction, and hence a full score of +10 for the efficiency criterion is assigned (i.e., distortions are not created because the party benefiting from the regulatory service is the party that pays). The major drawback associated with this option is its administrative design, which would be likely to add significant complexity and costs to the system compared to the current arrangements, i.e., 79 councils would need to set up collection facilities, train staff, ensure uniform practices, etc. In terms of equity, a positive score of 5 is assigned because collection of fees would be from those directly benefiting from the service (other LV customers would not need to subsidise these costs). A full score is not assigned given the higher fee amount relative to the base case. The MCA assessment for this option therefore results in a net score of +5. This option would be efficient (in terms of

allocative efficiency) and relatively equitable, but a major weakness is an additional layer of bureaucracy and complexity that would result if collections were levied by councils.

Option 2 – fund SPEAR by increasing fees under the Subdivision Act 1988

Option 2 fully satisfies the efficiency criterion as operating costs will be collected directly from the users and the major beneficiaries of the SPEAR system. Hence on efficiency grounds a score of +10 is assigned to this criterion. Given that the collection arrangements or system will not be changing under this option, a score of zero (reflecting the base case position) is assigned to the effectiveness criterion. In terms of equity, a positive score of 5 is assigned because collection of fees would be from those directly benefiting from the service (other LV customers would not need to subsidise these costs). A full score is not assigned given the higher fee amount relative to the base case. The MCA assessment for this option results in a net score of +15, which suggests that increasing the fees for users of the SPEAR system to fully recover costs is the preferred option.

4.3 Methods for achieving the preferred option

The MCA assessment above suggests that the preferred approach is Option 2 – increasing LV registration fees on plans of subdivision. However, a question arises as to which LV customers should be required to pay such fees. Should only SPEAR customers pay the fee, or should only traditional ‘paper’ lodgements attract the premium, or should the additional revenue be raised by spreading more moderate increases across both SPEAR and non-SPEAR customers? The advantages and disadvantages of each alternative are discussed below. Discussion is informed by using the MCA assessment framework to examine the preferred fee design options. For this purpose the criteria in Table 3, which reflects the proposed regulations’ objectives, is used.

Option A – Increase registration fees for only SPEAR customers

Although this alternative is the most cost reflective, a narrower fee base would increase the level of fee increase to 22 per cent for SPEAR users. Further, separate fees for paper-based transactions and fees for SPEAR would add complexity to the system. During the consolidation stages of SPEAR, fees should be set in a manner to be ‘technologically neutral’. As the take up rate increases with SPEAR, differences in costs between the paper and electronic system will tend to converge, and in the longer term similar electronic systems have resulted in savings compared to paper based systems (i.e., fee discounts are offered for electronic lodgement compared with over-the-counter or paper-based transactions). While the cost base of electronic and paper-based fees will be reviewed in 2014, there appears to be strong merit in aligning these fees. As additional councils adopt SPEAR, the proportion of electronic transactions may approach 90 per cent. Implementing separate fees for the two methods of application would potentially add an additional 31 new fee items to the proposed fees, and for relatively few transactions this would add complexity to the system.

An MCA assessment was undertaken for this design option. In terms of the efficiency criterion a full score of +10 is assigned to this criterion. This is because the fee increase is directly levied on those who benefit from the use of SPEAR and avoids cross-subsidies. With respect to effectiveness, a negative score of -3.5 is assigned relative to the base case. Charging separate fees for paper and electronic lodgement would add an additional 31 fee

items and over 50 separate fees to the regime. This would add an element of complexity to the system compared to current arrangements. Some changes to IT systems, for example the Victorian Online Titles System and SPEAR, and printed material dealing with pricing, as well as websites would also be required. Based on experience of upgrading the SPEAR system, LV advises that the costs of modifying these systems would be in the order of \$10,000 in total. The system is also used by external parties, for example, lodging parties and surveyors and developers, whose systems would need to be updated with two sets of fees. In addition, lodgements and property transactions generally are very specific with respect to amounts on cheques. For example, a cheque that does not have the correct amount (even if the error is one cent) is unlikely to be accepted. Having two sets of fees may increase these sorts of errors. In terms of equity, a relatively high score of +8.0 is assigned. Horizontal equity concerns are minimised since those who use SPEAR are directly paying for improvements. Under this option, other non-SPEAR users or the community are not subsidising developments to the system. In terms of vertical equity, this would result in a larger increase in SPEAR fees, which *may* disproportionately affect smaller businesses (LV suggest that anecdotally that given that 50 per cent of all SPEAR usage relates to subdivisions of 2 lots it is likely that these covers a large number of small operators). This results in a net score of +14.5.

Table 5: Multi-criteria Analysis for fee design options

MCA criteria	Option A - Increase registration fees for only SPEAR customers
Efficiency	+10.0
Effectiveness	-3.5
Equity	+8.0
Total	+14.5

Option B – Increase fees for only non-SPEAR customers

This option is not cost reflective, and would mean that non-SPEAR users would subsidise SPEAR users. However, it does create an incentive to use SPEAR, generating the savings and efficiencies that have been identified as flowing from SPEAR once it is fully utilised. The approach might be satisfactory if the premium payable by non-SPEAR users were small. However, in order to fund the SPEAR system, the increase would need to be significant. On balance, this option appears to place too great a cost on non-SPEAR users for too little immediate benefit.

An MCA assessment of this option resulted in a large negative score of -15.0. In terms of efficiency a score of only +2.5 is assigned. Placing all the costs on a very narrow base may compromise the revenue base and would lead to large rises for fees of non-SPEAR users. In terms of effectiveness, an additional 31 fee items would be added to the system and the large increases on a narrow base could potentially lead to non-compliance. This option also departs from the ‘user pays’ principle underlying the Cost Recovery Guidelines and non-SPEAR users would fully subsidise the SPEAR system. Consequently, a negative score of -7.5 is assigned to the equity criterion.

Table 6: Multi-criteria Analysis for fee design options

MCA criteria	Option B - Increase fees for only non-SPEAR customers
Efficiency	+2.5
Effectiveness	-5.0
Equity	-7.5
Total	-15.0

Option C – Increase fees for SPEAR and non-SPEAR users

The final alternative within Option 2 is to increase the registration fee payable by all LV customers dealing in subdivisions, whether or not they use SPEAR. This approach involves a more moderate increase in fees than those envisaged in options 2(A) and 2(B). Option 2(C) has the following advantages:

- the financial burden on all customers – whether SPEAR or paper – is more moderate and the benefits that will flow to SPEAR customers will outweigh the costs; and
- non-SPEAR customers are achieving indirect benefits as a result of SPEAR efficiencies. LV advises that as a result of SPEAR efficiencies, the time required to process paper-based applications has also reduced. Moreover, LV notes that council systems for those council that have adopted SPEAR (currently 54 out of 79 councils use SPEAR) are becoming more efficient owing to reviewed and improved systems arising from SPEAR. For example, when a council adopts SPEAR, planning and subdivision processes are usually reconfigured to take advantage of the features that SPEAR offers, resulting in synergies for both systems. This has resulted in improved work flow for paper plans as well as SPEAR applications. One metropolitan council reported that in a period where the number of subdivision applications increased by 16 per cent, the time taken to complete subdivisions reduced by 43 per cent overall with a 50 per cent reduction for SPEAR plans (70 per cent of lodgements) and a 40 per cent reduction for paper plans. It should be noted that these benefits do not accrue to those paper-based applications that are processed by Councils who do not use the SPEAR system.

An MCA assessment of this option resulted in a net score of +16.0. In terms of efficiency all SPEAR users will contribute to maintaining the system and a score of +8.5 is assigned. This option, however, does not achieve a full score because there would be a small cross-subsidy from paper-based applicants. As noted above, the number of such users is diminishing rapidly (fewer than 20 per cent) and any subsidy is likely to be small and temporary (over time paper based systems tend to be more expensive to administer than electronic systems). In terms of equity, the vast proportion of costs are recovered from SPEAR users themselves, and spread over a wider base increases are smaller than they would be under Option A (in terms of vertical equity this *may* assist smaller business). Consequently a score of +7.5 is assigned. In terms of effectiveness, given that the proposal resembles the existing arrangements, reflected this base case a score of zero is assigned to this criterion.

Table 7: Multi-criteria Analysis for fee design options

MCA criteria	Option C - Increase registration fees for SPEAR and non-SPEAR customers
Efficiency	+8.5
Effectiveness	+0.0
Equity	+7.5
Total	+16.0

It is acknowledged that the scores between Option A and C are relatively close, but it is assessed that the advantages of reducing a minor subsidy are not outweighed by creating a more complex fee structure and that the wider fee base limits the fee increase thereby improving vertical equity (for small businesses that use SPEAR: as noted the vast majority of SPEAR transaction are for small lot subdivisions).

Overall, the above assessment suggests that **Option 2(C)** is the preferred design option of accomplishing Option 2.

4.4 The preferred fee structure

Variants of Option 2(C) were also considered. These involved different charging approaches, i.e., a common surcharge per plan and a common surcharge per lot. These alternatives are addressed in detail at [Attachment D](#).

LV's registration fees on plans of subdivision are made up of three components: a 'per plan' fee (or base fee); a 'per survey' fee; and a 'per lot' fee. The 'per survey' fee and the 'per lot' fee apply to all subdivisions of more than two lots.

Having identified a preferred approach (Option 2(C)) it is necessary to consider which of the component fees should be increased. LV considers three ways to distribute the fee increases. These are:

- i. increasing only the 'per lot' fee;
- ii. increasing only the 'per plan' fee; or
- iii. increasing both fees.

Below we briefly analyse and compare these impacts. Considered against the objectives of the proposed Regulations (and reflected by the MCA criteria), efficiency, effectiveness and equity principles should also apply to the design options. Given that all options will seek to fully recover costs incurred by LV they are equal when assessed against the efficiency criterion. However, effectiveness (efficacy) and equity consideration may come into play. Option iii (an approximately uniform increase) is considered the most equitable in terms of horizontal equity and vertical equity (neither small nor large developments are disadvantaged). In terms of effectiveness, a relatively uniform fee increase should also minimise avoidance issues (e.g., subdivisions split into smaller lots or alternatively grouped into larger lots depending on whether smaller or larger subdivisions are relatively advantaged or disadvantaged). Alternatively stated, the fee levels should not drive planning or subdivisional decisions.

i. Increasing only the ‘per lot’ fee

As shown by Attachment D, 80 per cent of all subdivisions registered at LV contain five lots or fewer. A change in the ‘per lot’ fee will not affect two lot subdivisions, and five lot subdivisions will be only minimally affected (6 per cent increase). The problem with only increasing the ‘per lot’ fee is the steep increases to the cost of larger subdivisions. For example, a 17-lot subdivision would bear a 30 per cent increase in registration fee; a 60-lot subdivision would bear a 41 per cent increase in registration fee.

ii. Increasing only the ‘per plan’ fee

If only the ‘per plan’ fee were increased, the reverse would occur. Small subdivisions of two lots would face an increased fee of 29 per cent, whereas large subdivisions of 17 lots would face an increase of 9 per cent. A subdivision with 60 lots faces only an increase of two per cent. While this result would assist large-scale property developers, small developers lodge the majority of subdivisions.

iii. Increasing both the ‘per plan’ fee and the ‘per lot’ fee

Increasing both the ‘per plan’ fee and the ‘per lot’ fee results in across the board increases in registration fees of 18 per cent. Although small and large developers all pay higher fees, the increase is more moderate.

5. Preferred Option

In arriving at a preferred approach, this RIS first considered the level of cost recovery. It was concluded that given that the provision of ‘subdivision services’ to property owners and developers has private good characteristics, a strong case for ‘beneficiary pays’ can be made. Therefore, it was not considered that a case could be made to depart from general government policy that regulatory fees and user charges should be set on a **full cost-recovery basis**.

The amount to be recovered (determined to be \$4.95 million per annum) followed a detailed exercise conducted by LV to determine the additional and future costs to maintain and enhance the SPEAR system. These costs are detailed in [Attachment B](#), while the reasons for the additional costs are explained in [Attachment C](#). It considered that the costs to be recovered by the proposed Regulations are ‘efficient costs’. Of the \$4.95 million, almost 60 per cent of the costs associated with providing SPEAR (i.e., facility management, software applications support and enhancements) will be contestable in the marketplace by way of tendering for service provision.

Once the amount of costs to be recovered was determined, fee design options were considered. These were:

Option 1 – fund SPEAR by charging councils a participation fee, or

Option 2 – fund SPEAR by increasing fees under the *Subdivision Act 1988*.

The MCA assessment tool was used to compare the merits of these options. Table 5 below summaries the results of this assessment and suggests that increasing subdivision fees (Option 2) is the preferred approach compared with imposing a user charge/levy at the local government level (Option 1). The reasons why Option 2 is the preferred approach largely rests on efficiency and equity (horizontal) grounds: this option would collect fees directly from the users and the major beneficiaries of the SPEAR system. It is acknowledged however that there may be a small cross-subsidy from paper users to SPEAR users. As noted above, the costs of these application methods are rapidly converging and any cross subsidy is likely to be small and temporary. By keeping the present fee structure, the proposal also builds on arrangements that are currently in place and well-known to users.

Table 8: Multi-criteria Analysis for funding options

MCA criteria	Option 1 Levy on councils	Option 2 Increase subdivision fees
Efficiency	+10.0	+10.0
Effectiveness	-10.0	0.0
Equity	+5.0	+5.0
Total	+5.0	+15.0

The fee design approach was further refined by considering an appropriate fee base on which to apply the fees (Option 2(C)(iii)). A wider base (i.e., both paper and SPEAR transactions) was considered appropriate to ensure that transactions remained ‘technologically neutral’.

By increasing ‘per plan’ cost and cost ‘per lot’ after the first two lots, cost increases are spread equitably across users (Option iii). This model means an increase in fees paid per plan – whether paper or electronic – of 18%.

The primary benefit of the preferred option (Option 2(C)(iii)) is that it allows for the efficient recovery of the operating costs of the SPEAR system from those that directly benefit from it to ensure its ongoing viability. By ensuring the enhanced operation of the SPEAR system, substantial benefits are likely to accrue to developers, councils, surveyors and referral authorities.

Given that the Government’s annual cost to operate SPEAR is approximately \$4.95 million, it is proposed to change the fee structure for registration of plans of subdivision and consolidation as illustrated in the Table 6 below.

Table 9: Proposed Subdivision (Registrar’s Fees) (Amendment) Regulations 2011

Fee description	Current (\$)	Proposed (\$)	(%) change
Fee for registering a plan of subdivision	609.90	721.30	18
Fee per lot in excess of two	133.10	157.30	18
Plus every plan supported by a survey	299.40	355.00	18

The incremental impact of the proposed fees will be that an additional \$2.18 million per annum will be raised from property developers. The total amount of revenue raised from the proposal is in the order of \$5.1 million (PV) for the remaining period of the proposed Regulations.¹⁷ The proposed fee increases only relate to new initiatives or ongoing maintenance of new developments made since 2007. The proposed fees do not seek to recover any costs that have been incurred in the past.

It is important to note that the proposed fee increases will also be applied to paper-based transactions under the *Subdivision Act 1988* and *Transfer of Land Act 1958* and this will result in a temporary subsidy in the order of \$430,000 in total or about \$260 per paper application at 80 per cent uptake of SPEAR. The total subsidy reduces in direct proportion to the increases in SPEAR uptake. SPEAR has a current implementation plan to complete the signing up of the remaining metropolitan and larger provincial councils in 2011/12 year and to have all councils on SPEAR during 2012/2013, so any implied subsidy should quickly reduce.

Related to this, as SPEAR uptake has been increasing, it is LV’s view that the relative costs of processing SPEAR applications in LV have been reducing and the costs of processing paper applications have been increasing. These cost changes have not been assessed in this RIS. The current Regulations sunset in 2014 and the total costs of examining and registering subdivisions, including the SPEAR costs, will be reviewed as part of that RIS. By that time the final SPEAR take-up rate will be much clearer and costs should have stabilised.

In terms of the cost base for processing applications, LV considers that the total cost of processing paper-based applications has not fallen as much as expected due to a fixed cost component. Therefore, at this stage there has not been an adjustment in the cost base to take

¹⁷ Assumes an additional \$2.18 million is collected per annum from March 2012 to October 2014. The discount rate of 3.5 per cent adopts the rate in the *Victorian Guide to Regulation* (2011), Appendix C, p. 19

into account any reduction in costs from processing paper-based applications. The total costs for paper-based applications are expected to fall over time and will be reflected in a full cost review undertaken in 2014.

Who will be affected by the fee increase?

These proposed Regulations will impose increased costs primarily on land developers, who will incur higher charges that are likely to be passed on to the final customer. More than half of the subdivisions registered in LV for 2010/2011 financial year were for two lots and could be inferred to be from small businesses or individuals. However, all applicants, and more particularly larger developers, would make considerable cost savings, most of which, if the forces of competition are adequate, will be passed on to the final customer. These savings would more than offset the fee increase.

Arrangements in other jurisdictions

The funding arrangements in other states vary from agencies and programs funded from consolidated revenue (primarily from statutory fees) to agencies that are government trading enterprises with access to their own funds generated from user fees. The SPEAR system currently remains unique in Australia giving Victoria an end-to-end development applications system. This makes comparisons with other jurisdictions difficult. Nevertheless, similar fees for subdivisions were examined and the results summarized in [Attachment E](#).

These results show that even with the proposed fee increase, Victoria's subdivision fees are very similar to those in NSW, South Australia, and Tasmania (although fees for larger subdivisions, more than 25 lots, are higher in Victoria), while fees in Queensland, Western Australia and the Northern Territory are considerably lower.

6. Assessment of competition and small business impacts

6.1 Competition

At the Council of Australian Governments (COAG) meeting in April 1995 (reaffirmed in April 2007), all Australian governments agreed to implement the National Competition Policy (NCP). As part of the *Competition Principles Agreement*, all governments, including Victoria, agreed to review legislation containing restrictions on competition under the following principle:

The guiding principle is that legislation (including Acts, enactments, Ordinances or Regulations) should not restrict competition unless it can be demonstrated that:

- (a) The benefits of the restriction to the community as a whole outweigh the costs; and
- (b) The objectives of the regulation can only be achieved by restricting competition.

The *Victorian Guide to Regulation* adopts these fundamental principles and states that a legislative measure is likely to have an impact on competition if any of the following questions can be answered in the affirmative:

- Is the proposed measure likely to affect the market structure of the affected sector(s), i.e., will it reduce the number of participants in the market, or increase the size of incumbent firms?
- Will it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed measure?
- Will the costs/benefits associated with the proposed measure affect some firms or individuals substantially more than others (e.g., small firms, part-time participants in occupations, etc)?
- Will the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products?
- Will the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet?
- Is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure?

Each proposed fee category was assessed against these criteria. The fees apply in a consistent manner across the sector. Necessarily fees increase costs of those liable for them; however, overall the proposed fees will mostly represent a small proportion of total operating costs (less than 2 per cent) for such businesses. Finally, it is worth pointing out that over the five year operation of the current fees, fee levels have not been raised as an issue affecting or influencing competition.

Taken together, it is therefore assessed that the proposed Regulations will not impose restrictions on competition.

4.2 Small business

The property development sector comprises small and large businesses. Most suburban two to five lot subdivisions are developed by small-scale developers whereas the large-scale multi-storey developments common in the inner city and the 'greenfields' subdivisions common on the suburban fringe are often developed by large-scale developers. All subdivisions must be registered at LV so both small and large development businesses are affected by the proposal.

It is considered that the increased level of subdivision fees will not impose a barrier to entry for developers. These proposed fees form only a small proportion at less than 2 per cent of the total cost of developing a subdivision allotment,¹⁸ while the fee increases themselves represent a small proportion at less than 0.4 per cent of the total cost of developing the subdivision allotment (i.e. \$167 for 2 lots with a survey).

This RIS identifies the 'preferred option' for increasing fees (option 2(C)(iii)) and one that spreads the fee increase almost evenly across all development sizes. Therefore, there is no obvious disadvantage to small developers compared to larger developers.

It is also worth noting that small businesses do not necessarily use the paper-based system proportionally more than larger businesses. The key driver of those who use paper application are those in council areas that have not yet adopted SPEAR. A total of 54 councils out of 79 uses SPEAR, an additional 9 have signed and are in train to commence using it, and another 10 have indicated that they will be signing up.

¹⁸ In 2007 the cost of a subdivision was estimated at an average of \$40,000 per allotment in Victoria.

7. Enforcement, compliance and evaluation

Registration fees on plans of subdivision are paid to LV at the time of plan lodgement. The plan will not be accepted for lodgement unless the full fee is paid. Given these circumstance, enforcement issues are not a concern for this proposal. In addition, given that similar regulations have been in operation for almost 20 years, and stakeholders are familiar with the fee arrangements, no transitional issues are expected.

The *Subordinate Legislation Act 1994* revokes statutory rules following 10 years of operation. This allows the government to examine whether there is still a problem that requires government intervention, and to take account of any changes or developments since the regulation was implemented. When regulations are remade, the government assesses whether the objectives of the regulation are being met, whether practical experience suggests ways in which they can be improved, or whether a different regulatory approach is warranted. Final development of the regulations is informed by public input through the RIS process. In this regard, the proposed fees will be formally **reviewed in 2014** as part of the RIS process since the proposed Regulations are amending regulations.

The proposed fees are also subject to the *Monetary Units Act 2004*, which automatically increases fees on an annual basis by a rate set by the Treasurer. These increases ensure that general price rises in the economy do not erode the real value of the fees over time. The proposed fees that will be increased will be set in dollar amounts until being reconverted back into monetary units on 1 July 2013. This will avoid an automatic indexation occurring on 1 July 2012 on fees that have just been introduced.

In addition, section 8 of the *Financial Management Act 1994* and regulation 16 of the Financial Management Regulations 1994 sets out standing directions. Standing Direction 3.4 requires each department's chief financial officer and accounting officer approve and review annually the level of charges levied by the department for goods and services it provides.

8. Consultation

8.1 Preliminary consultation

Consultation has occurred with peak surveying bodies (Association of Consulting Surveyors Victoria, Institution of Surveyors Victoria and Surveying and Spatial Science Institute). These bodies are very supportive of SPEAR and support the further development and expansion of the SPEAR system. In this regard, it is worth noting that in March 2011 the Association of Consulting Surveyors Victoria inaugurated a special Platinum Award for Innovation and Excellence to recognise LV's development, implementation and continual improvement of SPEAR.¹⁹

Consultation has also occurred with key municipal and property industry bodies (Housing Industry Association, Master Builders Association, Municipal Association of Victoria, Planning Institute of Australia, Property Council of Australia, Real Estate Institute of Victoria and Urban Development Institute of Australia). These bodies are also similarly supportive of SPEAR.

While all bodies and organisations support a well maintained and enhanced SPEAR functionality, some commented that developments should be funded by the government rather than through fee increases. Overall, the consultation revealed strong support regarding the SPEAR system, with stakeholders noting that they would provide formal comments through the RIS process.

8.2 Public consultation

This RIS will be publicly available on the DSE website at (www.dse.vic.gov.au) and will be advertised in *The Herald – Sun* newspaper and the Victorian Government Gazette. Copies of this RIS have been forwarded to key stakeholders inviting comments. This RIS represents another step in the consultation process and Land Victoria welcomes comments or suggestions with respect to the proposed scope of fees and their levels.

The *Subordinate Legislation Act 1994* requires that the public be given at least 28 days to provide comments or submissions regarding the proposed Regulations. Given the relatively straightforward nature of this proposal, the consultation period for this RIS will be 28 days, with written comments required by no later than **5.00pm, 16th December 2011**.

¹⁹ DSE, SPEAR News, Land Victoria electronic newsletter, April 2011:
<http://www.spear.land.vic.gov.au/spear/newsroom/download/SPEARNewsApril11.pdf>

Bibliography

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Government of Victoria, 2007, *Small Business Regulatory Impact Assessment Manual*, Melbourne

Government of Victoria, 2011, *Victorian Guide to Regulation*, Department of Treasury and Finance, Melbourne

Legislation

Financial Management Act 1994

Monetary Units Act 2004

Subdivision Act 1988

Subordinate Legislation Act 1994

Transfer of Land Act 1958

Victorian Government Gazette, No S158, 26 May 2011 (gazettal of fee units)

Attachments

Proposed Subdivision (Registrar's Fees) (Amendment) Regulations 2011

Item No.	Description	Current (\$)	Proposed (\$)	(%) change
1	Plan of subdivision other than a staged subdivision under item 2	609.90	721.30	18.3
	plus for each lot in excess of 2 comprised in the plan	133.10	157.30	18.2
	plus for each owners corporation in excess of one created by the plan	119.50	119.50	0.0
	plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	299.40	355.00	18.6
2	For a staged subdivision (a) —			
	for the master plan	609.90	721.30	18.3
	plus for each lot in excess of 2 comprised in the master plan	133.10	157.30	18.2
	plus for each owners corporation in excess of one created by the master plan	119.50	119.50	0.0
	plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	299.40	355.00	18.6
	For a staged subdivision (b) —			
	for a plan for the second or subsequent stage	609.90	721.30	18.3
	plus for each lot in excess of 2 comprised in the plan for the second or subsequent stage	133.10	157.30	18.2
	plus for each owners corporation in excess of one created by the plan in the second or subsequent stage	119.50	119.50	0.0
	plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	299.40	355.00	18.6
3	Plan of consolidation other than under section 32(j) of the Act	609.90	721.30	18.3
	plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	299.40	355.00	18.6
4	Application for service of a notice—for each mortgage, charge, lease, sublease, annuity or caveat in respect of which application is made	53.80	53.80	0.0
5	Plan of creation, variation or removal of an easement or condition in the nature of an easement in a Crown grant other than under section 32(i) of the Act	609.90	721.30	18.3
	plus for each lot in excess of 2 over which the easement or condition is to be created, varied or removed	133.10	157.30	18.2
6	Plan for the creation, variation or removal of restriction other than under section 32(i) of the Act	107.50	107.50	0.0
	plus for each lot in excess of 2 over which the restriction is to be created, varied or removed	133.10	157.30	18.2
7	Plan to vest land referred to in column 2 of the Table in section 24A of the Act	215.10	215.10	0.0
	plus for each reserve in excess of 2 vested	59.80	59.80	0.0
8	Plan to remove or vest and remove a reservation, other than under Item 7	609.90	721.30	18.3
	plus for each reserve in excess of 2 effected	133.10	157.30	18.2
	plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	299.40	355.00	18.6
9	On every application for approval of a boundary plan	334.50	334.50	0.0
10	For any rules for an owners corporation, that accompany a plan creating an owners corporation or merging owners corporations	53.80	53.80	0.0

Item No.	Description	Current (\$)	Proposed (\$)	(%) change
11	Plan to alter the boundaries of any land affected by the owners corporation	609.90	721.30	18.3
	plus for each lot in excess of 2 comprised in the plan	133.10	157.30	18.2
	plus for each owners corporation in excess of one created by the plan	119.50	119.50	0.0
	plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	299.40	355.00	18.6
12	Plan to increase or reduce the number of lots affected by the owners corporation	107.50	107.50	0.0
13	Plan to create new lots or new common property	609.90	721.30	18.3
	plus for each lot in excess of 2 comprised in the plan	133.10	157.30	18.2
	plus for each owners corporation in excess of one created by the plan	119.50	119.50	0.0
	plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	299.40	355.00	18.6
14	Plan to create an owners corporation	119.50	119.50	0.0
	plus for each owners corporation in excess of one created by the plan	119.50	119.50	0.0
15	Plan dissolving an owners corporation	53.80	53.80	0.0
	plus for each owners corporation in excess of one comprised in the plan	53.80	53.80	0.0
16	Plan to merge with another owners corporation	53.80	53.80	0.0
17	Plan to create, vary or remove an easement or condition	609.90	721.30	18.3
	plus for each lot in excess of 2 over which the easement or condition is to be created, varied or removed	133.10	157.30	18.2
18	Plan to create, vary or remove a restriction	107.50	107.50	0.0
	plus for each lot in excess of 2 over which the restriction is to be created, varied or removed	133.10	157.30	18.2
19	Plan of consolidation	609.90	721.30	18.30
	plus for every plan supported by a survey required under section 95 of the Transfer of Land Act 1958	299.40	355.00	18.6
20	Plan to create, alter or extinguish lot entitlement or lot liability	107.50	107.50	0.0
21	Plan to amend or cancel a scheme of development under the Cluster Titles Act 1974	107.50	107.50	0.0
22	Plan containing more than one alteration as referred to in sections 32(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) and (l) of the Act instead of the fees that would otherwise be payable for each alteration separately	609.90	721.30	18.3
	plus for each lot in excess of 2 comprised in the plan	133.10	157.30	18.2
	plus for each owners corporation in excess of one created by the plan	119.50	119.50	0.0
	plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	299.40	355.00	18.6
23	For a plan referred to in sections 32AI, 32A and 35 of the Act			
24	Plan to create an owners corporation	119.50	119.50	0.0
	plus for each owners corporation in excess of one created by the plan	119.50	119.50	0.0
25	Application to alter a lot entitlement or lot liability other than under section 32(k) of the Act	107.50	107.50	0.0
26	Application to change the address for service of notices on the owners corporation	53.80	53.80	0.0
27	Notice of application to Victorian Civil and Administrative Tribunal for an order that the owners corporation be wound up	53.80	53.80	0.0

Item No.	Description	Current (\$)	Proposed (\$)	(%) change
28	Application to amend or cancel a registered plan in accordance with an order of the Victorian Civil and Administrative Tribunal	537.60	537.60	0.0
29	Application to amend a plan to no longer show an accessory lot as an accessory lot on a plan of strata subdivision or a plan of cluster subdivision—for each lot amended	53.80	53.80	0.0
30	Application to amend a plan to remove a restriction on a plan of strata subdivision or a plan of cluster subdivision—for each lot amended	53.80	53.80	0.0
31	Application to cancel or alter a scheme of development accompanying a plan of cluster subdivision	107.50	107.50	0.0

Explanatory note

The proposed fees detailed above have been increased where the item can be lodged with LV in SPEAR and not increased where the item is usually lodged in paper by a lodging party. The former category deals with survey plans, except for a small number of exceptions that are not yet in SPEAR, e.g., boundary plans. The latter category deals with documents, e.g., for the requirements of an owners corporation.

In 2010/11, there were approximately 8,900 plans lodged under the Subdivision Act with LV with fees of \$12.4 million. Of these, more than 8,200 were Plans of Subdivision or Plans of Consolidation lodged under section 22 of the Act with fees of \$11.9 million. Therefore, Items 1, 2 and 3 above cover 93 per cent of plans lodged and 96 per cent of fees collected.

All the other plan-related items are lodged at LV in small numbers relative to Section 22 plans.

COSTS OF SPEAR SYSTEM

Cost Item	2010/11 SPEAR Allocation** (\$'000)	2012/13 SPEAR Allocation** (\$'000)	Difference (\$'000)
<i>Facilities Management Costs*</i>			
Annual hosting, hardware and database facilities management	374	374	0
Annual software licences fees	37	37	0
Hardware refresh and disaster recovery services (amortised over 3 years)	0	332	332
<i>Software Applications Support / Enhancement Costs*</i>			
User support for production and technical services	410	650	240
	(0.8 FTE)	(1.2 FTE)	
User enhancements and increased functionality	818	1750	932
	(1.2 FTE)	(1.8 FTE)	
<i>SPEAR Business Costs</i>			
Help desk, user registration and account management, user training, user group management, and operating	878	1434	556
	(8.6 FTE)	(12.6 FTE)	
<i>Land Victoria Costs</i>			
Survey, legal and plan registration expertise	253	370	117
	(2.4 FTE)	(3.5 FTE)	
Total SPEAR costs	2,770	4,947	2,177

Explanation of costs***SPEAR Subdivision (and SPEAR Planning) Costs***

In the 2007 RIS, the cost model presented the full costs of running SPEAR as, at that time, only the subdivision processes were handled by SPEAR. In 2008, the planning permit processes were added to SPEAR. DPCD, which had responsibility for SPEAR Planning, commenced making a financial contribution to the ongoing costs of running SPEAR. The 2007 RIS had anticipated this and had indicated that the fees collected from lodging subdivisions at LV should only be used for funding the subdivision component of SPEAR and should not be used to subsidise the operation of other planning processes, such as planning permits or building permits, in SPEAR.

This RIS maintains the position that there should be a fair allocation of costs to the (currently) two processes (SPEAR Subdivision and SPEAR Planning) that are using SPEAR. Therefore, the cost of the Facilities Management used in the cost model (indicated by * above) is 50 per

cent of the cost to SPEAR, as is the cost of Application Support (also *). The cost model also covers only SPEAR Subdivision enhancements.

The proposed model reflects the increased complexity in managing the IT support from 2007 to 2011, the cost of maintaining an active enhancement program that can respond to user needs and requests and the increased cost of providing business support and training to an increasing number of users. This is particularly relevant from the start of 2010 until mid-2011 where the number of applications lodged in SPEAR has increased by a factor of approximately three, where the number of users has grown dramatically with the increase in the number of councils and surveying firms using SPEAR and where the enhancement effort has increased significantly with the release of ePlan into SPEAR.

When the 2007 RIS costings were being developed, Land Victoria had only limited experience in running the SPEAR system and some necessary cost elements are better understood now. For example, as SPEAR is now an essential tool in the statutory subdivision process, there has been an increased emphasis on risk management. This is evident in the need to keep the hardware up to date, the provision of a disaster recovery system for SPEAR, the need to undertake regular security audits and the allocation of support effort to ensure that the SPEAR system runs as fast and reliably as possible.

During the period from 2007 to 2011, Land Victoria has provided initiative funding to SPEAR, where it has been needed and where Land Victoria had the capacity, to cover some of these elements, for example, with the purchase of new hardware in 2008. As well, the development and initial implementation of ePlan was also funded by Land Victoria. It should be noted, however, that the proposed fee increases only relate to new initiatives or ongoing maintenance of new developments made since 2007. The proposed fees do not seek to recover any costs that have been incurred in the past.

The comparison uses the 2010/11 financial year (see ** above) as the base as the 2007 costs have been increased each year by the Treasurer's "Annual Rate" and the 2010/11 year accurately reflects the current cost profile for the SPEAR Allocation. The 2012/13 financial year (also **) is used because the fees in 2011/12 will be subject to an increase and the SPEAR Allocation will rise so the cost profile will change in the course of this year.

The FTE numbers provided apply to the public servant numbers working on SPEAR. The IT cost items are supplied as services under supplier contractual arrangements.

Land Victoria Costs

These costs cover ongoing and specific inputs into SPEAR from the Office of Surveyor General, the LV Legal Branch, the Subdivision Branch of Land Registration Services and the Systems (IT) Branch.

ADDITIONAL COSTS INCURRED ASSOCIATED WITH IMPROVEMENTS TO SPEAR, 2007-2011

List of Improvements to SPEAR from 2007-2011

Software enhancements for SPEAR subdivisions and general improvements

- Adding other subdivision types into SPEAR (initially only Section 22)
- Providing for multiple sites at the same organisation (e.g. all the regional VicRoads offices, who get different referrals)
- Providing for 'internal referrals' (major enhancement)
- Refining referrals for 'Info only' for external sites and 'For comment' for internal sites
- Adding Section 52 Notices for advertising
- Providing the title allocation 'letters' from LV to councils and other parties in SPEAR
- Providing for street addressing in SPEAR
- Enhancing re-certification of a lodged plan
- Providing for 'Guest' access to SPEAR applications
- Enabling for LV requisitions to be done in SPEAR
- Improvements to the signing of documents and replacing CSI
- Adding SPEAR Reporting
- Improving the work flow for email notifications and improving their 'look' and content
- Allowing for GAIC notifications to SRO (and GAA)
- **Major enhancement** - Putting ePlan into SPEAR
- New SPEAR web site with significantly updated content
- Updating changes to the Subdivision Act and to the Planning and Environment Act
- Providing for the pre-population of SPEAR data into the VOTS system

Hardware Enhancements

- Significantly improving the reliability of SPEAR
- Providing a Disaster Recovery back-up for SPEAR
- Updating the SPEAR servers
- Building security audit capacity

SPEAR User Support Improvements

- **SPEAR Service Desk**
 - Initially, a SPEAR Service Desk Coordinator and SPEAR Training Coordinator, then leading to a fully integrated SPEAR Service Desk with three officers trained to handle all functions
 - Extension of on-site training to also have a SPEAR Training Schedule for regular training (basic, advanced, Local Administrator and reporting) at 570 Bourke Street for all user groups
 - SPEAR Training Environment
 - SPEAR Demo (a HTML-based demonstration of how SPEAR works for each user group)
- **SPEAR IT Support**
 - Significantly increased IT support from <1 EFT to 3 EFT because of the increase in users (to about 2,500 now) resulting in many more problems to be investigated and solved
 - Improving and standardising the notification of incidents to IT and the responses back to the SPEAR Service desk and then the SPEAR user

Software Enhancements for SPEAR Planning (mainly funded by DPCD)

- **Major enhancement** - introducing SPEAR Planning
- Adding the Smart Form to SPEAR for non-SPEAR councils
- Introducing a statutory fee calculator
- Introducing the SPEAR Referral Directory
- Introducing the Minister for Planning and VCAT to SPEAR
- Enhancements to 'Objection' functionality
- Allowing for the Social Housing initiative to be done in SPEAR
- Allowing for on-line payments to councils for SPEAR fees
- Allowing VCAT's Practice Note 2 (PNPE2) to be done in SPEAR
- Enhanced privacy responsibilities for SPEAR users
- Allowing for applications across multiple zones

SPEAR - New initiatives over the next 3 years

These enhancements have been nominated and prioritised by users of the system, with consensus obtained at the User Group Meetings conducted twice annually. Currently over fifteen hundred user requested enhancements have been logged. Planned enhancements include:

- **Major new initiative** – allowing LV subdivision payments to be done electronically
- Allowing for subdivision regulation changes to be reflected in the system
- Providing for SPEAR to be compatible with future browser versions
- Electronic form 23
- New referral options
- New reports obtainable from system from SPEAR reporting
- Street Addressing process changes to conform to regulations and improve functionality
- New dealing types e.g., Owners Corporation dealings
- ePlan visualisation application
- VOTS updates to council hosted applications
- Expand SPEAR to enable all survey-related transactions undertaken by Land Victoria to be lodged electronically
- Ongoing useability enhancements through the two releases each year.

FEE DESIGN CONSIDERATIONS – OPTION 2(C)(i)

Retain same base plan fee (\$609.90 non-survey or \$909.30 with survey) and increase from 133.10 to \$192.00 after the first two lots

%	No of lots	No of plans 2010/2011	No of lots originally used for calculations	Fee 2011	Theoretical Revenue based on 2011 fee	Proposed Fee	Proposed Revenue	% Difference in Fees
17%	0 to 2 non survey	1397	2	\$ 609.90	\$ 852,030.30	\$ 609.90	\$ 852,030.30	0%
32%	0 to 2 survey	2611	2	\$ 909.30	\$ 2,374,182.30	\$ 909.30	\$ 2,374,182.30	0%
31%	3 to 5	2559	3	\$ 1,042.40	\$ 2,667,501.60	\$ 1,101.30	\$ 2,818,226.70	6%
6%	6 to 9	485	7	\$ 1,574.80	\$ 763,778.00	\$ 1,869.30	\$ 906,610.50	19%
3%	10 to 14	256	12	\$ 2,240.30	\$ 573,516.80	\$ 2,829.30	\$ 724,300.80	26%
2%	15 to 19	164	17	\$ 2,905.80	\$ 476,551.20	\$ 3,789.30	\$ 621,445.20	30%
3%	20 to 29	262	23	\$ 3,704.40	\$ 970,552.80	\$ 4,941.30	\$ 1,294,620.60	33%
2%	30 to 39	143	33	\$ 5,035.40	\$ 720,062.20	\$ 6,861.30	\$ 981,165.90	36%
1%	40 to 49	107	43	\$ 6,366.40	\$ 681,204.80	\$ 8,781.30	\$ 939,599.10	38%
1%	50 to 59	85	53	\$ 7,697.40	\$ 654,279.00	\$ 10,701.30	\$ 909,610.50	39%
1%	60+	110	78	\$ 11,024.90	\$ 1,212,739.00	\$ 15,501.30	\$ 1,705,143.00	41%
	Totals	8,179			\$ 11,946,398.00		\$ 14,126,934.90	
Assumptions								
The base plan fee maintains the "processing differentials" between "survey" and "Non-survey" plans								
The cost per Lot is changed to \$192, but only affects those Lots above two								
Retain same base plan fee (\$609.90 non-survey or \$909.30 with survey) and increase per lot fee from \$133.10 to \$192 after the first two lots								
Result								
Required revenue raised								
Impact greater for larger subdivisions								

Note: The 2004 RIS enabled cost recovery of approximately \$8 million (2007 dollars, subject the rounding) for the cost-recovery of the examination and registration processes for subdivision plans lodged at Land Victoria. This original revenue is still being used for this purpose.

OPTION 2(C)(ii) – INCREASE BASE FEE BY \$266.60 AND RETAIN EXISTING PER LOT FEE

%	No of lots	No of plans 2010/2011	No of lots originally used for calcs	Fee 2011	Theoretical Revenue based on 2011 fee	Proposed Fee	Proposed Revenue	% Difference in Fees
17%	0 to 2 non survey	1397	2	\$ 609.90	\$ 852,030.30	\$ 876.50	\$ 1,224,470.50	44%
32%	0 to 2 survey	2611	2	\$ 909.30	\$ 2,374,182.30	\$ 1,175.90	\$ 3,070,274.90	29%
31%	3 to 5	2559	3	\$ 1,042.40	\$ 2,667,501.60	\$ 1,309.00	\$ 3,349,731.00	26%
6%	6 to 9	485	7	\$ 1,574.80	\$ 763,778.00	\$ 1,841.40	\$ 893,079.00	17%
3%	10 to 14	256	12	\$ 2,240.30	\$ 573,516.80	\$ 2,506.90	\$ 641,766.40	12%
2%	15 to 19	164	17	\$ 2,905.80	\$ 476,551.20	\$ 3,172.40	\$ 520,273.60	9%
3%	20 to 29	262	23	\$ 3,704.40	\$ 970,552.80	\$ 3,971.00	\$ 1,040,402.00	7%
2%	30 to 39	143	33	\$ 5,035.40	\$ 720,062.20	\$ 5,302.00	\$ 758,186.00	5%
1%	40 to 49	107	43	\$ 6,366.40	\$ 681,204.80	\$ 6,633.00	\$ 709,731.00	4%
1%	50 to 59	85	53	\$ 7,697.40	\$ 654,279.00	\$ 7,964.00	\$ 676,940.00	3%
1%	60+	110	78	\$ 11,024.90	\$ 1,212,739.00	\$ 11,291.50	\$ 1,242,065.00	2%
	Totals	8,179			\$ 11,946,398.00		\$ 14,126,919.40	

Assumptions

Base fee for 2 lot "non-survey" has been increased by a fixed amount

The "processing differentials" between "survey" and "Non-survey" plans is maintained

The cost per Lot remains at \$133.10, but only affects those Lots above two

Result

Required revenue raised

Impact greater for smaller subdivisions

Note: The 2004 RIS enabled cost recovery of approximately \$8 million (2007 dollars, subject the rounding) for the cost-recovery of the examination and registration processes for subdivision plans lodged at Land Victoria. This original revenue is still being used for this purpose.

OPTION 2(C)(iii) – INCREASE BASE FEE FOR NON SURVEY PLANS TO \$721.30 AND SURVEY TO \$1076.30 AND INCREASE PER LOT FEE TO \$157.30 AFTER FIRST TWO LOTS

%	No of lots	No of plans 2010/2011	No of lots originally used for calcs	Fee 2011	Theoretical Revenue based on 2011 fee	Proposed Fee	Proposed Revenue	% Difference in Fees
17%	0 to 2 non survey	1397	2	\$ 609.90	\$ 852,030.30	\$ 721.30	\$ 1,007,656.10	18.27%
32%	0 to 2 survey	2611	2	\$ 909.30	\$ 2,374,182.30	\$ 1,076.30	\$ 2,810,219.30	18.37%
31%	3 to 5	2559	3	\$ 1,042.40	\$ 2,667,501.60	\$ 1,233.60	\$ 3,156,782.40	18.34%
6%	6 to 9	485	7	\$ 1,574.80	\$ 763,778.00	\$ 1,862.80	\$ 903,458.00	18.29%
3%	10 to 14	256	12	\$ 2,240.30	\$ 573,516.80	\$ 2,649.30	\$ 678,220.80	18.26%
2%	15 to 19	164	17	\$ 2,905.80	\$ 476,551.20	\$ 3,435.80	\$ 563,471.20	18.24%
3%	20 to 29	262	23	\$ 3,704.40	\$ 970,552.80	\$ 4,379.60	\$ 1,147,455.20	18.23%
2%	30 to 39	143	33	\$ 5,035.40	\$ 720,062.20	\$ 5,952.60	\$ 851,221.80	18.22%
1%	40 to 49	107	43	\$ 6,366.40	\$ 681,204.80	\$ 7,525.60	\$ 805,239.20	18.21%
1%	50 to 59	85	53	\$ 7,697.40	\$ 654,279.00	\$ 9,098.60	\$ 773,381.00	18.20%
1%	60+	110	78	\$ 11,024.90	\$ 1,212,739.00	\$ 13,031.10	\$ 1,433,421.00	18.20%
	Totals	8,179			\$ 11,946,398.00		\$ 14,130,526.00	

Assumptions

The base plan fee is changed but maintains a "processing differentials" between "survey" and "Non-survey" plans

The cost per lot is changed to \$157.30, but only affects those lots above two

Result

Required revenue raised

Similar percentage change across the board

Note: The 2004 RIS enabled cost recovery of approximately \$8 million (2007 dollars, subject the rounding) for the cost-recovery of the examination and registration processes for subdivision plans lodged at Land Victoria. This original revenue is still being used for this purpose.

COMPARATIVE SUBDIVISION REGISTRATION FEES – VICTORIA AND OTHER AUSTRALIAN JURISDICTIONS

Description of plan	Victoria	New South Wales ¹	South Australia ²	Northern Territory ³	Queensland ⁴	Tasmania	Western Australia ⁵
2 lots no survey	\$ 721.30	\$ 1,073.00	\$ 815.00	\$ 578.00	\$ 738.15	\$ 989.80	\$ 523.00
2 lots with survey	\$ 1,076.30	\$ 1,073.00	\$ 1,311.50	\$ 578.00	\$ 738.15	\$ 989.80	\$ 523.00
5 lots	\$ 1,547.90	\$ 1,674.50	\$ 1,530.50	\$ 986.00	\$ 903.75	\$ 1,514.70	\$ 727.00
10 lots	\$ 2,333.90	\$ 2,317.00	\$ 2,424.50	\$ 1,666.00	\$ 1,399.50	\$ 2,122.40	\$ 1,067.00
25 lots	\$ 4,691.90	\$ 4,255.50	\$ 3,519.50	\$ 3,706.00	\$ 2,886.75	\$ 4,242.00	\$ 2,089.00
50 lots	\$ 8,621.90	\$ 7,457.00	\$ 5,344.50	\$ 7,106.00	\$ 5365.50	\$ 7,777.00	\$ 3,787.00

Notes:

1. The fees shown for NSW are the minimum fees. A different base level of \$1289.00 is charged for a plan comprising more than two lots and a fee for each additional lot. Additional fees are also payable on plans which take longer than six hours examination time (\$51.00 per extra quarter hour). Additional fees are also payable if easements or restrictive covenants are created on the plan (\$99.50).
2. South Australia has four components to their fees, an examination, deposit, a document fee and a survey levy. Victoria's registration fee encompasses these fees. To achieve equivalence, the South Australian fees have been totalled. Also to note, SA has differential fees based on complexity of the subdivision, the non-complex subdivision type has been used for this comparison (RTU plan). SA also has additional fees for plans over 5 lots as the survey information and non-survey information is separated into separate documents for lodgement.
3. In the Northern Territory Plans are approved by the Surveyor General (OSG) and subsequently lodged for registration at the Titles Office (Dept of Justice). Separate fees are charged. To achieve equivalence with Victoria, the fees have been added.
4. Included are the fees Queensland charges for easement created on the plans (\$21.00 per lot) and a fee for each easement/restriction certificate/document lodged with the plan (\$132.50).
5. Western Australia includes document application fee (\$160 + \$6 per lot)

Subdivision (Registrar's Fees) (Amendment) Regulations 2011

S.R. No. /2011

STATUTORY RULES 2011

S.R. No. /2011

Subdivision Act 1988

Transfer of Land Act 1958

**Subdivision (Registrar's Fees) Amendment
Regulations 2011**

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

RYAN SMITH

Minister for Environment and Climate Change

Clerk of the Executive Council

1 Objective

The objective of these Regulations is to amend the Subdivision (Registrar's Fees) Regulations 2004 to increase certain fees payable to the Registrar of Titles under the **Subdivision Act 1988**.

2 Authorising provisions

These Regulations are made under section 43 of the **Subdivision Act 1988** and sections 97(1) and 120 of the **Transfer of Land Act 1958**.

3 Commencement

These Regulations come into operation on 1 March 2012.

4 Regulation 6(1) substituted—Table of Fees for lodging documents

For regulation 6(1) of the Subdivision (Registrar's Fees) Regulations 2004¹ **substitute—**

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"(1) The prescribed fee for the purposes of a section of the Act specified in column 2 of the table, for lodgement of a document described in column 3 of the table, is the relevant corresponding fee specified in column 4 of the table.

TABLE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Section of Act</i>	<i>Details</i>	<i>Fee</i>
1	22	Plan of subdivision other than a staged subdivision under item 2	\$721.30
		plus for each lot in excess of 2 comprised in the plan	\$157.30
		plus for each owners corporation in excess of one created by the plan	9.78 fee units
		plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	\$355.00
2	22	For a staged subdivision—	
		(a) for the master plan	\$721.30
		plus for each lot in excess of 2 comprised in the master plan	\$157.30

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Section of Act</i>	<i>Details</i>	<i>Fee</i>
		plus for each owners corporation in excess of one created by the master plan	9.78 fee units
		plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	\$355.00
		(b) for a plan for the second or subsequent stage	\$721.30
		plus for each lot in excess of 2 comprised in the plan for the second or subsequent stage	\$157.30

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Section of Act</i>	<i>Details</i>	<i>Fee</i>
		plus for each owners corporation in excess of one created by the plan in the second or subsequent stage	9.78 fee units
		plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	\$355.00
3	22	Plan of consolidation other than a consolidation referred to in section 32(j) of the Act	\$721.30
		plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	\$355.00
4	22(1B)	Application for service of a notice— for each mortgage, charge, lease, sublease, annuity or caveat in respect of which application is made	4.40 fee units

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Section of Act</i>	<i>Details</i>	<i>Fee</i>
5	23	Plan of creation, variation or removal of an easement or condition in the nature of an easement in a Crown grant other than as referred to in section 32(i) of the Act	\$721.30
		plus for each lot in excess of 2 over which the easement or condition is to be created, varied or removed	\$157.30
6	23	Plan for the creation, variation or removal of restriction other than as referred to in section 32(i) of the Act	8.80 fee units
		plus for each lot in excess of 2 over which the restriction is to be created, varied or removed	\$157.30
7	24A	Plan to vest land referred to in column 2 of the Table in section 24A of the Act	17.60 fee units
		plus for each reserve in excess of 2 vested	4.89 fee units

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Section of Act</i>	<i>Details</i>	<i>Fee</i>
8	24A	Plan to remove or vest and remove a reservation, other than under Item 7	\$721.30
		plus for each reserve in excess of 2 effected	\$157.30
		plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	\$355.00
9	26	On every application for approval of a boundary plan	27.37 fee units
10	27E(1)	For any rules for an owners corporation, that accompany a plan creating an owners corporation or merging owners corporations	4.40 fee units
11	32AD	Plan to alter the boundaries of any land affected by the owners corporation as referred to in section 32(c) of the Act	\$721.30
		plus for each lot in excess of 2 comprised in the plan	\$157.30
		plus for each owners corporation in excess of one created by the plan	9.78 fee units

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Section of Act</i>	<i>Details</i>	<i>Fee</i>
		plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	\$355.00
12	32AD	Plan to increase or reduce the number of lots affected by the owners corporation as referred to in section 32(d) of the Act	8.80 fee units
13	32AD	Plan to create new lots or new common property as referred to in section 32(e) of the Act	\$721.30
		plus for each lot in excess of 2 comprised in the plan	\$157.30
		plus for each owners corporation in excess of one created by the plan	9.78 fee units
		plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	\$355.00
14	32AD	Plan to create an owners corporation as referred to in section 32(f) of the Act	9.78 fee units
		plus for each owners corporation in excess of one created by the plan	9.78 fee units

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Section of Act</i>	<i>Details</i>	<i>Fee</i>
15	32AD	Plan dissolving an owners corporation as referred to in section 32(g) of the Act	4.40 fee units
		plus for each owners corporation in excess of one comprised in the plan	4.40 fee units
16	32AD	Plan to merge with another owners corporation as referred to in section 32(h) of the Act	4.40 fee units
17	32AD	Plan to create, vary or remove an easement or condition as referred to in section 32(i) of the Act	\$721.30
		plus for each lot in excess of 2 over which the easement or condition is to be created, varied or removed	\$157.30
18	32AD	Plan to create, vary or remove a restriction as referred to in section 32(i) of the Act	8.80 fee units
		plus for each lot in excess of 2 over which the restriction is to be created, varied or removed	\$157.30

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Section of Act</i>	<i>Details</i>	<i>Fee</i>
19	32AD	Plan of consolidation as referred to in section 32(j) of the Act	\$721.30
		plus for every plan supported by a survey required under section 95 of the Transfer of Land Act 1958	\$355.00
20	32AD	Plan to create, alter or extinguish lot entitlement or lot liability as referred to in section 32(k) of the Act	8-80 fee units
21	32AD	Plan to amend or cancel a scheme of development under the Cluster Titles Act 1974 as referred to in section 32(l) of the Act	8-80 fee units
22	32AD	Plan containing more than one alteration as referred to in sections 32(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) and (l) of the Act instead of the fees that would otherwise be payable for each alteration separately	\$721.30
		plus for each lot in excess of 2 comprised in the plan	\$157.30

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Section of Act</i>	<i>Details</i>	<i>Fee</i>
		plus for each owners corporation in excess of one created by the plan	9.78 fee units
		plus for every plan supported by a survey pursuant to section 95 of the Transfer of Land Act 1958	\$355.00
23	32AI, 32A and 35	For a plan referred to in sections 32AI, 32A and 35 of the Act	the appropriate fee under section 22 of the Act as set out in items 1, 2 and 3 applies
24	32B	Plan to create an owners corporation	9.78 fee units
		plus for each owners corporation in excess of one created by the plan	9.78 fee units
25	33(1)	Application to alter a lot entitlement or lot liability other than under section 32(k) of the Act	8.80 fee units
26	34(2)	Application to change the address for service of notices on the owners corporation	4.40 fee units

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Section of Act</i>	<i>Details</i>	<i>Fee</i>
27	34G(4)	Notice of application to Victorian Civil and Administrative Tribunal for an order that the owners corporation be wound up	4.40 fee units
28	34H(1)	Application to amend or cancel a registered plan in accordance with an order of the Victorian Civil and Administrative Tribunal	43.99 fee units
29	44(4A)	Application to amend a plan to no longer show an accessory lot as an accessory lot on a plan of strata subdivision or a plan of cluster subdivision—for each lot amended	4.40 fee units
30	44(5)	Application to amend a plan to remove a restriction on a plan of strata subdivision or a plan of cluster subdivision—for each lot amended	4.40 fee units
31	44(5A)	Application to cancel or alter a scheme of development accompanying a plan of cluster subdivision	8.80 fee units

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Endnotes

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ENDNOTES

¹ Reg. 4: S.R. No. 116/2004 as amended by S.R. Nos. 45/2007 and 8/2008.