

EXPLANATORY STATEMENT

Issued by the authority of the Administrator of Christmas Island

Christmas Island Act 1958
Christmas Island Utilities and Services Ordinance 2016

Christmas Island Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016

Authority

Section 6 of the *Christmas Island Utilities and Services Ordinance 2016* (the Ordinance) authorises the Administrator to make provision for the supply and use of utilities and services in relation to, amongst other things, water and sewerage on Christmas Island. Section 7 of the Ordinance provides that the Administrator is to impose a fee for the provision of such utilities and services.

Purpose and Operation

The Christmas Island Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016 (this Determination) amends the fees payable in relation to the supply of water and sewerage services, and the supply of building application services that relate to water and sewerage services on Christmas Island.

The fee for, among other things, water and sewerage is amended by an annual determination to reflect the change in fees to consumers as a result of the changing operating costs for the provider. The aim is to align fees on Christmas Island with comparable remote Western Australian locations. The process has been a gradual escalation through location cost increments over a number of years.

Impact and Effect

This Determination will not create any additional regulatory impact on consumers of these utilities and services.

The increases in fees outlined in this Determination will have a financial impact on consumers in the form of increased costs for utilities and services.

Basis for Determining Fees

It is Australian Government policy that, wherever possible, there should be parity in the cost of provision of state-type services on Christmas Island to those applied in a similar remote Australian mainland location.

The Water Corporation owned by the Western Australian Government is the contracted service provider for Christmas Island. This is managed via a Service Delivery Arrangement (SDA) with the Australian Government. As part of this SDA, Water Corporation provide expert advice in relation to establishing the cost of providing water, sewerage and building services.

Water Corporation calculate their operating expenses for Christmas Island on those of similar remote, high cost, low population locations in Western Australia. This activity is guided by the *Water Services (Water Corporations Charges) Regulations 2014* (WA) and is further outlined at each Schedule below.

The Australian Government aims for full cost recovery across their range of operations, however it is acknowledged that for some locations this may not be achievable. Christmas Island is an area where recouped fees are currently less than the cost of supply.

Consultation

This Determination is administrative in nature and reflects the ongoing changes to the cost of operating this service. As such, no consultation has been undertaken with the residents of Christmas Island.

In lieu of this, the costings supplied by Water Corporation are scrutinised via the Western Australian administrative system. This process includes the consideration of the cost of service delivery ahead of approval through the WA parliamentary process. Following this the approved fee structure is advised to consumers during the Western Australian Treasurer's budget address.

As the fees are determined based on a similar remote Western Australian location it is accepted that the expertise applied by the Water Corporation and the independent scrutiny of the Western Australian Government is the most thorough process to adopt.

The Department of Infrastructure and Regional Development was granted a Regulatory Impact Statement exemption (OBPR ID: 20936) by the Office of Best Practice Regulation in the Department of the Prime Minister and Cabinet.

Detailed Description of this Determination

Part 1 – Preliminary

Section 1 – Name

This section provides that the name of this Determination is the *Christmas Island Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016*.

Section 2 – Commencement

This section provides that this Determination is to commence on 1 July 2016.

Section 3 – Authority

This section provides that this Determination is made under paragraph 7(2)(a) the *Christmas Island Utilities and Services Ordinance 2016*.

Section 4 – Definitions

This section provides a range of definitions as they apply for the purposes of this Determination.

Section 5 – Categories of land

This section provides for the definition of the categories of land that are mentioned in Schedules 1 to 4 of this Determination. These categories of land are the basis for which fees are applied.

Part 2 – Fees

Section 6 – Fees

Subsection 6(1) provides that this instrument determines fees that may be charged for the supply of water and sewerage services, and the supply of building application services that relate to water and sewerage services, for the financial year commencing on 1 July 2016.

Subsection 6(2) provides that the fees determined by this instrument apply from and including 1 July 2016.

Subsection 6(3) provides that the fees mentioned in this instrument may be charged as per:

- (a) fixed fees for the supply of water services as set out in Schedule 1 below;
- (b) fixed fees for the supply of sewerage services as set out in Schedule 2 below;
- (c) quantity fees for the supply of water and sewerage services as set out in Schedule 3 below;
- (d) fees for the supply of other water and sewerage services as set out in Schedule 4 below;
- (e) fees for the supply of building application services that relate to water and sewerage services as set out in Schedule 5 below.

Subsection 6(4) provides that notwithstanding paragraph 6(3)(c) above, if, in relation to particular land, the Administrator agrees, in writing, with the owner or occupier of the land on an amount of quantity fees that is lower than the amount of quantity fees for the land as set out in Schedule 3 below, the amount of quantity fees for the land is determined to be the amount agreed.

Subsection 6(5) provides that if the Administrator charges a fee for the supply of a service mentioned in this instrument, the Administrator must do so by sending a notice to the owner or occupier of the land to which the service is supplied (for a service mentioned in any of Schedules 1 to 4 below), or to which the service relates (for a service mentioned in Schedule 5 below).

Importantly, the fee must also be notified in the Gazette (as per section 8 of the *Christmas Island Utilities and Services Ordinance 2016*).

Subsection 6(6) provides that the notice mentioned in subsection 6(5) above must specify the amount of the fee payable, and the day by which the fee must be paid.

Subsection 6(7) provides that the day specified in the notice referred to in subsection 6(5) above must be at least 16 days after the day the notice is sent to the owner or occupier of the land.

Subsection 6(8) provides that if the Administrator sends the notice under subsection 6(5) above, to the owner or occupier of the land, the owner or occupier is liable to pay the fee specified in the notice, and the fee is payable to the Administrator on behalf of the Commonwealth.

Section 7 – Concessions for eligible pensioners and eligible seniors

Subsection 7(1) provides that despite paragraphs (a) and (b) of subsection 6(3) above, that fixed fees may be charged for the supply of water services and sewerage services, as set out in schedules 1 and 2 below, an eligible pensioner may pay a fee mentioned in Schedule 1 or 2 at the pensioner rate if:

- (a) the pensioner is the owner and occupier of residential land; and
- (b) a fixed fee mentioned in Schedule 1 or 2 below applies in relation to the land.

Subsection 7(2) provides that despite paragraph (c) of subsection 6(3) above, the quantity fees for the supply of water and sewerage services as set out in Schedule 3 below; an eligible pensioner may pay a fee mentioned in Schedule 3 below at the pensioner rate, for consumption of up to 600 kilolitres of water used, if:

- (a) the pensioner is the occupier of residential land; and
- (b) the fee applies in relation to the land.

Subsection 7(3) provides that despite paragraphs (a) and (b) of subsection 6(3) above, that fixed fees may be charged for the supply of water services and sewerage services, as set out in schedules 1 and 2 below, an eligible senior may pay a fee mentioned in Schedule 1 or 2 at the senior rate if:

- (a) the senior is the owner and occupier of residential land; and
- (b) the fee applies in relation to the land.

Subsection 7(4) provides that:

pensioner rate (for the purposes of subsections 7(1) and (2) above) means a fee mentioned in Schedule 1, 2 or 3 below, reduced by 50%; and

senior rate (for the purposes of subsection 7(3) above) means a fee mentioned in Schedule 1 or 2 below, reduced by 25%.

Section 8 – Payment of fees

Section 8 provides that subject to section 10 below, a fee that applies to an owner or occupier of land in accordance with this instrument is due for payment on or before the day specified in a notice under Subsection 6(5) above.

Section 9 – When a fee is not paid

Subsection 9(1) provides that this section (section 9) applies if:

- (a) an owner or occupier of land has not paid a fee for the supply of a service to, or in relation to, the land, in accordance with a notice under subsection 6(5) above; and
- (b) at least 14 days have elapsed after the day specified in the notice as the day by which the fee must be paid; and
- (c) a special payment arrangement under section 10 below is not in force between the Administrator and the owner or occupier of the land in relation to the fee.

Subsection 9(2) provides that the Administrator must send a reminder notice to the owner or occupier advising the owner or occupier that the Administrator may restrict access to the service if the fee is not paid within 10 days of the date of the reminder notice.

Subsection 9(3) provides that if the fee mentioned in subsection 9(1) above is not paid within 10 days of the date of the reminder notice, the Administrator may send the owner or occupier of land a notice to restrict the service.

Subsection 9(4) provides that the notice to restrict the service must tell the owner or occupier of the land that, unless the fee mentioned in subsection 9(1) above is paid within the period stated in the notice to restrict, action may be taken to restrict access to the service.

Subsection 9(5) provides that for the purposes of the notice to restrict, the period for service mentioned in subsection 9(4) must not be less than seven (7) days.

Subsection 9(6) provides that if the owner or occupier of land does not pay the fee mentioned in subsection 9(1) above within the period stated in the notice to restrict, the Administrator may restrict the supply of the service to the land until:

- (a) the owner or occupier has paid the fee, and if the Administrator charges a fee for restoring the service after a restriction—that fee; or
- (b) a special payment arrangement under section 10 below is in force between the Administrator and the owner or occupier in relation to the fee.

Section 10 – Special payment arrangements

Subsection 10(1) provides that the Administrator may agree, in writing, to a special payment arrangement with an owner or occupier of land if:

- (a) the owner or occupier of land is experiencing difficulties in paying a fee mentioned in this instrument for the supply of a service to, or in relation to, the land; and
- (b) the owner or occupier of land notifies the Administrator of the difficulties.

Subsection 10(2) provides that if a special payment arrangement under this section is in force between the Administrator and the owner or occupier of land in relation to a fee mentioned in this instrument, the fee is due for payment in accordance with the arrangement.

Schedule 1— Fixed charges for the supply of water services

Clause 1 – Fixed fees for the supply of water services

Fixed fees for water are calculated based on the category of land to which that service is provided and, in the case of non-residential land, the size of the meter servicing that land. Section 5 of this Determination defines these land categories.

Item 1 - Residential land

A fixed fee is imposed for the provision of water services and this fee increases by 4.5% from \$226.05 to \$236.22.

Item 2 – Commercial or industrial land (other than land mentioned in item 5), commercial/residential land, mining land or government land, or shipping (supply of water services to land for the purpose of water being taken on board a ship in a port).

This item lists the fixed fee imposed for the provision of water services for the following categories of land. The amount of that fee is in relation to the size of the pipe servicing that land. This fee increases by 4.5% across the range of meter sizes as follows:

- no meter or 15mm or 20mm increases from \$226.05 to \$236.22
- 25mm increases from \$353.22 to \$369.11
- 40mm increases from \$904.24 to \$944.93
- 50mm increases from \$1 412.086 to \$1 476.44
- 80mm increases from \$3 616.92 to \$3 779.68
- 100mm increases from \$5 651.44 to \$5 905.75
- 150mm increases from \$12 715.74 to \$13 287.95

Item 3 - Institutional/public land, charitable purposes land or local government land
The fixed fee for water services to this land remains at Nil.

Item 4 – Vacant land

The fixed fee for this land increases 4.5% from \$226.05 to \$236.22.

Item 5 – Strata-titled commercial or industrial land, if sharing a water service

The fixed fee for this land increases 4.5% from \$226.05 to \$236.22.

Item 6 – Any land, for the supply of a fire service

Fire services may be required for some developments under the Building Code of Australia. Local shires are also responsible for ensuring that the appropriate fire protection design requirements are included in a building.

The fixed fee for a fire service increases 4.5% from \$226.05 to \$236.22.

Schedule 2 – Fixed fees for the supply of sewerage services

Clause 1 – Fixed fees for the supply of sewerage services

This schedule provides for the fixed fees for the supply of sewerage services to a range of land types.

Item 1 – Residential Land

A fixed fee is applied to residential land based on the Gross Rental Value (GRV). The GRV is established by the WA Valuer-General, Valuation Services, Landgate under the *Valuation of Land Act 1978* (WA)(CI). GRV is defined at Section 4(1) of the *Valuation of Land Act 1978* (WA)(CI).

The fixed fee for sewerage is calculated by multiplying the GRV by a 'rate in the dollar' and is subject to a minimum and maximum fee.

The 'rate in the dollar' is calculated by estimating the cost to operate the scheme and includes such things as estimated operating costs, depreciation on assets and return on assets. The 'rate in the dollar' increases by 4.5% from 0.12 cents in the dollar to 0.1254 cents in the dollar of the GRV.

Item 1 lists the rate in the dollar and outlines the minimum fixed charge and the maximum fixed charge that will apply to sewerage services. The 4.5% increase in the rate in the dollar equates to a 4.5% increase in this fee. The minimum fee will increase from \$364.84 to \$381.26 and the maximum fee will increase from \$996.07 to \$1040.89. All charges in between these figures will also reflect a 4.5% increase.

Item 2 – Commercial or industrial land (other than land mentioned in Item 6) or mining land
The fixed fee for these categories of land is based on the number of fixtures or a minimum annual fixed fee. This fee also increases 4.5% as follows:

- First major fixture increases from \$848.50 to \$886.68
- Second major fixture increases from \$363.21 to \$379.55
- Third major fixture increases from \$485.05 to \$506.88
- Each subsequent major fixture increases from \$527.46 to \$551.20
- Minimum annual fee increases from \$848.50 to \$886.68

Item 3 - Vacant land

The same GRV 'rate in the dollar' calculation also applies to vacant land. A minimum fee and a maximum fee also apply and are listed. A 4.5% increase applies to these fees. The minimum fee will increase from \$240.08 to \$250.88 and the maximum fee will increase from \$996.07 to \$1040.89. All charges in between these figures will also reflect a 4.5% increase.

Item 4 – Institutional/public land, charitable purposes land or local government land

A fixed, per fixture fee applies to land in this category. This fee increases by 4.5%. The first major fixture fee increases from \$227.97 to \$238.23 while the fee for each subsequent fixture will increase from \$100.30 to \$104.81.

Item 5 – Government land

A fixed, per fixture fee applies to land in this category. This fee increases by 4.5% as follows:

- First major fixture increases from \$848.50 to \$886.68
- Second major fixture increases from \$363.21 to \$379.55
- Third major fixture increases from \$485.05 to \$506.88
- Each subsequent major fixture from \$527.46 to \$551.20

Item 6 – Strata-titled commercial or industrial land, if sharing a major fixture

A fixed fee applies to land in this category. This fee increases 4.5% from \$527.46 to \$551.20

Schedule 3 – Quantity fees for the supply of water and sewerage services

Clause 1 – Quantity fee for the supply of water and sewerage services

Customers are encouraged to save water and the quantity fee will continue to be adjusted to reflect the real cost of providing water. To encourage the careful use of water, the fees are structured so that the price per kilolitre increases as more water is used.

Item 1 – Residential land or vacant land that has been zoned for residential purposes

Water consumption is calculated from meter readings and then multiplied by an amount per kilolitre according to the water use fee 'Class' for a town or area. The 'Class' (1 to 5) is established according to cost of provision of services to that location.

Christmas Island residential properties remain at Class 5 - Water use price north of the 26th parallel as it appears in Schedule 3 of the *Water Services (Water Corporations Charges) Regulations 2014 (WA)*. This Determination reflects the changes to the dollars per kilolitre charged.

The quantity fee per kilolitre for residential land increases 4.5% as per the following usage ranges:

- 0kL - 350kL increases from \$1.518 to \$1.586
- 351kL – 500kL increases from \$2.023 to \$2.114
- 501kL – 750kL increases from \$4.138 to \$4.324
- Over 750kL increases from \$7.114 to \$7.434

Item 2 – Commercial/Residential land

Quantity fees for commercial/residential land are categorised into use levels below 150 kilolitres and those above 150 kilolitres.

Water use quantities below 150 kilolitres are subject to a 4.5% per kilolitre increase from \$1.518 to \$1.586.

Water usage quantities above 150 kilolitres increase 13.8% from \$6.534 to \$7.434 per kilolitre.

Schemes in every location are classified according to the cost of operation of that scheme. Water consumption is charged according to Step 1-15 Non-residential water consumption rates as outlined in Schedule 3 of the *Water Services (Water Corporations Charges) Regulations 2014 (WA)*.

Due to the cost of operation of the scheme, Christmas Island non-residential properties have been reclassified from Step 14 to Step 15. This is the final 'step' and reflects the aim of the Australian Government to gradually align the cost of fees to comparable mainland locations as outlined under the Purpose and Operation of this Explanatory Statement. The increase in 'steps' and the 4.5% annual increase means this fee rises from \$6.534 to \$7.434 which equates to the overall increase of 13.8%.

Item 3 – Vacant land not mentioned in item 1

The quantity fee for this land type increases from \$6.534 to \$7.434 which is an overall increase of 13.8%. This increase has been applied using the same process as described in Item 2.

Item 4 – Government land

Government land is subject to the same 13.8% increase as outlined at Item 2. As a result, the quantity fee for this land increases from \$6.534 to \$7.434

Item 5 - Institutional/public land used for non-government schools, churches or community facilities, charitable purposes land or local government land

The quantity fee for the supply of water to this land type increases by 4.5% from \$2.159 to \$2.256.

Item 6 – Commercial, industrial land or mining land, or shipping (supply of water services to land for the purpose of water being taken on board a ship in port)

These land categories are subject to the same 13.8% increase as outlined at Item 2. As a result, the quantity fee for this land increases from \$6.534 to \$7.434

Item 7 – Commercial, government land or industrial land - discharge to sewer

The quantity fee for sewer discharge volume applies and encourages customers to explore ways of minimising discharge to sewer (e.g. water efficient appliances, dual flush toilets, low flow shower roses and taps).

No fee is applied to sewer discharge volumes below 200 kilolitres.

The quantity fee for sewer discharge volumes above 200 kilolitres has increased 4.5% from \$3.118 to \$3.258. The method of calculation for this fee is explained in clause 2.

Clause 2 – Calculation of kilolitres of water used – quantity fee for discharge to sewer for commercial, government or industrial land

This clause provides for the method of calculation of the amount of water supplied to the land that is then discharged to the sewer.

The discharged amount is established by multiplying the amount of water supplied to the land by the discharge factor.

Clause 3 – Discharge factor

This clause provides for the definition and application of the discharge factor.

It is accepted that in most circumstances the default factor of 95% (of all water supplied to the land) would apply, however this clause provides for consultation with the Administrator about the discharge factor. Any assessment and calculation will be undertaken by the Administrator's contracted service provider.

Schedule 4 – Fees for the supply of other water and sewerage services

Clause 1 – Fees for the supply of other water and sewerage services

Item 1 – Relocation of service

Due to the large amount of variables involved in the placement of a service it is not possible to apply a standard figure to this fee. These variables include the nature of the ground and the distance from the main. Quotes from contractors would be assessed and a fee provided.

Item 2 – Disconnection or reconnection of water services

Due to the large amount of variables involved in the placement of a service it is not possible to apply a standard figure to this fee. Quotes from contractors would be assessed and a fee provided.

Item 3 – Special meter readings for change of owner / occupier

The fee for meter readings conducted within 7 days of receipt of request increases 1.1% from \$16.60 to \$16.78.

In cases where an urgent meter reading is required the fee for meter readings within 2 days of receipt of request increases 1.1% from \$55.76 to \$56.37.

Item 4 – Advice of sale requests

Advice of sale requests both manual and electronic increase 1.1% as follows:

- Electronic advice – standard from \$44.07 to \$44.55
- Electronic advice – urgent from \$83.13 to \$84.04
- Manual advice – standard from \$75.61 to \$76.44
- Manual advice – urgent from \$114.35 to \$115.61

Item 5 – Meter tests

The fee for the testing of 20mm to 25mm meters increases 1.1% from \$106.51 to \$107.68.

Due to the variation of work involved in the testing of larger meters, the fee for testing of meters over 25 millimetres is the cost involved in the disconnection and sending for testing. This fee would be advised by Water Corporation on an individual basis.

Item 6 – Restoration of service after restriction.

The fee for restoring a service following restriction between 7am and 4pm any day except Saturday, Sunday or public holidays increases 1.1% from \$152.47 to \$154.15.

The fee for any other time is higher and has also increased by 1.1% from \$242.28 to \$244.95.

Item 7 – Sewer connection

Due to the large amount of variables involved in the connection of a sewer service it is not possible to apply a standard figure to this fee. Quotes from contractors would be assessed and a fee provided.

Item 8 – Installation of sewer junction

Due to the large amount of variables involved in the connection of a sewer service it is not possible to apply a standard figure to this fee. These variables include the nature of the ground and the distance from the sewer main. Quotes from contractors would be assessed and a fee provided.

Schedule 5 – Fees for the supply of building application services that relate to water and sewerage services

Clause 1 – Fees for the supply of building application services that relate to water and sewerage services

This service involves the service of dealing with a notice to construct or alter the following items:

Item 1 – A residential building

The fee for the service of dealing with this notice has increased by 1.1% from \$123.02 to \$124.37 per residential unit.

Item 2 – An outbuilding to a residential building, including pools, garages and pergolas (in seweraged areas only)

The fee for the service of dealing with this notice has increased 1.1% from \$35.91 to \$36.31.

Item 3 – A multi-residential unit building

The fee for the service of dealing with this notice has increased 1.1% from \$123.02 to \$124.37 per residential unit.

Item 4 – A building other than a residential building or a multi-residential unit building at a cost of

This item has not been subject to any price amendment and will remain as follows:

- building at a cost of not more than \$22 500 - \$25.00
- building at a cost of more than \$22 500 but not more than \$200 000 - \$85.00
- building at a cost of more than \$200 000 but not more than \$500 000 - \$330.00
- building at a cost of more than \$500 000 but not more than \$1 000 000 – \$550.00

Item 5 - A building other than a residential building or a multi-residential unit building at a cost of more than \$1 million but not more than \$10 million

This item has not been subject to any price amendment and will remain at \$0.90 per \$1 000 of the building cost.

Item 6 - A building other than a residential building or a multi-residential unit building at a cost of more than \$10 million

This item has not been subject to any price amendment and will remain at an initial sum of \$9 000 plus \$0.25 per \$1 000 of the building cost over \$10 million.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Christmas Island Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Legislative Instrument sets the annual fees for water and sewerage services on Christmas Island.

Human Rights Implications

Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires that Australia ensure the availability, adequacy and accessibility of food, water and housing for all people in Australia in providing an adequate standard of living.

The right to water also includes the protection against arbitrary and unlawful disconnection of water and access to a minimum amount of safe drinking water to sustain life and health.

The range and standard of services provided on Christmas Island are similar to those provided in remote Australian communities with similar characteristics, particularly demographic characteristics or service provision needs, recognising any special needs of the Indian Ocean Territories.

Under a Service Delivery Arrangement with the Department, the Water Corporation of WA provides water and sewerage services to the communities of Christmas Island. The Water Corporation operates under the applied *Water Services Act 2012 (WA)(CI)* and maintains similar standards and conditions that apply to regional WA.

The *Water Services Act 2012 (WA)(CI)*, and the Water Services Code of Conduct (Customer Standards) 2013, protects the customer against the arbitrary and unlawful disconnection of water and provides customers with access to a minimum of 2.3 litres each minute of safe drinking water to sustain life and health.

Information about the *Water Services Act 2012 (WA)(CI)*, and the Water Services Code of Conduct (Customer Standards) 2013 is publically available and provides for assistance to customers experiencing financial hardship and establishes procedures for dealing with complaints about water services.

The *Christmas Island Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* sets the annual fees for the supply of water and sewerage services, and the supply of building application services that relate to water and sewerage services for Christmas Island.

As the *Water Services Act 2012 (WA)(CI)* and the Water Services Code of Conduct (Customer Standards) 2013 protect consumers, this Determination does not engage any applicable rights or freedoms and so is compatible with human rights as it does not raise any human rights issues.

Barry Haase, Administrator of Christmas Island