



Statutory Planning Fee Waiver and Rebate Policy

Policy Owner Manager Development Approvals

Creation Date 13/03/2019

Revision Date N/A (Due 19/03/2021)

Please check Council's Intranet to ensure this is the latest Revision

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Purpose

This Policy sets out Council's approach to waive or rebate planning fees established under the provisions of the *Planning and Environment (Fees) Regulations 2016*, and the *Subdivision (Fees) Regulations 2016*. The policy also applies to the administration of other non-statutory planning fees adopted by Council.

This policy seeks to introduce a clear and consistent approach for all users of the planning system in the application and administration of both statutory and non-statutory planning fees.

Scope

The Planning and Environment (Fees) Regulations 2016 prescribe the fees to be paid to the Minister, planning authorities and responsible authorities for the preparation and consideration of planning scheme amendments, applications for planning permits, certificates of compliance and planning certificates.

The Subdivision (Fees) Regulations 2016 prescribe the fees to be paid to councils and referral authorities under the Subdivision Act 1988.

These regulations also empower councils to waive or rebate the payment of a fee in specified circumstances.

In addition, there are a number of non-statutory fees which are adopted by Council via its Fees and Charges schedule in each yearly budget for elements of the service not covered by the above regulations. This policy applies to both statutory and non-statutory fees.

This policy applies to all applicants and developers as well as all staff involved in the assessment of planning applications to Council and in particular those involved in the processing of application fees.

Types of Fees

Statutory fees include (but not limited to) those relating to:

- Planning permit applications
- Amendment to planning permits
- Satisfaction matters

Non-statutory fees include (but not limited to) those relating to:

- Photocopying requests
- Copies of plans and permits issued
- Letters of advice as to when a planning permit is required
- Advertising costs associated with applications

The *Subdivision (Fees) Regulations 2016* provides the responsible authority opportunities to also waive and rebate the payment of fees in certain circumstances.

Historically, Council have not waived or provided fee rebates for applications which require a fee under the *Subdivision (Fees) Regulations*, and this continues to be the case. Many of these fees are administered by Council's Engineering Department. The fees required under the Subdivision Regulations include as follows:

- Fees for application (certification and procedural plans)
- Alteration of a plan
- Amendment of a certified plan
- Checking of engineering plans
- Supervision of works

Given the technical nature these fees cover, forming a judgement for reimbursement is often subjective and not clear cut, therefore it is not considered appropriate to provide a waiver or rebate of these fees.

Legislation

Section's 47(b) and 72 of the *Planning & Environment Act 1987* states a permit application or an application to amend a permit must be accompanied by the prescribed fee.

Section 20 of the *Planning and Environment (Fees) Regulations 2016* provides Council with the power to waive or rebate a fee that does not relate to an amendment to a planning scheme as follows:

A responsible authority or the Minister may wholly or in part waive or rebate the payment of a fee, which the responsible authority or the Minister has received in connection with matters that do not relate to an amendment to a planning scheme, if—

- (a) an application is withdrawn and a new application is submitted in its place; or*
- (b) in the opinion of the responsible authority or the Minister the payment of the fee is not warranted because—*
 - (i) of the minor nature of the consideration of the matter decided or to be decided; or*
 - (ii) the requested service imposes on the responsible authority or the Minister (as the case may be) no appreciable burden or a lesser burden than usual for supplying that service; or*
- (c) in the opinion of the responsible authority or the Minister (as the case may be) the application or determination assists—*
 - (i) the proper development of the State, region or municipal district; or*
 - (ii) the proper development of part of the State, region or municipal district; or*
 - (iii) the preservation of buildings or places in the State, region or municipal district which are of historical or environmental interest; or*
- (d) the application relates to land used exclusively for charitable purposes.*

Following on from the above, Section 21 of the regulations stipulates that the reasons for any waiver or rebate of fee to be recorded in writing. A register shall be maintained detailing all such decision.

Policy

The regulations dictate when a planning authority (Council) is able to consider fee exemptions for planning applications as outlined in the foregoing. Council policy in interpreting and implementing the above section of the regulations is outlined in the following scenario's:

(a) An application is withdrawn and a new application is submitted

If a permit applicant withdraws an application and the application is resubmitted for the same property within six months of the withdrawn application, the fee associated with the resubmitted application, or a percentage of that fee, will be exempted depending upon the amount of work undertaken in the assessment of the original application unless otherwise agreed.

For applications which have proceeded past a request for further information but no further, 75% of the future fee will be exempted. If an application has proceeded past the advertising period, 50% of the future fee will be exempted. Finally, if the application has proceeded to the drafting of an assessment report, no future fee will be exempted.

If the resubmitted application includes a new permit trigger that requires an additional fee, or fees have increased, the additional fee must be paid by the applicant.

The regulations afford Council discretion on fee refunds and exemptions when applications are withdrawn and a new application is submitted. If a subsequent application is not submitted following a withdrawal of an application Council cannot refund any part of the fee previously paid in respect to the withdrawn application. As Council will exempt the subsequent application fee on the resubmitted application, Council will not refund any of the original application fee paid.

(b) Minor nature of consideration

This circumstance will rarely arise as all planning permit applications require the professional services of Council planners to review and assess. Therefore, the applicable fee offers the opportunity to in some part cost recover that service.

A request under this regulation must be made in writing to the Statutory Planning Unit outlining the reasons for the request. A decision will be made in line with the monetary value of the fee waiver that is sought based upon the authority outlined later in this policy.

(c) Proper Development of the State, Region or Municipal District

This circumstance rarely arises. However, a request may be made in writing to consider waiving the fees outlining why it is considered that the proposal is of significance to the state, region or municipal district.

The decision for waiving statutory planning fees is afforded to the Chief Executive Officer for any application where it is deemed to accord with this regulation.

(d) Charitable purposes

When considering requests to exempt charitable organisations from statutory and non-statutory charges Council will consider the following requirements:

- That the owner/applicant must be a not-for-profit community based organisation and may be occupying Council land;
- That the request to waive or reduce fees must be made in writing to the Statutory Planning Unit and must set out the community benefit that will derive from the development/use;
- The application must meet all requirements in relation to the provision of information, including completion of forms and submission of plans and written documentation;

Other Scenarios

Errors

Where it can be demonstrated that a clear error has occurred and the incorrect fee charged, a request must be made in writing and final sign off will be undertaken in line with the monetary values and authorised position outlined in the below.

Lapsed applications

The regulations do not afford Council the discretion to refund or exempt fees associated with lapsed applications, nor applications submitted subsequent to the lapsing of an application.

No refunds will be provided if an application is lapsed, regardless of whether a subsequent application is submitted or not.

Council Initiated Permit Applications

The regulations do not afford Council the discretion to refund or exempt fees associated with Council initiated planning applications. In such instances, the Council Unit seeking planning permission is required to meet the requisite application fee in full in accordance with the Regulations.

Process

In order for an applicant to be provided with a waiver or rebate in line with this policy, the permit applicant is required to write to the Statutory Planning Unit outlining:

- Which part of the regulation they are seeking an exemption under
- The reasons for that request
- Compliance with this policy

The decision to waive or rebate fees will be made by the Coordinator Statutory Planning, Manager Development Approvals, Director of Development & Infrastructure

or Chief Executive Officer, as appropriate in line with the following monetary value ranges.

Requests <\$5,000 – Manager Development Approvals

Requests <\$10,000 – Director Development & Infrastructure

Requests >\$10,000 – CEO

The recording of any waiving or rebate of fees permitted by Council will be required to be recorded in accordance with section 21 of the Regulations.

Definitions

Nil

Responsibilities

The Development Approvals Department is responsible for maintaining this Policy.

Related Documents

- *Local Government Act 1989*
- *Planning & Environment Act 1987*
- *Subdivision Act 1988*
- *Planning and Environment (Fees) Regulations 2016*
- *Subdivision (Fees) Regulations 2016*