

P-DEV 48 – Extensions of Approvals, Refunding, Waiving and Reducing Planning and Building Fees

Management Procedure	Relevant Delegation

Purpose

This policy outlines the circumstances where the Shire may consider an application for the refund, waiving or reduction of planning fees charged in accordance with the *Planning and Development Regulations 2009* and building permit application fees charged in accordance with the *Building Regulations 2012*.

The Schedule of Fees and Charges adopted with the Council's annual budget contains the fees set for the current financial year.

Policy Statement

1. Council does not consider financial hardship, personal or family circumstances to be grounds for the waiving or reduction of planning fees.

2. Waiving of Planning and Building Fees

Building and planning fees will not be waived under any circumstances except with the approval of the Chief Executive Officer.

Shire Statutory Building or Demolition Permit Application fees will not be charged for Shire works on Shire buildings.

3. Reduction of Planning Fees

An application for a reduction in planning fees for development under \$2m by 50% may be approved under the following circumstances:

(a) Where the development is of less than \$50,000 in value and the application is, in the opinion of the Manager Development Services, similar to a previous application determined during the preceding two (2) years to the point where previous assessment work can significantly contribute to the assessment of the new application.

OR

(b) Where the applicant is a "not for profit" organisation and has obtained an income tax exemption status from the Australian Taxation Office

OR

- (c) Where the application relates to development of a property listed on the Shire's Local Planning Scheme Heritage List, applicants/owners may have fees reduced where:
- i. The proposed development would not otherwise require a development application if it were a property not listed on the Scheme Heritage List; or
 - ii. The sole purpose of the proposed development is to restore or conserve the heritage attributes of a heritage significant building and/or site; or
 - iii. Where the proposed development consists solely of the demolition of non-original fabric and which has no adverse impact on the heritage significance associated with the place; or
 - iv. The development application involves partial demolition which has no adverse impact on the heritage significance associated with the heritage listed place.

Where an application for a fee reduction is made under (b) or (c) above, the applicant will be required to provide sufficient evidence at the time of submitting the request.

4. Refund of Planning Fees

The Shire will consider a written request for the refund of planning fees where the application is withdrawn prior to a determination being issued only in the following circumstances:

- (a) Where, in the opinion of the Manager Development Services, no assessment work has been undertaken by the Shire and the application is subsequently withdrawn in writing within seven (7) days of the date of application, up to 90% of the application fee may be refunded.
- (b) Where assessment work has commenced by the Shire, a refund of 50% of the application fee may be approved where:
 - (i) The application has not been advertised; and
 - (ii) The application is withdrawn in writing by the applicant within twenty one (21) days of lodgement of the application.

5. Costs and Expenses

The Shire will not waive or reduce any costs or expenses that may be charged to an applicant where these are incurred through the provision of a service under regulation 49 (1) of the *Planning and Development Regulations 2009* regardless of whether a reduced application fee under 3(a), (b), (c) or (d) has been approved.

6. Variations to Planning Approvals

a) Amending or Revoking a Planning Approval

- i. A reduction in fees of 50% shall apply to applications to amend a planning approval. Clause 8.3 of Local Planning Scheme No. 3 requires that Council may, on written application from the owner of the land which planning approval has been granted, revoke or amend the planning approval prior to the commencement of the use or development.
- ii. In determining whether to allow the amendment of a planning approval, Council will consider whether the nature and extent of the proposed amendment is such that the use or development the subject of the planning approval:
 - (a) remains, in substance, the same; or
 - (b) is changed so a new and different use or development is proposed.
- iii. If the nature and extent of the proposed amendments is such that there is a new and different use or development to that which was the subject of the planning approval, Council may refuse to allow amendment of the planning approval.
- iv. If an application to amend planning approval is refused, nothing in this Policy shall preclude the applicant from making, and Council from determining, a new application for planning approval for the use or development the subject of the amendment application.
- v. Where a request to amend a planning approval is approved, a letter will be issued advising the applicant of this. A new approval will not be issued. The original planning approval (including conditions) will remain operative, subject to any amendments approved by Council.

b) Extension of the Term of a Planning Approval

- i. A request to extend the term of a planning approval must be accompanied by a fee equal to 50% of the fee as if the application were a new application under the Shire's Schedule of Planning Fees.
- ii. The ability to renew planning approvals is provided under clause 10.5.2 of the Scheme as a written request for an extension of the term of a planning approval at any time prior to the expiry of the approval period.
- iii. Where a renewal is granted, a period of up to a further two years will be granted.
- iv. In considering a request for renewal of a planning approval under clause 10.5.2 of the Scheme, Council may have regard to the following factors, as well as all matters under clause 10.2 of the Scheme;

- (a) whether the scheme or a relevant planning policy has changed in a material way since the planning approval was granted;
 - (b) whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and
 - (c) whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted.
- v. Where a request to renew a planning approval is approved, a letter will be issued advising the applicant of this. No new approval will be issued and all other conditions of the approval will remain unchanged.

7. Unauthorised Existing Development

The reduction or refund of planning fees will not under any circumstances apply to applications made under clause 8.4 of Local Planning Scheme No. 3 where a use or development has already been commenced or carried out unlawfully and the purpose of the application is to render that use or development lawful under the Scheme.

8. Building Permit Application Fees

The *Building Regulations 2012* do not make provisions for a building permit to be transferred to another builder and therefore a change in the building contractor requires the issue of a new permit. The Shire will impose the minimum building permit application fee(s) only for the issue of a new permit in this circumstance where:

- (a) following the receipt of a Notice of Secession a landowner nominates a new builder to undertake works that had previously been licensed by the Shire to another builder; and
- (b) in the opinion of the Principal Building Surveyor, the building plans are identical and the act of producing the licence in the new builder's name is an administration issue only, with no reconsideration of the documents being required.

In all other circumstances, the full fee is required to be paid. The Shire will not refund the Building Permit Application fees payable for the issue of the original Permit.

Related Local Law			
Related Policies			
Related Budget Schedule			
Legislation			
Conditions			
Authority			
Adopted	23 November 2015	Next Review Date	