

STATUTORY PLANNING FEE WAIVER AND REBATE POLICY

1.0 Purpose

This policy seeks to ensure a consistent approach is applied by Statutory Planning and Planning Support Officers (PSOs) when considering requests to waive or rebate planning application fees. This policy applies to all parties seeking a chargeable service (either a statutory or non-statutory fee as set out below) from Statutory Planning.

This policy provides those instances where a refund of planning fees may be applied pursuant to Regulation 20 of the *Planning and Environment (Fees) Regulations 2016* and any subsequent revision to this Regulation.

2.0 Scope

This policy is for the use of Statutory Planning officers and PSOs when considering a request to waive or rebate planning permit application fees.

3.0 Policy Statement

The *Planning and Environment (Fees) Regulations 2016* (the Regulations) enables the City of Ballarat to wholly, or in part, waive or rebate statutory planning fees (refer Regulation 20). Statutory fees are charged in relation to the following items:

- Planning permit applications (VicSmart and Standard);
- Amendments to planning permits;
- Subdivision certifications;
- Certificate of Compliance applications; and
- Matters to the satisfaction of the Responsible Authority

Non-statutory fees apply to:

- Secondary Consent applications;
- Extension of time requests;
- Written advice requests; and
- Advertising materials associated with relevant application types.

The *Subdivision (Fees) Regulations 2016* (Regulation 12) allows the City of Ballarat to also waive and rebate the payment of fees in certain circumstances. The City of Ballarat has however opted to not waive or provide rebates for applications which incur a fee under the *Subdivision (Fees) Regulations*. Currently, fees are charged for the following items:

- Applications to certify plans and Statements of Compliance (SoC);
- Alterations to a plan;
- Applications to amend a certified plan;
- Engineering plans prepared by City of Ballarat;

- The supervision of works; and
- Checking of engineering plans.

Given the technical nature of the tasks these fees are applied to, it is not considered appropriate to waive or rebate these fees.

Legislative Requirement

Section 47(1)(b) of the *Planning and Environment Act 1987* states a permit application must be accompanied by the prescribed fee. Fees are calculated with reference to the nature and scale of a proposed development, including the estimated cost of all buildings and works.

Statutory planning application fees are set out in the Regulations and are updated on 1 July each year by the Victorian State Government.

Regulation 20, section 16 refers to the waiving of fees and the provision of rebates.

Fee Policy

Table 1 below sets out the circumstances in which the City of Ballarat will exercise its discretion to waive or rebate fees in accordance with Regulation 19.

Circumstance	Maximum % refund
No permit required	100%
Withdrawal and application not yet progressed to initial officer assessment	100%
Withdrawal of application where a Cultural Heritage Management Plan (CHMP) is required but not submitted with application and will not likely be obtained for 180 days (as per RFI template)	90%
Withdrawal following receipt of further information request and/or receipt of referral comments	50%
Lodgement of 57A amendment	Council led = no fee Applicant led = full fee
Withdrawal after giving of notice	20%

Table 1: Circumstances where planning permit application fees will be waived or rebates offered
 The specific circumstances for waiving application fees or offering rebates is discussed further below

(i) Withdrawal of an application A planning permit application may be withdrawn at any point in the assessment process. To this end, the amount of time invested by Officers will vary and any requested return of fees must reflect the time Officers have spent assessing the application to the point it is withdrawn, as set out in Table 1.

In addition to this, the following will apply:

- If an application is withdrawn and a substantially matching application is submitted for the same property within six months of the original withdrawal, the prescribed fee for the later application will be waived, so long as it was not previously returned;
- Where a part refund was issued in association with the original application, the balance of the prescribed fee associated with the later application will be required to be paid;

- If the later application includes a new permit trigger which attracts an additional fee, this additional fee must also be paid;
- Where the later application is submitted following any increase in statutory fees the additional prescribed fees must also be paid.

(ii) Proper development

In accordance with Regulation 20(c), a Responsible Authority may waive application fees where it is considered that a proposal represents the 'proper development' of the State, region or municipality. On the basis any permit application consistent with the relevant provisions of the Ballarat Planning Scheme may be considered 'proper', this exemption will only be applied to 'proper' applications considered to be of either State, regional or municipal significance. In these cases, the decision to waive or reduce planning permit application fees shall be deferred to the Chief Executive Officer (CEO).

(iii) Charitable purposes

In accordance with Regulation 20(d), the City of Ballarat will exempt fees required in association with permit applications for land to be used and/or developed exclusively for charitable purposes if all of the following requirements are met:

- The beneficiary of the permit is a not-for-profit community-based organisation occupying Council land;
- The request to waive or rebate fees is made in writing to the Director, Development and Growth and sets out the community benefit(s) that will result from the matter(s) approved by the permit;
- The permit application must meet all requirements in relation to the provision of relevant information, including application forms, plans and technical documents, as appropriate;;
- The beneficiary of the permit must not hold any unpaid debts owed to any City of Ballarat department; and
- The waiving or rebate of fees will be identified in the relevant business budget as negative income.

Other circumstances

Lapsed applications

The Regulations do not afford the City of Ballarat discretion to refund fees associated with lapsed applications or the transfer of fees to a later matching application.

No refunds will be provided if an application is lapsed.

Council Planning Permit Applications

The Regulations do not afford the City of Ballarat discretion to waive or rebate fees associated with permit applications lodged by another Council department. In such instances, the department seeking planning permission is required to pay the prescribed application fee in full in accordance with the Regulations.

Process for applying waiver and/or rebate of application fees

Any request to waive or reduce application fees must be made in writing to the Director, Development and Growth setting out the reasons why a fee waiver/rebate is warranted. Any such request must make reference to the relevant provision(s) of this policy.

Requests can be submitted together with a planning permit application or prior to lodgement. If requesting a fee waiver/rebate prior to lodgement, the applicant must provide details of the proposal along with the request.

The decision to waive or rebate fees will be made by the Director, Development and Growth or the CEO, as relevant, in accordance with the provisions of this policy. The recording of any waiving or rebate of fees will be noted in accordance with Regulation 21.

Compliance Responsibilities

All members of the Statutory Planning team are responsible for advising internal and external customers of the terms of this policy.

4.0 Supporting documents and references

4.1 Legislation

- *Local Government Act 1989*
- *Local Government Act 2020*
- *Planning and Environment Act 1987;*
- *Planning and Environment (Fees) Regulations 2016;*
- *Subdivision (Fees) Regulations 2016;*
- *Charter of Human Rights Act 2007*
- *Gender Equality Act 2020*

4.2 Definitions

Charitable purpose: Defined in this policy as a purpose that ‘must seek the public weal; and not concerned with the conferment of private advantage’. *D V Bryant Trust Board v Hamilton City Council* (1997) 2 NZLR 342 at 347.

Not-for-profit community-based organisation: Defined in this policy as an organisation that provides services to the community and does not operate to make a profit for its members or shareholders, as applicable. Examples include neighbourhood associations and sports clubs.

5.0 Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.

6.0 Policy owner

The owner of this policy is the Chief Executive Officer.

All enquiries regarding this policy should be directed to the Manager of Statutory Planning.

7.0 Authorisation

Adopted by Ballarat City Council on 24 April 2024.