



Statutory Planning Fee Waiver and Rebate Policy

**CS - 01
City Strategy – Statutory Planning**

**BALLARAT CITY COUNCIL
Town Hall
Sturt St
Ballarat VIC 3350
Tel. 5320 5500**

TABLE OF CONTENTS

1	DOCUMENT CONTROL INFORMATION.....	3
2	POLICY STATEMENT.....	4
3	OWNER.....	5
4	APPLICABILITY.....	5
5	DEFINITIONS.....	5
6	PROCEDURE AND GUIDANCE NOTES.....	5
7	COMPLIANCE RESPONSIBILITIES.....	7
8	CHARTER OF HUMAN RIGHTS COMPLIANCE.....	8
9	REFERENCES AND RELATED POLICIES.....	8

1 DOCUMENT CONTROL INFORMATION

DOCUMENT CONTROL

Policy Name	Statutory Planning Fee Waiver and Rebate Policy
Business Unit	Statutory Planning Unit
File Location	DocHub
Document status	Approved
Version	2.00
Version Date	June 2013
Next Review date	April 2015

DOCUMENT HISTORY

	Version	Date	Author
Initial Draft	1	22 April 2013	Leanne Wilson
Final Draft	2	5 May 2013	Hamish Lampp
Approved	3	14 August 2013	Council Resolution (R298/13)
Review Draft			
Review Final			
Approved			

2 POLICY STATEMENT

Introduction:

The *Planning and Environment (Fees) Interim Regulations 2013* provides the ability for Council's to wholly or in part waive or rebate the payment of statutory planning fees. The Statutory Planning Unit currently relies on the guidance provided in the 2003 Council policy document in respect to fee exemptions. This policy is the outcome of a review of the 2003 Policy and sets out the instances in which statutory and non-statutory fee exemptions (whole or in part) will apply.

Statutory fees include those relating to:

- Planning permit applications;
- Certificate of Compliance applications;
- Extensions of time applications;
- Requests for secondary consent;
- Satisfaction matters;
- Amendment to planning permits.

Non-statutory fees include those relating to:

- Photocopying requests;
- Copies of plans and permits issued;
- Letters of advice as to when a planning permit is required;
- Liquor licensing letters of advice;
- Written planning history requests;
- Any other written advice requests;
- Advertising costs associated with applications.

The Subdivision (Fees) Regulations 2013 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 will continue to be the case. The fees required under the Subdivision Regulations are as follows:

- Fees for application (certification and procedural plans);
- Engineering plans;
- Supervision of works;
- Checking of engineering plans.

Given the technical nature of which the fees aim to cover, it is not considered appropriate to provide a waiver or rebate of these fees. The rebate and waiving of any of these fees would place significant budget pressures on two business units, being Statutory Planning and the Engineering Unit as these fees provide some opportunity for cost recovery of engineering services.

Intent:

This policy prescribes those instances where a refund or planning fee exemption may be applied (statutory and non-statutory fees), pursuant to section 16 of the *Planning and Environment (Fees) Interim Regulations 2013* and any subsequent revision of this Regulation.

Objective:

- To ensure consistency in applying fee exemptions and waivers to planning applications.

Statement:

The *Planning and Environment (Fees) Interim Regulations 2013* sets out the prescribed fees associated with planning applications. The Regulations set out instances in which the planning authority can consider the rebate or waiving of application fees. The City of Ballarat has developed this policy to inform employees and applicants as to when applicable application fees may be waived or a rebate offered.

3 OWNER

The owner of this policy is the Chief Executive Officer.

All enquiries regarding this policy should be initially directed to General Manager City Strategy.

4 APPLICABILITY

This policy applies to all persons and/or companies seeking advice as to whether a planning permit is required as well as persons and/or companies seeking to lodge an application with the Statutory Planning Unit.

5 DEFINITIONS

The Act: Planning and Environment Act 1987

The Regulations: Planning and Environment (Fees) Interim Regulations 2013

Charitable Organisations: A charitable organisation 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.*

6 PROCEDURE AND GUIDANCE NOTES

6.1 Legislative Requirement

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. The requirement of a prescribed fee is primarily linked to the cost of development and assists the Unit in recouping costs associated with the assessment of permit applications, together with the administrative functions required to be undertaken in accordance with the Act.

Planning application fees are set out in the *Planning and Environment (Fees) Interim Regulations 2013*, which these are amended time to time by the State Government.

Section 16 of the Regulations states the following in relation to waiving or providing a rebate of fees:

A responsible authority or the Minister may wholly or in part waive or rebate the payment of a fee that the authority or the Minister has received or is entitled to receive in connection with matters other than an amendment to a planning scheme, if—

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

The Regulations are clear as to when a planning authority (Council) is able to consider fee exemptions for planning applications. The following sets out the circumstances in which Council will exercise its rights availed to it by section 16 of the Regulations.

(i) 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 will be exempted. If the resubmitted application includes a new permit trigger that requires an additional fee, 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.

(ii) Charitable purposes

In accordance with section 16(b) of the Regulations, Council will exempt charitable organisations from statutory and non-statutory charges if all of the following requirements are met:

- That the owner/applicant must be a not-for-profit community based organisation occupying Council land;

- That the request to waive or reduce fees must be made in writing to the General Manager City Strategy 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;
- There must be no unpaid debt owed to any Council unit by the owner/applicant;
- That any waiving or reduction of fees will be identified in the business budgets as negative income.

(iii) Proper Development of the Municipal District

In accordance with Section 16 (e) of the Regulations, the responsible authority is able to waive fees for applications when the development is of significance to the municipality. In this regard, 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.

6.2 Other types of Statutory Planning Scenarios

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.

Environmental Sustainable Design Applications

The regulations do not afford Council any discretion in respect to environmental sustainable design. Council cannot provide any refund or fee exemptions associated with such applications.

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.

6.3 Process for Applying Waiver and/or Rebate of Statutory Planning Fees

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 General Manager City Strategy outlining their compliance with this policy. The letter of advice to the General Manager can be provided either with an application for a permit or prior to an application being lodged with Council. If the permit applicant seeks to gain written advice in relation to waiving or rebating of fees prior to an application being made to Council, the correspondence outlining the request sought must be accompanied by details of the application the permit applicant seeks to make to Council.

The decision to waive or rebate fees will be made by the General Manager City Strategy or Chief Executive Officer, as appropriate. The recording of any waiving or rebate of fees permitted by Council will be required to be recorded in accordance with section 18 of the Regulations. The decision will be recorded by the completion of Form A attached to this policy, a copy of which will be provided to the requestor.

7 COMPLIANCE RESPONSIBILITIES

Managers/Supervisors/Employees are responsible for:

- Briefing all internal and external customers in relation to the terms of this Policy.

8 CHARTER OF HUMAN RIGHTS COMPLIANCE

It is considered that this policy does not impact on any human rights identified in the Charter of Human Rights Act 2007

9 REFERENCES AND RELATED POLICIES

	Include - Name, Reference and location of reference
Acts	PLANNING AND ENVIRONMENT ACT 1987
Regulations	PLANNING AND ENVIRONMENT (FEES) REGULATIONS 2013, SUBDIVISION (FEES) REGULATIONS 2013
Codes of Practice	
Guidance notes	
Australian Standards	
Related Policies	

