

**CITY OF SUBIACO
PLANNING POLICY 1.2**

REFUNDING AND WAIVING PLANNING FEES

ADOPTION DATE: 29 June 2011
Review Date: 22 July 2014

AUTHORITY: TOWN PLANNING SCHEME NO. 4; PLANNING AND DEVELOPMENT REGULATIONS 2009;

PURPOSE

This policy outlines the circumstances where the City may refund or waive planning fees charged in accordance with the *Planning and Development Regulations 2009*. This Policy does not apply to fees that are charged in accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011*.

STATUTORY BACKGROUND

Planning fees are imposed in accordance with Part 7 and Schedule 2 of the *Planning and Development Regulations 2009*. The prescribed planning fees are a maximum amount and may be waived or refunded (in whole or part) under regulation 52. A local government is also permitted under regulation 49 to recover costs and expenses incurred in the provision of specified services.

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

POLICY

1. Personal circumstances

Financial hardship, personal or family circumstances will not ordinarily be considered to be grounds for the waiving or refunding of planning fees.

2. Waiving of Planning Fees

Planning fees will not ordinarily be waived in their entirety except under the provisions of section 4 of this policy or by a resolution of the Council.

3. Partial Waiver of Planning Fees

An application for partial waiver of planning fees may be approved by the Director Development Services where the applicant is a "not for profit" organisation and:

- (i) has obtained an income tax exemption status from the Australian Taxation Office;
- (ii) proof of a current "not for profit" status is provided at the time of submitting the request; and
- (ii) the application is either for a change of use OR has a value of less than \$500,000.

Ordinarily, a successful application will result in a reduction of 50% of the applicable planning fee unless determined otherwise by the Council.

4. Register of Places of Cultural Heritage Significance and Conservation Areas

There are a number of circumstances where owners (or applicants) are subject to greater obligations or constraints in gaining planning approval prior to undertaking

the development of a property included on the Register of Places of Cultural Heritage Significance under Town Planning Scheme No. 4. Through the application of this policy, the City seeks to encourage the conservation and enhancement of Subiaco's built heritage through the conservation and restoration of significant places and areas and by facilitating appropriate and sensitive redevelopment both for individual places and within Conservation Areas.

4.1 Landowners (or applicants) of premises included on the Register of Places of Cultural Heritage Significance will have the planning (development) application fees waived in its entirety in the following circumstances:

- (a) Where the proposed development would not otherwise require the submission of an application for planning (development) approval under clause 23 of the Scheme (ie it would otherwise be "exempt" development); or
- (b) 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
- (c) Where the sole purpose of the proposed development is to restore or conserve the heritage attributes of a significant place; or
- (d) Where the proposed development has received a grant under the city's Heritage Grant programme; or
- (e) Where the proposed development includes the reinstatement or restoration of a significant original element or feature of the building (either internal or external) which contributes to the heritage significance of the place and this significance is demonstrated in the archival material.

4.2 Landowners (or applicants) of premises located in a Conservation Area will have the planning (development) application fees waived in its entirety in the following circumstances:

- (a) Where the proposed development would not otherwise require the submission of an application for planning (development) approval under clause 23 of the Scheme (ie it would otherwise be "exempt" development); or
- (b) 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
- (c) Where the proposed development has received a grant under the city's Heritage Grant programme; or
- (d) Where the proposed development includes the reinstatement or restoration of a significant original external architectural element or feature of the building which contributes to the heritage character of the place or area and this significance is demonstrated in the archival material.

4.3 Where the proposed development has received a grant under the city's Heritage Grant programme any planning (development) application fee that has already been paid will be refunded.

4.4 For the purpose of clarity, the waiver of planning application fees under this section does not apply to any fees that may be charged for the clearance of subdivision conditions; applications for rezoning; an application relating to an unauthorised existing development or use under clause 24 of the Scheme; or any costs and expenses referred to in section 6 unless otherwise stated in this policy.

5. Refund of Planning Fees where application withdrawn

The City will consider a written request for the refund of planning fees where the development application is withdrawn prior to a determination being issued. Ordinarily these requests will be granted in the following circumstances:

- (a) Where, in the opinion of the Manager Planning Services, no assessment work has been undertaken by the City and the application is subsequently withdrawn in writing within seven days of the date of application, 90% of the application fee will usually be refunded;
or
- (b) Where assessment work has commenced by the City, a refund of 50% of the application fee will ordinarily be approved where:
 - (i) the application has not been advertised; and
 - (ii) the application is withdrawn in writing by the applicant within fourteen days of the date of lodgement of the application.

6. Costs and Expenses

The City will not ordinarily 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 of the *Planning and Development Regulations 2009* regardless of whether the application fee has been wholly or partly waived unless the application fee has been waived under section 4. Where the application fee has been waived under section 4, any costs or expenses relating to the application that may otherwise be recovered under regulation 49 will be borne by the city.

7. Unauthorised Existing Development

The waiver or refund of planning fees will not ordinarily apply to applications made under clause 24 of Town Planning Scheme No. 4 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.