

SCS-028 Statutory Planning Fee Waiver and Rebate Policy

TRIM Reference: D22/23703

Due for Review: 22 March 2024

Responsible Officer: Planning and Compliance Manager

Purpose

This policy prescribes the circumstances where a statutory planning fee waiver or rebate may be applied under Regulation 20 of the *Planning and Environment (Fees) Regulations 2016*.

Policy Principles

The scope to waiving a rebating of planning fees is limited by law and Council decisions must be made in accordance with those limitations contained within the planning fee regulations

Fees are an important way of achieving partial cost recovery for a valuable community service and the legislation limits scope to ensure fees are paid by those who use the service

Consistent decision making is the fairest way to administer the decisions to waive or rebate fees for the municipal community over time

Scope

This policy covers the waiving or rebating of prescribed fees pursuant to section 20 of the Regulations and associated statutory planning administrative fees.

It does not cover the waiving or rebating of prescribed fees pursuant to section 19 of the Regulations relating to amendment of a planning scheme or pursuant to section 12 of the *Subdivision (Fees) Regulations 2016*.

This policy applies to Council, its employees and all applicants seeking a waiver or reduction of prescribed fees or statutory planning fees in relation to an application.

Policy

It is policy to waive or rebate statutory planning fees if one or more of the following circumstances apply:

(a) An application is withdrawn and a new application is submitted in its place

Where an application is withdrawn and a replacement application is made within six months a rebate on the prescribed fee for the new application will be provided where the following apply:

1. In the opinion of the delegated officer, the new application meaningfully addresses the issues which led to the original application being withdrawn; and -
 - (a) the application is withdrawn before notice is given under section 52 of the Act, rebate between 75% and 100% of the prescribed fee for the withdrawn application; or
 - (b) the application is withdrawn after notice has been given under section 52 of the Act and before the commencement of a written assessment of the application by the planning officer, rebate 50% of the prescribed fee for the withdrawn application.

If the prescribed fee of the new application is greater than the prescribed fee of the withdrawn application the difference in the fees must be paid in full.

Administrative fees will not be waived or rebated for this type of application.

(b) In the opinion of the responsible authority 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 no appreciable burden or a lesser burden than usual for supplying that service***

Withdrawn Application

Where an application under section 47 or 72 of the Act is withdrawn before notice is given under section 52 of the Act a rebate on the prescribed fee will be provided. The rebate will be between 75% and 100% of the prescribed fee.

Where an application under section 47 or 72 of the Act is withdrawn after notice is given under section 52 of the Act a rebate on the prescribed fee may be provided at the discretion of the Chief Executive Officer, General Manager Environment and Development or Manager Planning and Development where satisfied that the withdrawal of the application will result in a lesser burden on Council resources.

Administrative fees will not be waived or rebated for this type of application.

Section 72 Amendment – change what the permit allows

Where an application under section 72 of the Act is made to change what the permit allows the fee will be rebated where the new permission for development or subdivision is only of a type which could be a VicSmart application. The rebate will be the amount required to reduce the amendment application fee to the equivalent applicable VicSmart application fee. The application must not require public notice or referral to an external authority.

Minor matters

At the discretion of a delegated officer, statutory planning fees may be waived or rebated, by up to 100%, for an application which imposes no appreciable burden or a lesser burden than usual for supplying that service. The application must not:

1. Be an application under section 47
2. Be an application under section 72 to change what the permit allows
3. Require public notice or referral to an external authority
4. Relate to a permit granted by order of the Victorian Civil and Administrative Tribunal.

Minor matters include amendments to planning applications made under Section 57A where the changes are made to:

- respond to overcome objections
- the application at the request of the planning officer to address a planning issue to achieve compliance with the planning scheme

- (c) ***In the opinion of the responsible authority 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***

Proper development

At the sole discretion of the Chief Executive Officer, a waiver or rebate of statutory planning fees may be provided for an application to use or develop land which will deliver a significant community benefit for the State, G21 region or Surf Coast Shire.

Preservation of place of historical interest

A waiver of the prescribed fee will be provided for an application where:

1. The permit is only triggered by the Heritage Overlay; and
2. If applicable, the development consists of the demolition of only non-original fabric; and
3. The development is to restore or conserve the heritage attributes of a significant place.

Administrative fees will not be waived or rebated for this type of application.

- (d) ***The application relates to land used exclusively for charitable purposes.***

A waiver of statutory planning fees will be provided for applications on land used exclusively for charitable purposes where all the following requirements are met:

1. The applicant must be an organisation which must :
 - (a) be not-for-profit; and
 - (b) have a charitable purpose.
 A charity registered with the Australian Charities and Not-for-profits Commission (ACNC) is deemed to satisfy this requirement;
2. The request to waive or reduce fees must set out the community benefit in the Surf Coast Shire that will derive from the development or use;
3. The application meets requirements in relation to the provision of information, including completion of forms and submission of plans and written documentation. Where applicable, this includes consent under the *Marine and Coastal Act 2018*;
4. There must be no unpaid debt owed to Council by the organisation;
5. The application must not be for:
 - (a) Use of land or development with an estimated cost exceeding \$1,000,000; or
 - (b) Use of land for the sale and consumption of liquor or expansion of that use; or
 - (c) Land which is used for gambling or gaming.

Making a Request

In order for an applicant to be provided with a waiver or rebate, the applicant is required to complete the relevant sections of Form A attached to this policy. The timing for the submission of the request is to be as follows:

Request for waiver/rebate under regulation 20:	At the time of:
(a) An application is withdrawn and a new application is submitted in its place	Making the new application
(b) In the opinion of the responsible authority the payment of the fee is not warranted because— <ol style="list-style-type: none"> (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 no appreciable burden or a lesser burden than usual for supplying that service 	Withdrawing the application (withdrawn application) Making the application (section 72 amendment or minor matter)
(c) In the opinion of the responsible authority the application or determination assists— <ol style="list-style-type: none"> (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 	Making the application
(d) The application relates to land used exclusively for charitable purposes.	Making the application

Decisions

The decision to waive or rebate fees will be made by the delegated officer in accordance with this policy. The decision will be recorded in accordance with regulation 21 of the Regulations. The decision will be recorded by the completion of Form B, a copy of which will be provided to the applicant and placed on the application file.

Where this policy provides that the waiver or rebate is to be within a proportional range, the applied rate will be determined at the discretion of the delegated officer, after considering the amount of work undertaken or to be undertaken by Council on the application.

Any waiving or rebating of fees will be recorded for business unit financial reporting.

Record of the decision

Records shall be retained for at least the period shown below.

Record	Retention/Disposal Responsibility	Retention Period	Location
The matters taken into account and which formed the basis of the decision to waive or rebate the fee	Coordinator Statutory Planning	Permanent	HPRM

Attachments

- Form A – Request for fee waiver or rebate
- Form B – Determination of request for fee waiver or rebate

Local Government Act 2020 Principles

Principles	Applicable to policy	If yes, provide details
Governance Principles (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes	<i>Decisions made and actions taken must be in accordance with the relevant law. The collection fees for services is contributes to the ongoing financial viability of the Council</i>
Community Engagement (Consideration of Community Engagement Principles under s.56 LGA 2020)	No	
Public Transparency (Consideration of Public Transparency Principles under s.58 of LGA 2020)	Yes	<i>The provision of the policy provides for an open and transparent process for the consideration of planning fee waivers and rebates</i>
Strategies and Plans (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No	
Financial Management (Consideration of Financial Management Principles under s.101 of LGA 2020)	Yes	<i>The policy assists council to maintain stability and predictability in the area of planning fee collection</i>
Service Performance (Consideration of Service Performance Principles under s.106 of LGA 2020)	Yes	<i>The planning fees were developed under a state review in 2015. Surf Coast Shire participate as one the case study Councils. The fees are representative of the cost of the work required to process planning applications in the municipality.</i>

Definitions

<Include if applicable> If definitions are not required retain heading and note “not applicable” on document.

- Administrative fees** Means fees associated with the making and processing of an application, other than prescribed fees, such as for applying for secondary consent approval and the giving of public notice.
- Application** Means an application made pursuant to section 47 or 72 of the Act or for any matter requiring the approval of the responsible authority under the Surf Coast Planning Scheme, a planning permit or agreement under section 173 of the Act.

Charitable purpose	<p><i>Has the same meaning</i> as defined by the Commonwealth <i>Charities Act 2013</i> -</p> <ul style="list-style-type: none"> (a) the purpose of advancing health; (b) the purpose of advancing education; (c) the purpose of advancing social or public welfare; (d) the purpose of advancing religion; (e) the purpose of advancing culture; (f) the purpose of promoting reconciliation, mutual respect and tolerance between groups of individuals that are in Australia; (g) the purpose of promoting or protecting human rights; (h) the purpose of advancing the security or safety of Australia or the Australian public; (i) the purpose of preventing or relieving the suffering of animals; (j) the purpose of advancing the natural environment; (k) any other purpose beneficial to the general public that may reasonably be regarded as analogous to, or within the spirit of, any of the purposes mentioned in paragraphs (a) to (j); (l) the purpose of promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a State, a Territory or another country, if: <ul style="list-style-type: none"> (i) in the case of promoting a change--the change is in furtherance or in aid of one or more of the purposes mentioned in paragraphs (a) to (k); or (ii) in the case of opposing a change--the change is in opposition to, or in hindrance of, one or more of the purposes mentioned in those paragraphs.
Delegated officer	Means an officer delegated by the Council or Chief Executive Officer, as appropriate, by an approved instrument of delegation, with the authority to waive or rebate a fee under regulation 20 of the Regulations.
Prescribed fee	Means a fee prescribed by the Regulations.
Responsible authority	Surf Coast Shire Council as the authority responsible for administering and enforcing the Surf Coast Planning Scheme.
Statutory planning fee	Means the prescribed fees and administrative fees associated with the assessment and processing of an application.
The Act	Planning and Environment Act 1987
The Regulations	Planning and Environment (Fees) Regulations 2016

Related Procedure

References

<Include other documentation, e.g. Legislation, Policies, Standards, Forms, etc.>

Document History

Version	Document History	Approved by – Date
1	<i>Amended</i>	<i>Council Resolution – 23 July 2019</i>
2	<i>Amended</i>	<i>Adopted 22 March 2022</i>

Form A – Request for Fee Waiver or Rebate

Applicant Details

Name: _____

Company/Organisation: _____

Address: _____

Phone: _____ **Email:** _____

Subject Property

Address: _____

Application Number (if known): _____

Basis for requesting a fee waiver or rebate under regulation 20

Tick box

(a) Application replaces a previously withdrawn application:

Withdrawn application number: _____ Date application withdrawn: _____

(b) Minor nature or lesser burden:

Withdrawing application	<input type="checkbox"/>
Section 72 amendment – change what the permit allows to include VicSmart development or subdivision	<input type="checkbox"/>
Minor matter (provide reasons below)	<input type="checkbox"/>

(c) The application assists the proper development of the State, G21 region or Surf Coast Shire:

How does the application assist the proper development of the State, G21 region or Surf Coast Shire? (attach additional pages if required)

Form A – Request for Fee Waiver or Rebate

(d) Application assists the preservation of a building or place of historical interest:

Heritage Overlay Schedule Number (if known):

(e) The application relates to land used exclusively for charitable purposes.

1. Is the organisation registered with the Australian Charities and Not-for-profits Commission? Yes No
 Charity ABN: _____
 If yes provide ABN and proceed to 4

2. Is the organisation not-for-profit? Yes No

3. What is the charitable purpose of the organisation? (attach additional pages if required)

4. What community benefit to the Surf Coast Shire will the proposed use and/or development deliver? (attach additional pages if required)

Payment to be made to (for refund of fees paid only):

Account Name: _____

BSB: _____

Account Number: _____

Please Note this form must be read in conjunction with regulation 20 of the *Planning and Environment (Fees) Regulations 2016* and the Council Policy – Statutory Planning Fee Waiver and Rebate.

DECLARATION

I declare that all the information in this request is true and correct.

Signed: _____

Dated: _____

Privacy Statement: The Surf Coast Shire considers that the responsible handling of personal information is a key aspect of democratic governance, and is strongly committed to protecting an individual's right to privacy. Council will comply with the Information Privacy Principles as set out in the Information Privacy Act, 2000. The information will not be disclosed to any other party unless Council is required to do so by law.

Form B – Request for Fee Waiver or Rebate

Office use only

Determination

Applicant:

Subject Property Address:

Application Number:

Application Stage:

Fee Amount: \$ **Proportion Waiver/Rebate:** %

Waiver/Rebate Amount: \$

Approved:

Refused:

Reasons for decision:

Name of delegated officer:	
Position of delegated officer:	
Signed:	
Date:	

Payment to be made to (for refund of fees paid only):

Account Name:

BSB:

Account Number: