



# Statutory Planning Fee Waiver and Rebate Policy

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## 1. PURPOSE

- 1.1 The purpose of this policy is to provide transparent and consistent decision making for all requests for full or partial refund or waiver of planning fees (both statutory and non-statutory).
- 1.2 This Statutory Planning Fee Waiver and Rebate Policy aligns with Council's Vision and Values to maintain integrity and a commitment to being authentic, honest and ethical in our work.



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## 2. SCOPE

- 2.1 This policy applies to all requests received in writing from an applicant, contact or landowner (including a company or organisation and any Golden Plains Shire departments or individuals) seeking a waiver, reduction or refund of fees relating to any statutory planning matters which attract a fee, both statutory and non-statutory.

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## 3. POLICY STATEMENT

- 3.1 Golden Plains Shire Council is committed to providing transparent and consistent decision making for all requests for full or partial refund or waiver of statutory planning fees.
- 3.2 This policy sets out those instances where a refund or planning fee exemption may be applied for, for statutory fees pursuant to regulation 20 of the Planning and Environment (Fees) Regulations 2016 and regulation 12 of the Subdivision (Fees) Regulations, and how requests for refund or waiver for non-statutory fees set by council will be dealt with.

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## 4. PROCEDURES

- 4.1 Section's 47(b) and 72 of the *Planning and Environment Act 1987* state that a permit application or an application to amend a permit must be accompanied by a prescribed fee.
- 4.2 Planning application fees are set out in the Planning and Environment (Fees) and Subdivision (Fees) Regulations 2016 and are amended by the State Government. Regulation 20 of the Planning and Environment (fees) Regulations states:  
*A responsible authority or the Minister may wholly or in part waive or rebate the payment of a fee, which the responsible authority or the Minister has received in connection with matters that do not relate to an amendment to a planning scheme, if*  
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  - (a) *An application is withdrawn and a new application is submitted in its place; or*
  - (b) *In the opinion of the responsible authority or the Minister 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 or the Minister (as the case may be) no appreciable burden or a lesser burden than usual for supplying that service; or*
  - (c) *in the opinion of the responsible authority or the Minister (as the case may be) 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; or*
  - (d) *the application relates to the land used exclusively for charitable purposes.*
- 4.3 Regulation 12 of the Subdivision (Fees) Regulations 2016 sets out the power to waive or rebate (refund) the payment of all or part of any fee as follows:  
*A council or referral authority may waive or rebate the payment of all or part of any fee payable under the Act –*
- a) *In respect of an application that is withdrawn, if a new application is submitted in its place; or*
  - b) *If in the opinion of the Council or referral authority (as the case may be) 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 Council or referral authority (as the case may be) no appreciable burden or a lesser burden than usual for that type of service; or*
  - c) *If the fee relates to land used exclusively for charitable purposes.*
- 4.4 The respective Regulations clearly set out when a planning authority (Council) is able to *consider* fee exemptions for planning applications. The following detail sets out the circumstances in which Council will exercise its rights to consider applications under these circumstances as set out under sections 20 and 12 of the Regulations.

## STATUTORY FEES - PLANNING AND ENVIRONMENT (FEES) REGULATIONS

- 4.5 Section 20 of the Regulations (Planning and Environment) sets out the power to waive or rebate (refund) fees that do not relate to an amendment to a planning scheme. These are the only instances (aside from non-statutory matters) where the Regulations provide this consideration.
- An application is withdrawn and a new application is submitted in its place***
- 4.6 If a planning permit is withdrawn by an applicant before any referral/s and/or advertising, the application is subsequently re-submitted by the same applicant, for the same property and the same application (same permit trigger/s) within three [3] months of the withdrawal, the application fee will be waived. If any of the above circumstances do not apply, the fee will not be waived. As Council will exempt the subsequent application fee on the resubmitted application (if the abovementioned criteria are met), Council will not refund any of the original application fee paid.

- 4.7 ***In the opinion of the responsible authority or the Minister the payment of the fee is not warranted because –***
- (iii) of the minor nature of the consideration of the matter decided or the be decided; or***
  - (iv) the requested service imposes on the responsible authority or the Minister (as the case may be) no appreciable burden or a lesser burden that usual for supplying that service***

Statutory fees cover the assessment and checking of applications for planning permits, the checking and supervision of engineering plans and works and other related processes.

Ultimately, assessment and checking are part of the decision-making process on matters that are technical in nature and time consuming; the waiving or reduction of any related fees ultimately places a financial burden on the business units, being Statutory Planning and Development Engineering, as the cost of the associated work is not accounted for.

The statutory fees are set out in the respective regulations and are required to be paid as part of the processes; it is not appropriate to waive or refund these fees, even for 'minor' matters, because there is always officer time and expertise required to review, assess, and decide on all matters that come before statutory planning. Further, it is not deemed transparent and impartial for these decisions to be made on an ad-hoc basis.

- 4.8 ***In the opinion of the responsible authority or the Minister (as the case may be) 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 of State, region or municipal district which are of historical or environmental interest.***

- 4.9 In accordance with section 16(c) 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 the waiver of statutory planning fees is afforded to the CEO for any application where it is deemed to accord with this regulation. Justification of the waiver must be provided in writing (by the CEO) for the file.

- 4.10 ***The application relates to the land used exclusively for charitable purposes***

In accordance with section 20(d) of the Regulations, Council will exempt charitable organisation from statutory and non-statutory fees and charges if all of the following requirements are met when lodging:

- The owner/applicant must be a not-for-profit, community-based organisation occupying Council land;
- The request to waive or reduce fees must be made in writing to the Manager of Development and Regulatory Services and must set out the community benefit that will be derived from the use and/or development;
- The application must meet all of the requirements in relation to the provision of information, including lodgement of plans and documentation (see website for detail);

- There must be no unpaid debt owed to any Council department by the owner/applicant; and
- Any waiving or reduction of fees will be identified in the business budget as negative income.

#### 4.11 **STATUTORY FEES - SUBDIVISION (FEES) REGULATIONS**

Regulation 12 of the Subdivision (Fees) Regulations 2016 sets out the power to waive or rebate (refund) the payment of all or part of any fee payable under the Act.

#### 4.12 ***In respect of an application that is withdrawn, if a new application is submitted in its place***

If a planning permit application is withdrawn by the applicant before any referral/s and/or advertising, the application is subsequently re-submitted by the same applicant, for the same property and the same application (same permit trigger/s) within three [3] months of the withdrawal, the application fee will be waived. If any of these circumstances do not apply, the fee will not be waived. As Council will waive the subsequent application fee on the resubmitted application (if all the above-mentioned criteria are met), Council will not refund any of the original application fee paid.

#### 4.13 ***If in the opinion of the Council the payment of the fee is not warranted because***

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- i) Of the minor nature of the consideration of the matter decided or to be decided; or***
- ii) The requested service imposes on the Council no appreciable burden or a lesser burden than usual for that type of service***

4.14 Statutory fees cover the assessment and checking of applications for planning permits, the checking and supervision of engineering plans and works, and other related processes which are technical in nature and time consuming.

4.15 The statutory fees set out in the respective regulations are required to be paid as part of the process; it is not appropriate to waive or refund these fees as it is not transparent and consistent decision-making.

#### 4.16 **The fee relates to land used exclusively for charitable purposes**

**In accordance with regulation 12, Council will exempt charitable organisations from statutory and non-statutory fees and charges if all of the following requirements are met when lodging:**

- The owner/applicant must be a not-for-profit, community-based organisation occupying Council land;
- The request to waive or reduce fees must be made in writing to the Coordinator Statutory Planning and must set out the community benefit that will be derived from the use and/or development;
- The application must meet all the requirements in relation to the provision of information, including lodgement of plans and documentation (see website for detail);
- There must be no unpaid debt owed to any Council department by the owner/application; and
- Any waiving or reduction of fees will be identified in the business budget as negative income.

**OTHER TYPES OF FEE (WAIVER OR REBATE) REQUESTS**

4.17 Council receives other fee (waiver or rebate) requests which this policy also seeks to address so that all fee-related matters can receive the same consistent and transparent decision making. These instances and how they will be dealt with are set out as follows:

**4.18 *Lapsed applications***

The Regulations do not afford Council the discretion to refund or exempt the fees associated with applications that have lapsed, nor applications submitted subsequent to the lapsing of an application. No fees will be waived or refunded when an application has lapsed, regardless of whether or not a subsequent application is submitted.

**4.19 *Environmentally Sustainable Applications***

The Regulations do not afford Council any discretion in respect to an application that may be considered by any party to be an environmentally sustainable application. Council cannot provide any waiver or refund of fees associated with such applications.

**4.20 *Council initiated permit applications (or other matters that attract a fee)***

The Regulations do not afford Council the discretion to waive or refund fees associated with Council-initiated planning applications. In such instances, the Council department seeking the planning approval is required to meet the requisite application fee, in full, in accordance with the Regulations. This will also apply to any other planning-related process (statutory or non-statutory) that attracts a fee, such as requests for written planning advice or application for certification, for example.

**4.21 *Change of mind***

The Regulations do not afford Council the discretion to waive or refund fees associated with applications where circumstances alter, and the applicant no longer wishes to pursue the application, or other planning-related matters that attract a fee. No fees will be waived or refunded in these instances.

**4.22 *Application is lodged but no planning permit is required***

If an application for a planning permit or amendment to a planning permit is lodged and it is determined that no planning permit is required (a planning permit is not triggered under the Golden Plains Planning Scheme), the full fee will be refunded. If the applicant wants this in writing, they must apply separately for written planning advice and pay the full fee.

**4.23 *Changes to a certified plan***

Changes to a certified plan at the request of the applicant will attract a re-certification fee. Changes to a certified plan at the request of Council or a Referral Authority will not attract a re-certification fee.

**4.24 *NON-STATUTORY FEES***

Non-statutory fees are the fees Council determines to charge for other services provided as part of the statutory planning process; these are reviewed annually.

**4.25 *Application for written planning advice***

Applications for written planning advice generate formal planning advice on Council letterhead in response to the application. All applications for written planning advice attract the full fee, which does not vary dependent on what the advice says. The fee will not be waived or refunded if the advice is not in line with what the applicant requested or anticipated to be provided. *For example, if the applicant requests written planning advice to say a shed does not need a permit, however a planning permit is triggered under the Golden Plains Planning Scheme based on the information provided.*

4.26 **Other non-statutory fees**

The payment of any planning related fee request is not a guarantee that the approval/advice/or process will be in accordance with the wishes of the applicant. *For example, an applicant applies for an extension of time to a planning permit, however the permit has expired; an extension of time cannot be issued.* No fees will be waived or refunded in these instances.

**5. RESPONSIBILITIES**

**Compliance, monitoring and review**

5.1 Council’s Manager Development & Regulatory Services and other relevant authorised officers are responsible for implementing this policy.

5.2 The policy owner is responsible for ensuring the policy:

- aligns with relevant legislation, government policy and Council’s requirements/strategies/values;
- is reviewed to evaluate its continuing effectiveness (e.g. achieving its purpose, remains relevant/current).

**Records Management**

5.3 Council must maintain all records relevant to administering this policy in accordance with the *Public Records Act 1973*.

**6. DEFINITIONS OF TERMS OR ABBREVIATIONS USED**

**Terms and definitions**

<b>Term</b>	<b>Definition</b>
<i>Council</i>	Golden Plains Shire Council
<i>The Act</i>	<i>Planning and Environment Act 1987</i> <i>Subdivision Act 1988</i>
<i>The Regulations</i>	<i>Planning and Environment (Fees) Regulations 2016</i> <i>Subdivision (Fees) Regulations 2016</i>

**7. RELATED LEGISLATION AND DOCUMENTS**

*Planning and Environment Act 1987*

*Subdivision Act 1988*

*Local Government Act 2020*

*Planning and Environment (Fees) Regulations 2016*

*Planning and Environment (Fees) Regulations (2016)*



