

Local Planning Policy 17 – Planning Administration (LPP17)

Management Procedure	Relevant Delegation
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Purpose

1. Background and Introduction

This Policy outlines the circumstances in which the City may consider an application for the refund, waiving, or reduction of planning fees charged in accordance with the Planning and Development Regulations 2009 and building permit application fees charged in accordance with the Building Regulations 2012.

2. Policy Objectives

The objectives of this policy are to:

- a) Provide guidance on situations where the City may consider a reduction in development application fees; and
- b) Provide guidance on situations where the City may consider the extension of a development approval previously granted by the City of Kalamunda.

3. Application of Policy

This policy applies requests relating to fee's and dealing with requests to vary development approvals in the Scheme area.

4. Statutory Authority/ Legal Status

This Policy has been prepared under and in accordance with Schedule 2 of the Planning and Development (Local Planning Scheme) Regulations 2015 (The Regulations).

a) Relationship to Local Planning Scheme No.3

This policy is a planning policy prepared, advertised and adopted pursuant to Part 2 of Local Planning Scheme No.3. (The Scheme) The policy must be read in conjunction with the Scheme. .

If there is a conflict between this local planning policy and the Scheme, the Scheme prevails.

b) Relationship to other legislation.

This following legislation is also applicable in relation to development fees.

- i. The Planning and Development Regulations 2009
- ii. Building Regulations 2012

Policy Statements

1. General Statements

Council does not consider financial hardship, personal, or family circumstances to be grounds for the waiving or reduction of development fees.

Building and Planning fees will not be waived under any circumstances except with the approval of the Chief Executive Officer.

City statutory building or demolition permit application fees will not be charged for City works on City buildings.

2. Reduction of Planning Application Fees

An application for a reduction of a maximum of 50% of planning fees may be applied for on developments with a total cost of less than \$2 million under the following circumstances:

- a) Where a development is of less than \$50,000 in value and the application is, in the opinion of the Manager Approval Services, similar to a previous application determined during the preceding two (2) years to the point where previous assessment work can be significantly contributed to the assessment of the new application.

OR

- b) Where the applicant is a 'not-for-profit' organisation and has obtained an income tax exemption status from the Australian Taxation Office.

OR

- c) Where the application relates to development of a property listed on the City's Local Municipal Heritage Inventory or State Heritage List, provided that:
 - i. The proposed development would not otherwise require a development application if it were a property not listed on the Heritage List; or
 - ii. The sole purpose of the proposed development is to restore or conserve the heritage attributes of a building of heritage significance and/or site; or
 - iii. 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
 - iv. The development application involves partial demolition which has no adverse impact on the heritage significance associated with the heritage listed place.

Where an application for a fee reduction is made under b) or c) above, the applicant will be required to provide sufficient evidence at the time of submitting the request.

3. Refund of Planning Fees

The City will consider a written request for the refund of planning fees where the application is withdrawn prior to a determination being issued only in the following circumstances:

- a) Where, in the opinion of the Manager Approval Services, no assessment work has been undertaken by the City and the application is subsequently withdrawn within seven (7) days of the date of application, up to 90% of the application fee may be refunded.

The process for refunding or waiving of development application fees has been included as Appendix 1 to this Policy.

Where initial review determines the development is exempt from requiring development approval, 100% of the fee may be refunded, unless the development is eligible for a deemed to comply check. If the development is eligible for a deemed to comply check only the fee amount above the fee for a deemed to comply check is eligible for refund.

4. Costs and Expenses

The City will not waive or reduce costs or expenses that may be charged to an applicant where these are incurred through the provision of a service under regulation 49 (1) of the Planning and Development Regulations 2009 regardless of whether a reduced application fee under Section 3 a), b) or c) has been approved.

5. Unauthorised Existing Development

The reduction or refund of application fees will not under any circumstances apply to applications made under Clause 8.4 of the Scheme 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.

Variations to Development Approvals

1. Amending or Revoking a Development Approval

Clause 8.3 of the Scheme states that Council may, upon written application from the owner of the land upon which development approval has been granted, revoke or amend the development approval prior to the commencement of the use or development.

In determining whether to allow the amendment of development approval, the City will consider whether the nature and extent of the proposed amendment is such that the use or development subject of the approval:

a) Remains, in substance, the same;

OR

b) Is changed so a new and different use or development is proposed.

If the nature and extent of the proposed amendments are such that it is considered that there is a new and different use or development subject of the approval the City may refuse to allow amendment of the development approval. Should an application to amend a development approval be refused by the City nothing in this Policy shall preclude the applicant from lodging, and the City from determining, a new application for development approval for the use or development the subject of the application.

Where an application to amend a development approval is granted a letter will be issued advising the applicant of this. A new approval will not be issued, instead the original development approval (including conditions) will remain operative, subject to any amendments approved by the City.

2. Extension of the Term of a Development Approval

A request to extend the term of a development approval must be accompanied by the same fee as specified under 'Amending or Revoking a Development Approval' above.

The ability to renew or extend a development approval is provided under Clause 10.6.2 of the Scheme. In considering a request for a renewal or extension of a development approval the City will have regard to Clause 10.2 of the Scheme, as well as the following factors:

- a) Whether the Scheme, Local Planning Policy, or other relevant legislation has changed in a material way since the development approval was granted;
- b) Whether in granting the development approval a discretion was exercised in relation to the Scheme or Policy requirements;

AND

- c) Whether a material change has occurred to either the site to which the development approval relates or the surrounding locality since the approval was granted.

An application to extend a development approval must be made prior to the expiration of the original approval period.

Where a renewal is granted, a period of up to a maximum of a further two years will be granted. A letter will be issued to the applicant advising them of this. A new approval will not be issued, instead the original development approval (including conditions) will remain operative, subject to any amendments approved by the City.

3. Variations to Building Permits

The Building Regulations 2012 do not make provisions for a building permit to be transferred to another builder and therefore a change in the building contractor requires the issue of a new permit. The City will impose the minimum building permit application fee(s) only for the issue of a new permit in this circumstance where:

- a) Following the receipt of a Notice of Secession, a landowner nominates a new builder to undertake works that had previously been licensed by the City to another builder;

AND

- b) In the opinion of the Principal Building Surveyor, the building plans are identical and the act of producing the licensee in the new builder’s name is an administration issue only, with no reconsideration of the documents being required.

In all other circumstances, the full fee is required to be paid. The City will not refund the Building Permit Application fees payable for the issue of the original permit

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