



POLICY NO:-

SDev CP502 - LOCAL PLANNING POLICY – WAIVING AND REFUNDING OF FEES**GOVERNANCE INFORMATION**

Procedure Link:	NA	Administrative Policy Link:	NA
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ADMINISTRATION INFORMATION

Version:	1	SDev CP075	OCM	30/09/20	Res: 269-20	Synopsis:	Policy Created
Version:	2	SDev CP075	OCM	28/09/22	Res: 243-22	Synopsis:	Reviewed and adopted by Council.

1. RESPONSIBLE DIRECTORATE

Sustainable Development

2. PURPOSE OR OBJECTIVE

The objective of this Policy is to:

1. To ensure there is a clear policy position within the Sustainable Development Directorate in relation to the waiving or refunding of fees for approvals and services provided by the directorate.
2. Ensure the waiving or refunding of fees is applied in a consistent and justifiable manner.
3. Eliminate the need to source funds from a Shire budgeted capital work project expenditure account for the purpose of paying fees that will ultimately remain with the Shire but transferred into a Shire planning, building or health revenue account at the expense of the project.
4. Reduce the processing time of applications for Shire funded capital works projects by not having to conduct the administration of fees.
5. Guide officers in waiving or refunding fees under delegation from Council.

3 SCOPE OF POLICY**3.1 Introduction**

This Policy applies to circumstances where the Shire may consider a request for the waiver or refund of fees for an approval or service provided by the Sustainable Development Directorate and Shire of Dardanup funded capital works projects undertaken by the Shire.

3.2 Statutory Background

Planning fees are imposed in accordance with Regulation 4 and Schedule 1 of the *Planning and Development (Local Government Planning Fees) Regulations 2000*. The prescribed fees are a maximum amount which may be reduced in accordance with regulation 7 or waived or refunded (in whole or part) under regulation 14. Regulation 8 also permits a local government to recover costs and expenses incurred in the provision of a specified service. Building Permit fees are imposed in accordance with *Schedule 2 - Fees of the Building Regulations 2012*. Council set inspection fees may also apply. The Schedule of Fees and Charges adopted with the Council's annual budget contains the fees set for the current financial year.

3.3 Exclusions

- 3.3.1 Financial hardship, personal circumstances or family circumstances are not grounds for the waiver or refunding of fees.
- 3.3.2 Fees relating to regulatory matters arising under the *Dog Act 1976*, *Cat Act 2011* and the keeping and control of dogs and cats generally are excluded from the provisions of this policy. Requests to waive or refund fees in relation to these matters will not be considered.
- 3.3.3 For building applications, fees will not be waived or refunded in the following circumstances:
 - (a) For uncertified domestic building work – where the value of the works is less than \$100,000.
 - (b) For certified domestic building work – where the value of the works is less than \$200,000.
 - (c) For certified commercial building work – where the value of the works is less than \$400,000 in value.

3.3.4 The following fees associated with applications for Shire funded capital works projects cannot be waived by the Shire of Dardanup as determined by the relevant legislation and as such, are required to be paid upon lodgement of the relevant application:

- BCTIF for a Building Permit Application if applicable (dependent on construction value);
- BSL for a Building Permit Application;
- Health Department of WA Septic System Application (Application to Construct or Install an Apparatus for the Treatment of Sewerage)

4.0 WAIVING OF FEES

4.1 The Director Special Projects & Community may consider and decide a request to waive fees in accordance with this policy.

4.2 A reduction in fees by 50% may be approved where the applicant is endorsed by the Australian Taxation Office as a not-for-profit organisation.

4.3 The request to waive fees must:

- (a) Be made prior to the submission of the application for the approval or services to which the fees relate;
- (b) Be in writing setting out reasons for the request; and
- (c) Include proof that the applicant has been endorsed by the Australian Tax Office as a not-for-profit organisation.

4.4 A 100% reduction in fees may be granted:

- (a) For an application to change or vary an existing approval, where the need to change or vary the approval arises from an administrative error made by the Shire of Dardanup.
- (b) For a development application made for approval to reconstruct (like-for-like) a building accidentally destroyed through a natural disaster or event.
- (c) For a food business registration and food safety assessment fees, where the food business:
 1. is registered and operated by a school; or
 2. is registered and operated by a sporting group; or
 3. is registered and operated by a non-for-profit or charitable organisation; and
 4. the Director Special Projects & Community is satisfied that the amount to be exempted is reflective of the benefit of the food business to the community.

4.5 All statutory application fees (excluding 3.3.4) normally paid to the Shire associated with the required approvals under the relevant planning, building and health legislation shall be waived for capital works projects undertaken by the Shire of Dardanup.

4.6 The waiving of statutory application fees (excluding 3.3.4) can only occur for capital works projects that occur on local Shire of Dardanup owned or managed land and funded by the local government.

5.0 REFUND OF FEES

5.1 The Director Special Projects & Community may consider and decide a request to refund fees in accordance with this policy.

5.2 Fees may be refunded to an applicant in the following circumstances:

- (a) If the application is submitted but subsequently found by the Shire to not have been required – 100% of the fees will be refunded.
- (b) When a Building Permit or Building Approval Certificate has not been granted or refused. In line with the *Building Services Regulations 2011*. 100% of the Building Services Levy (BSL) and Building Construction Industry Training Fund (BCITF) 100% will be refunded.
- (c) If the Shire has not undertaken any assessment work and the application is subsequently withdrawn in writing within 7 days of the date of the application – 75% of the fees will be refunded.
- (d) For applications for development and building approval, if the Shire has commenced the assessment of the application – 50% of the fees will be refunded where:

- (i) the application has not been advertised; and
- (ii) the application is withdrawn in writing by the applicant within 21 days of lodgement of the application or is withdrawn as a result of a request for further information.

5.3 A fee will not be refunded by the Shire in the following circumstances:

- (a) For development applications and building applications, clause 5.2(c) does not apply if more than 21 days have passed since the lodgement date of the application.
- (b) For all other applications, assessment of the application by the Shire has commenced.
- (c) For the BSL and the BCITF once a Building Permit or Building Approval Certificate has been granted or refused. However applications for refunds on the BSL and BCITF may be considered by those relevant Authorities only.

6.0 COST AND EXPENSES

6.1 The Shire will not waive or reduce any part of a fee that comprises:

- (a) Costs or expenses that may be charged to an applicant where these are incurred through the provision of a service under Regulation 7 or waived or refunded (in whole or part) under Regulation 14 of the *Planning and Development Regulations 2009*.
- (b) Outlays or expenses charged to the Shire by a third party that relate to the application.

7.0 ACTIVITIES UNDERTAKEN WITHOUT APPROVAL

Fees will not be waived or refunded under any circumstances to applications made under clause 7.10 of Town Planning Scheme No 3 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.

8.0 DEFINITIONS

Applicant means the person or organisation who makes an application or formal request for an approval or service provided by the Health, Ranger, Building and Planning Departments at the Shire of Dardanup.

Application means an application or formal request for an approval or service provided by the Health, Ranger, Building and Planning Departments at the Shire of Dardanup.

Building application means an application for approval submitted in accordance with the Building Act 2011.

Development application means an application for approval submitted in accordance with the Planning and Development Act 2005.

Fees means fees levied in accordance with the Shire's Schedule of Fees and Charges for approvals and services provided by the Health, Ranger, Building and Planning Departments at the Shire of Dardanup.

Food business means a business, enterprise or activity as defined in Section 10 of the Food Act 2008.

Food business registration means the registration of a food business in accordance with Section 110 of the Food Act 2008.

Refund means the repayment of fees paid by a person or organisation to that person or organisation either in part or in full.

Waive means to reduce the fees payable by a person or organisation either in part or the full amount.

9.0 LEGISLATION REQUIREMENTS

- *Local Government Act 1995*
- *Building Act 2011*
- *Building Regulations 2012*
- *Bush Fires Act 1954*
- *Food Act 2008*
- *Planning and Development Act 2005*
- *Planning and Development Regulations 2009*
- *Public Health Act 2016*