

DEVELOPMENT FEES VARIATION POLICY

Adopted by Council 22 February 2022

public policy

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MITCHAM

1. PREAMBLE

All development applications lodged under the *Planning Development and Infrastructure Act 2016* (the Act) incur fees in order for an assessment process to be undertaken. Section 119(9)(c) of the Act allows a relevant authority to waive payment of whole or part of the application fee payable to that relevant authority for the assessment of a development application.

2. PURPOSE

This policy details the circumstances in which Council will waive or reduce development application fees and delegates these responsibilities to staff to implement.

3. SCOPE

This policy relates to development applications assessed by the City of Mitcham. This policy does not apply to statutory fees and levies collected by the Council on behalf of State Government or would be payable to third parties or referral agencies except where outlined in part 6.2.

4. DEFINITIONS

Act means the Planning, Development and Infrastructure Act 2016

Assessment Fees means the fees that are charged for planning and building assessments where Council is the designated (or in some circumstances is chosen) as the relevant authority for making a decision on a planning or building consents.

Building Fire Safety Committee means a Committee established by Council to act as an 'appropriate authority' under Section 157 of the Act. The purpose of the Committee is to inspect buildings to ensure building owners are maintaining proper levels of fire safety in their buildings.

Charitable Organisation means an organisation that must only have charitable purposes and is recognised under the *Charities Act 2013* (Charities Act)

Council Land means building, and associated infrastructure associated with council properties. For the purposes of this policy, Council Land does not include roads and footpaths and stormwater assets but does include Council owned buildings, parks and gardens and community land, including land in the care and control of Council such as Crown Land.

Community Land means all the local government land (except roads) that is owned by Council or under Council's care, control and management and as identified in Council's Community Land Register.

Community Group means a registered not for profit organisation or incorporated association who may have a lease, licence or management agreement with Council.

Minimum Planning Fee as defined within the City of Mitcham's Schedule of Fees and Charges.

Planning and Design Code (the Code) refers to the instrument of the Act that sets out a comprehensive set of policies, rules and classification which may be selected and applied in the various parts of the State for planning assessments.

Registered not-for-profit community organisations means an organisation listed on the Australian Securities and Investments Commission (ASIC) Register as not for profit.

Renewable Energy Facility means land and/or water used to generate electricity from a renewable source such as wind, solar, tidal, hydropower, biomass and/or geothermal and may also include:

- a) Any associated facility for the storage/and or transmission of generated electricity
- b) Any building or structure used in connection with the generation of electricity.

However, excludes solar photovoltaic panels that are roof mounted.

Statutory Referral means a prescribed body to which an application has to be referred to as part of the application process in accordance with Section 122 of the Act. There is a fee payable for this referral to be

5. PRINCIPLES

The principles underpinning this Policy are:

- 5.1 **Transparency** in which Council seeks to undertake its affairs in a way that contributes to open, transparent and informed communication.
- 5.2 **Accessibility** which includes generating awareness of Council's policies and procedures including how to request a waiver of certain fees associated with Development Applications.
- 5.3 **Consistency** in which Council seeks to ensure advice and decisions are made in a regular and reliable manner.
- 5.4 **Continuous improvement** by monitoring the effectiveness of Council processes and practices and implementing identified improvements to enhance their effectiveness and/or efficiency.

6. POLICY STATEMENT

Circumstances Where Fees can be Waived

Development Application fees will be waived for eligible applicants as defined in this Policy for development on land within the Council area where the City of Mitcham's Council's Assessment Panel or Assessment Manager are the relevant authority under the Act.

There will be no waiving of fees of a statutory referral nature – except those development application subject to Clause 6.2 or 6.3 or where a waiver is sought directly through the statutory body.

6.1 Development Applications by Community Groups on Council Owned or Controlled Land

All development fees (excluding lodgement and statutory fees) will be waived or discounted as per Table 1 when an application is lodged by a local community based not-for-profit group as outlined in 6.1.1 on a site owned or under care or control of the City of Mitcham.

6.1.1 Eligible Applicants

The following applicants may apply to administration for a waiver or reduction in fees associated with development applications:

- Sporting groups and sporting clubs
- Hall committees
- Community groups
- Neighbourhood associations
- Scouts SA
- Religious Institutions
- Rotary/Lions Clubs
- Not for Profit Community Organisations

6.1.2 Eligible Variation on Fees

Eligible applicants can have the following fees waived in accordance with the table below.

Fee Type	Fee Payable/ Eligible Fee Waiver
Lodgement Fee	As Gazetted
Planning Assessment Fee	
Planning Assessment Fee (Deemed-to-Satisfy and Performance Assessed)	100% of fee waived
Building Assessment Fee	
Development with a development cost up to \$250,000	100% of the fee waived.
Development cost with a construction value exceeding \$250,000 and where referral to a structural engineer or consultant building surveyor is necessary.	Minimum Building Assessment Fee.
Construction Industry Training Board (CITB) Levy	Nil fee waiver – Payable where development cost exceeds \$15,000

6.2 Conservation and Restoration Works on Heritage Listed Properties.

Council acknowledges the important role that heritage plays within our area and supports the waiver of planning and building assessment fees (and statutory referral fees) in the following circumstances:

- a) Applications primarily involving conservation and restoration works to a State or Local Heritage listed building.

- b) Applications where a property owner has been successful in receiving funding through the State Government's Heritage Grants Program to undertake restoration and conservation works to their State Heritage listed building.

6.3 Development involving Solar Panels and Rainwater Tanks

The City of Mitcham has declared a climate emergency, reflecting Council's ambition to provide leadership for our community in addressing the unprecedented threat of climate change. In order to assist the community in mitigating and responding to climate change, Council will waive the planning and building assessment fees in the following circumstances:

- a) An application for solar panels and/or rainwater tank on any residential site within the Council area.

Of relevance, in 2012 the Minister for Environment and Conservation has approved the waiving of the statutory referral fee for Development Applications for the installation of solar panels and rainwater tanks on State heritage-listed buildings and Places within a State Heritage Area.

As a result and in addition to the above:

- b) A statutory referral fee is not charged in the circumstance that an application for solar panels and/or rainwater tanks are lodged on a State Heritage Listed Property.

6.4 Development involving Fencing and Gates within Colonel Light Gardens

Colonel Light Gardens is a recognised State Heritage Area. As a result of this listing, there are additional legislative requirements for owners to obtain Development Approval on types of development not usually subject to a planning or building assessment, including fencing.

In the case of fencing and gates, the minimum acceptable requirements related to site location, height and materials are clearly outlined within the Heritage Standards for Colonel Light Gardens. The Heritage Standards form the basis of Heritage South Australia's decision on development referred to them.

As a result, Council will charge a minimum planning assessment fee and waive building assessment fees in the following instances:

- a) Applications that comply with the Acceptable Standard for Fences and Gates as outlined in part 3.5.2 of the Heritage Standards (Colonel Light Gardens, State Heritage Area); and
- b) Applications for fences and gates that would not ordinarily attract a building assessment if not for the State Heritage listing of the Area.

6.5 Exclusions

The waiver of fees in accordance with Clause 6.2, 6.3 and 6.4 will not apply in the following circumstances where:

- a) The application for conservation and restoration works, solar panels, rainwater tanks, fences and gates are not the primary consideration of the application and forms part of other building work i.e. construction of alterations and additions to the dwelling that also incorporates the installation of solar panels or other elements.
- b) The application is for the installation of solar panels/rainwater tanks on non-residential sites.
- c) The application is required to be publicly notified in accordance with the requirements of the Planning and Design Code; and
- d) The installation of solar panels is determined to be a renewable energy facility as defined within this policy or any amendments to this definitions as outlined in the Planning and Design Code.

6.6 Building Assessment Fees

Council plays an important role in protecting the ongoing safety of building occupiers and users. This is undertaken in a variety of way including through the establishment of a Building Fire Safety Committee and ongoing monitoring of annual maintenance and testing of Essential Safety Provisions required for non-residential buildings.

Council also encourages the upgrade of buildings to provide access and facilities for people with a disability in existing buildings.

As a result, the following applications will be eligible for the waiver of assessment fees:

- a) Applications for fire upgrade to buildings where the application is required to satisfy orders by the Building Fire Safety Committee.
- b) Assessment fees related to applications for upgrades/rectification works to buildings to comply with the requirements of the Disability Discrimination Act.
- c) Building assessment fees related to applications for new Form 1 – Schedule of Essential Safety Provisions to be issued where connected to Form 3 requests for annual returns.

The following applications or circumstances will be considered for a reduction in fees on a case by case basis taking into account the time required and cost of assessing the application:

- d) Commercial building rules assessments where the fee as calculated based on floor area far exceeds the complexity of the assessment.

6.7 Extraordinary Circumstances

Under extraordinary circumstances the Manager Development Services may determine to waive or refund whole or part payment of any fees or charges in relation to an application due to extraordinary circumstances. These circumstances will be considered on a case by case basis and where Clause 6.8 of the policy is followed.

6.8 Process for Requesting a Fee Waiver

The procedure for requesting Council undertake a waiver or reduction of fees is as follows:

- 6.8.1 A written request seeking the waiving of fee(s) should be submitted to Council.
- 6.8.2 The request should detail the name/address or the person/organisation requesting the fee waiver/ reduction and the reasons for the request referencing the relevant part of this policy.
- 6.8.3 A response (in writing) will be provided by the delegate to the requestor outlining the decision.

6.9 Delegation

- 6.9.1 Unless, otherwise stated the Manager of Development Services, Assessment Manager or Team Leader Planning and Business Support (or his/her nominee) is delegated the authority to waive development application fees in accordance with this Policy.
- 6.9.2 The Team Leader of Building and Compliance or his/her nominee is delegated to determine the reduction in building fees applicable in accordance with section 6.6 of this policy.
- 6.9.3 The Chief Executive Officer has the delegation to:
 - 6.9.3.1 Approve, amend and review any procedures that are consistent with this policy; and
 - 6.9.3.2 Make any formatting, nomenclature or other minor changes to the Policy during the period of its currency.

7. POLICY REVIEW

This Policy will be subject to review every four (4) years or sooner at the discretion of the relevant General Manager or, upon the release of any changes to the fees and charges as pronounced by government gazette.

The Chief Executive Officer has delegated authority to endorse any amendments to the Policy that does not vary the intent of the Policy.

8. VERSION HISTORY

VERSION	AUTHOR(S) POSITION	CHANGES	DATE
1	Elected Member Support	Nil	22/02/2022

9. DOCUMENT CONTROL

Responsible Department	Development Services		
Delegations Contained within Policy	YES		
Classification	Development Control		
Applicable legislation	<i>Planning, Development and Infrastructure Act 2016</i> and associated regulations, rules and practice directions made under legislation or by any relevant government departments.		
Related Policies & Corporate Documents	Schedule of Fees and Charges		
Additional references	Heritage Standards (Colonel Light Gardens State Heritage Area)		
Endorsed by Council	22/02/2022	Item No:	9.7
Effective Date	1/07/2022	Next Review Date:	Click here to enter a date.
Policy Set ID		Template Set ID:	3345084