

**Development Fee Waiver, Reduction or
Refund Policy**

GOV-DEV 002

Authority and Other Information	
Date of approval	28 September 2016
Source of approval	Council Resolution No. 15.041/16
Date of commencement	28 September 2016
Source of authority	<i>Local Government Act 1993</i>
Legislative Reference	Section 207 of the <i>Local Government Act 1993</i>
Delegations	Delegation No. 1 (xxix)
Strategic Plan Reference	1F
Date of review	At least once every four years but not later than September 2020 or as required as a result of any legislative change
Previous policies withdrawn or amended	<i>Development Fee Waiver Reduction or Refund Policy</i> adopted 23 June 2014 by Council Resolution No. 16.038/14*
Department responsible for implementation	Regulatory and Development Services
Department responsible for policy	Regulatory and Development Services
Publication of policy	A copy of the Huon Valley Council Development Fee Waiver, Reduction or Refund Policy will be placed on the Council's website and copies made available free of charge from Council's Customer Service Centre.

1. Purpose and Background:

1.1 Background

Planning and building permits are granted by the Council under the *Land Use Planning and Approvals Act 1993* and the *Building Act 2000*. This legislation requires the Council to act as an authority that is separate to its council-based functions.

Although fees and charges associated with planning and building applications can form a significant component of project costs, the Council's planning and building expenditure is met predominately from developer fees. This approach is an alternative to funding those services from the entire community through a higher general rate.

Circumstances can arise where it is appropriate and in the public interest for consideration to be given to waiving, reducing or refunding fees and charges associated with applications for planning or building permits.

It is recognised that there may need to be Policy provisions to assist:

- not-for-profit community based organisations with the delivery of their projects, activities or services that provide a community benefit and which align with Council's policies, strategies and activities;
- Council with some of its own projects and activities; and
- in resolving some planning and building application issues that may have a potential risk or liability for the Council.

1.2 Purpose

The main purpose of this Policy is to establish a consistent, equitable and transparent approach for the consideration of requests for the waiving, reducing or refunding of planning or building application fees and charges:

- From community based organisations for their projects;
- From Council for its own projects;
- Where specific circumstances exist and it is considered appropriate for the Policy to be applied.

This Policy will not apply to all projects or activities as some are excluded from this Policy and also, personal, commercial or family circumstances including financial hardship will not ordinarily be considered by itself appropriate for application of this Policy.

This Policy does not alter how the Council processes or collects some planning and building statutory fees and levies as either a Planning Authority, or Permit Authority, on behalf of the State Government.

2. Definitions:

In this Policy:

“Community based organisation” means a recognised not-for-profit group or organisation that carries out one or more of the following activities:

- provides services to the community such as positive ageing, child care or health services, charity services or services of a similar type;
- reinvests or applies revenue it receives predominately for public interest services or activities;
- principally provides social or junior sporting or recreational activities;
- supports public events or information of an historical, cultural or community arts focus.

A community based organisation does not include:

- any religious or political organisation;
- a profit making organisation;
- schools and tertiary institutions;
- State or Federal government agencies and departments;
- any organisation where more than 50% of its income is derived from any State or Federal government programs or from other sources of funding.

“Excluded project or activity” means a project or activity that receives or will receive State or Federal government funding or other funding over \$5,000.

“Excluded fees, charges or levies” means:

(a) any prescribed fees, charges or levies the Council is required to collect by legislation on behalf of the State Government or another government entity, for example;

- statutory fees under the *Land Use Planning and Approvals Act 1993*;
- Industry Training Levy;
- Building Levy;
- any other planning or building statutory fees, charges or levies such as those imposed by the Resource Management and Planning Appeal Tribunal, Tasmanian Planning Commission or TasWater.

(b) fees and charges the Council imposes for services it provides in a private capacity, for example, building surveying services.

3. Policy Statement:

Council will apply full fees and charges for applications under the *Land Use Planning and Approvals Act 1993* and the *Building Act 2000*. Council will consider waiver, reduction or refund of these fees and in order to be eligible under the Policy, applicants must satisfy the requirements of at least one of the following clauses to the satisfaction of the Council:

3.1 *Community based organisations* must demonstrate

- 3.1.1 the community benefit of the project or activity including its consistency to Council’s policies, strategies or activities;
- 3.1.2 a capacity to carry out the proposed project or activity;
- 3.1.3 that the full amount of fees and charges payable would be an impediment to the realisation of the project or activity;
- 3.1.4 the total cost of the project or activity is less than \$250,000;
- 3.1.5 the project or activity is not an *excluded project or activity*.

3.2 Council projects

Eligible Council projects or activities are those where:

- 3.2.1 the total cost of the project or activity is less than \$250,000;
- 3.2.2 the project or activity is not an *excluded project or activity*.

3.3 Eligible *community based organisations* and eligible Council projects or activities may have fees or charges payable for a planning or building permit application:

- reduced by 50%;
- if the total fees payable (without reduction) represent more than 20% of the total costs of the project or activity, the 50% reduction is to be increased to 100%;
- if the total fees payable (without reduction) represent more than 15% of the total costs of the project or activity, the 50% reduction is to be increased to 75%.

3.4 Exceptional circumstances

Exceptional circumstances may arise where a proportion of planning or building fees or charges may need to be waived, reduced or refunded.

This may include circumstances where there is a need to;

- bring an unlawful land use or unlawful structure into conformity with regulatory requirements;
- take action to reduce or mitigate a potential liability of the Council that arises from a planning or building application;
- resolve a situation where Council has caused or contributed inadvertently to planning or building fees or charges or related costs being unnecessarily incurred by an applicant.

3.5 Refund of withdrawn applications

3.5.1 If an applicant withdraws an application for planning or building approval before it is approved or refused Council may refund fees or charges it has received in accordance with this Policy if they have not already been expended for the relevant purpose.

3.5.2 Refunds may be applied to;

- planning advertisement fees, which will only be refunded in the event that no advertising has occurred;
- other planning or building fees or charges as follows;

Refund percentage	Circumstances
100%	<ul style="list-style-type: none"> • Nil
75%	<ul style="list-style-type: none"> • Application received, lodged and entered into the information management system
50%	<ul style="list-style-type: none"> • Application received, lodged and entered into the information management system • Application assessed initially and referrals to other departments initiated or additional information requested
25%	<ul style="list-style-type: none"> • Application received, lodged and entered into the information management system • Application assessed initially and referrals to other departments initiated or additional information requested • Further assessment undertaken

3.6 General Manager

3.6.1 Notwithstanding the requirements of the above table and other provisions of this Policy, the General Manager may authorise a refund in exceptional circumstances at a different rate subject to Council policies, applicable delegations and this Policy.

4. Application:

This Policy applies to requests for planning or building application fees and charges to be waived, reduced or refunded and will apply to;

- some community based organisations;
- the Council as an applicant for a planning or building permit;
- individuals.

This Policy does not apply to an *excluded project or activity* or to *excluded fees, charges or levies*.

5. Procedures:

- 5.1 All applicants must provide the information as set out in Schedule 1 and provide any other information required by the delegated officer.
- 5.2 A request under this Policy may be made prior to or in conjunction with lodgement of a planning or building application noting that, in accordance with relevant legislation, an application is not valid until full fees have been paid which includes a decision having been made to remit fees.
- 5.3 Where full fees have been paid in respect of an application and a decision is subsequently made under this Policy to waive or remit fees a refund will be provided.
- 5.4 Each application that is approved is to be recorded and reported to Council on an annual basis with information on the percentage of successful applications and the total reduced revenue.



HUON VALLEY COUNCIL

1. Attachment:

Huon Valley Council REQUEST FORM

Request for waiver or reduction of fees for planning or building permit applications

Applicant:.....

Address and contact details:.....

Applicant's representative:

Not-for-profit status:.....

Project name:.....

Location of project:.....

Project name and details:.....

.....

Project costs/estimate:.....

Describe the goals of your organisation and how the project is consistent with those goals:.....

.....

Describe how the project is consistent with Council policies, strategies and activities:.....

.....

Describe all funding sources for your organisation for the current and previous financial year, and for the project:.....

.....

Set out reasons why this request is being made::

.....

Describe the capacity your organisation has to deliver the project:

.....

Signed (Applicant)..... **Date**

(Please attach additional information)

OFFICE USE ONLY

Permit Application No.

To be eligible under the Policy, applicants must satisfy the requirements of at **least one** of the following:

3.1 Community Based Organisations

		Yes	No
3.1.1	the community benefit of the project or activity including its consistency to Council's policies, strategies or activities		
3.1.2	a capacity to carry out the proposed project or activity		
3.1.3	that the full amount of fees and charges payable would be an impediment to the realisation of the project or activity		
3.1.4	the total cost of the project or activity is less than \$250,000		
3.1.5	the project or activity is not an <i>excluded project or activity</i>		

3.2 Council Projects

		Yes	No
3.2.1	the total cost of the project or activity is less than \$250,000		
3.2.2	the project or activity is not an <i>excluded project or activity</i>		

3.3 Fees or charges payable for a planning or building permit application

		% applied
•	reduced by 50%	
•	if the total fees payable (without reduction) represent more than 20% of the total costs of the project or activity, the 50% reduction is to be increased to 100%	
•	if the total fees payable (without reduction) represent more than 15% of the total costs of the project or activity, the 50% reduction is to be increased to 75%	

Comments

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Signed
DIRECTOR ENVIRONMENT & DEVELOPMENT SERVICES

Date.....