



6.1.1 GENERAL APPLICATIONS FOR PLANNING CONSENT

Purpose

The purpose of this Policy is to clarify the local government's position relating to in-principle decisions, clause 61A single house exemption check applications and to identify the 'exceptional circumstances' where the Chief Executive Officer under delegated authority may waive development application fees under clause 9.2.2 of the Shire of Manjimup Local Planning Scheme No. 4.

Objectives

The objectives of this Policy is to ensure all decisions relating to land use and development within the Shire of Manjimup are made in accordance with the local government's obligations under the *Planning and Development Act 2005* (PDAAct) and the Scheme as well as having a clear position on waiving of fees for development applications lodged by sporting, charitable or other not-for-profit community groups.

Definitions

For the purpose of this policy, all terms and references shall have the same meaning as given by the provisions of the PD Act, *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) and the Scheme.

Application of Policy

This Policy applies to decisions relating to all land within the Shire and to all Applications for Planning Proposals lodged in accordance with the Scheme. Also, the Policy is to be read in conjunction with the Scheme and any other relevant Local Planning Policy. If a provision of the Policy is inconsistent with the Scheme, the Scheme prevails.

Policy Measures

The above objectives provide the context for the Policy measures which are set out under the following headings:

-) In-Principle Decisions;
-) Clause 61A Single House Exemption Check Applications; and
-) Waiving of Planning Application Fees.

1. In-Principle Decisions

The local government is occasionally requested to provide 'in-principle' support to a particular land use proposal. This process may be favoured by some developers to determine whether the local government is generally supportive of the proposal prior to committing resources to a formal application.

Legally, a local government is limited to making land use planning decisions in accordance with Schedule 2, Part 9 of the Regulations. The Scheme limits the ability to make land use planning decisions to formal applications made under Part 8 of the Regulations. Therefore, there is no legal basis to a local government making an in-principle decision.

1.1. No In-Principle Decisions

The local government will not make a decision relating to the use or development of land unless it is subject to an Application for Planning Approval or an Application for Subdivision / Amalgamation documentation lodged with the Western Australian Planning Commission and formally referred to the local government for comment.

1.2. Scheme Amendment Requests

(i) Notwithstanding the above mentioned, the local government may consider requests for support of amendments to the Scheme prior to submission of a formal Scheme Amendment documentation. The purpose of a Scheme Amendment Request is to identify whether a scheme amendment proposal is consistent with local government strategic planning objectives.

(ii) Any such support under (i) will not be construed as formal initiation of a Scheme Amendment and will be considered as 'without prejudice'.

(iii) Notwithstanding support under (ii), the local government will reserve the right to assess a formal Scheme Amendment on the merits presented in a formal Amendment Document and is not to be encumbered by the previous resolution of support.

2. Provision of Preliminary Advice

Officers of the local government are permitted to provide 'without prejudice' preliminary advice on planning requirements to landowners, consultants, government agencies and members of the general public.

3. Clause 61A Single House Exemption Check Applications

The Shire of Manjimup has, in accordance with Schedule 2, clause 61A(5)(a) of the Regulations, elected to provide advice to landowners in the Scheme area who propose to erect, or alter, or add to a single house, that development approval is not required because of the exemption under item 6 in the Table to clause 61(1).

The fee for this written advice is as per the fees and charges adopted annually by Council.

4. Waiving of Planning Application Fees

4.1. Requests to waive application fees associated with an application for planning consent shall be determined having regard to the following:

(i) Request to be made

Any sporting, charitable or other community group shall make a request in writing to the Chief Executive Officer to waive a planning fee prior to the application being processed.

(ii) Group must be incorporated not-for-profit body

Any group making a request as per the above, must be an incorporated

not-for-profit body.

(iii) Application must be for a development of community benefit

In order to qualify for the waiving of fees, an application must be considered by the Chief Executive Officer to be a development that will produce a community benefit.

4.2. Other Considerations

In addition to the above mentioned, the Chief Executive Officer shall have due regard to the following considerations when determining a request for the waiving of Planning Fees:

-) The level of contribution already made by the local government to the subject project;
-) Whether other funding sources the project provided for the payment of planning fees;
-) The financial position of the body making the request;
-) Whether an undesirable precedent for the waiving of planning fees would be created by approval of the request; and
-) Any other matter the Chief Executive Officer considers relevant to the request.

(i) Application not to be processed until request to waiver determined

An application subject to a request for waiving of planning fees is not to be processed and determined until such time as the Chief Executive Officer has determined the request in accordance with the section below.

(ii) Determination of Request for Waiver

The Chief Executive Officer is to make a written determination on any request for waiving of planning fees in accordance with this Policy. In the event that refusal of the request is warranted, reasons for this are to be given.

(iii) Request Referred to Council

In the event of a refusal, the body making the request may request that the matter be determined by Council. In the event of this occurring, the subject application is not to be processed and determined until Council considers the request unless the prescribed fee is paid.

Notwithstanding this Policy, the Chief Executive Officer may elect to table the request for waiving of planning fees for the consideration of Council.

(iv) Delegation to Chief Executive Officer Not to be Transferred

The delegation from Council to the Chief Executive Officer to determine requests for the waiving of development application fees is not to be transferred to another officer.

ADOPTED – 8 July 2021

EFFECTIVE – 21 July 2021

NEXT DUE FOR REVIEW – July 2025

The Administration of this Policy is by the Development and Regulation Division.