5.6 OUTCOME OF ADVERTISING AND ADOPTION OF AMENDMENTS TO PLANNING AND BUILDING POLICY MANUAL APPENDIX 20 - REFUNDING AND WAIVING PLANNING AND BUILDING FEES

Attachments:
1. **Development Fee Reductions and Refunds Policy**
2. **City of Vincent Planning and Building Policy Manual - Appendix 20: Refunding and Waiving Planning and Building Fees**
3. **Schedule of Modifications**

RECOMMENDATION:

That Council:

1. **ADOPTS the Development Fee Reductions and Refunds Policy included in Attachment 1, pursuant to Section 2.7(2)(b) of the *Local Government Act 1995*; and**

2. **REVOKES Planning and Building Manual: Appendix 20 – Refunding and Waiving of Planning and Building Fees, included in Attachment 2, and notes that Administration will publish a notice of revocation in accordance with Clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

PURPOSE OF REPORT:

To present the outcome of community consultation and seek adoption of proposed amendments to Planning and Building Policy Manual: Appendix 20 – Refunding and Waiving of Planning and Building Fees (Appendix 20).

The amendments include administrative changes to the head of power under which the policy is adopted, as well as the proposed renaming of the policy to Development Fee Reductions and Refunds Policy (Draft Development Fee Reductions and Refunds Policy). These matters are discussed in further detail in the Legal/Policy section of this report.

The Draft Development Fee Reductions and Refunds Policy is included in **Attachment 1**.

DELEGATION:

Section 2.7 of the *Local Government Act 1995* sets out the Role of Council as being to 'determine the local government's policies'. There is no delegation to Administration to make, review or revoke policies.

In accordance with Clause 5.7 of the City's Corporate Document Development Policy, Council approval is required for a complex amendment to a policy or revocation of a policy.

The proposed amendments to Appendix 20 are a complex amendment under the Corporate Document Development Policy. This is because the amendments propose substantial changes to the policy, including its objectives and the head of power under which the policy is prepared.

BACKGROUND:

At its 17 June 2025, Council approved conducting community consultation on its intention to replace Appendix 20, included in **Attachment 2**, with the Draft Development Fee Reductions and Refunds Policy.

The purpose of the Draft Development Fee Reductions and Refunds Policy to provide clear, contemporary, and consistent guidance on the circumstances in which planning and building fees may be reduced or refunded. It replaces Appendix 20, which was prepared under a now-superseded legislative framework. The previous policy included outdated references and ambiguous provisions that led to inconsistent application.

DETAILS:

The Draft Development Fee Reductions and Refunds Policy was advertised for 21 days from 26 June 2025 to 17 July 2025 in accordance with the City's Community and Stakeholder Engagement Policy. The methods of advertising included notices:

- Published on the City's website;
- Posted to the City's social media;.
- Published in the local newspapers;
- Posted on the notice board at the City's Administration and Library and Local History Centre; and
- Provided to regular applicants and relevant industry representatives, including local developers, builders, planning consultants, architects, and peak industry bodies such as the Urban Development Institute of Australia WA, Housing Industry Association, and Planning Institute of Australia.

One (1) submission was received in support of the proposed changes. No comments were provided with the submission.

LEGAL/POLICY:

- *Building Act 2011;*
- *Building Regulations 2012;*
- *Local Government Act 1995;*
- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- City of Vincent Local Planning Scheme No. 2;
- Community and Stakeholder Engagement Policy; and
- Corporate Document Development Policy.

Planning Regulations

Appendix 20 was adopted as a local planning policy under Clause 47(5)(b) of Town Planning Scheme No. 1 (TPS1). TPS1 was replaced by the Local Planning Scheme No. 2 (LPS2) in May 2018.

In accordance with Schedule 1, Clause 85A of LPS2, a local planning policy adopted under TPS1 continues to have effect as if it were a local planning policy adopted under LPS2.

The *Planning and Development Act 2005* and the Planning Regulations provides the criteria for the creation, amendment and revocation of local planning policies. Schedule 2, Part 3, Clause 6 of the Planning Regulations provides the procedure for the revocation of a local planning policy.

The purpose of the Draft Development Fee Reductions and Refunds Policy is to establish a clear and consistent framework for managing development and building application fee reductions and refunds, in alignment with the City of Vincent's strategic objectives.

It is proposed that the Draft Development Fee Reductions and Refunds Policy be adopted under the *Local Government Act 1995* rather than the *Planning and Development Act 2005*. This approach is recommended as both Appendix 20 and the Draft Development Fee Reductions and Refunds Policy relate to applications made under the *Planning and Development Act 2005* and the *Building Act 2011* and serves as an administrative function rather than a statutory planning function.

Local Government Act 1995 and Corporate Document Development Policy

Section 2.7(2)(b) of the *Local Government Act 1995* provides Council with the power to determine policies.

The City's Corporate Document Development Policy sets out the process for the development and review of the City's policy documents.

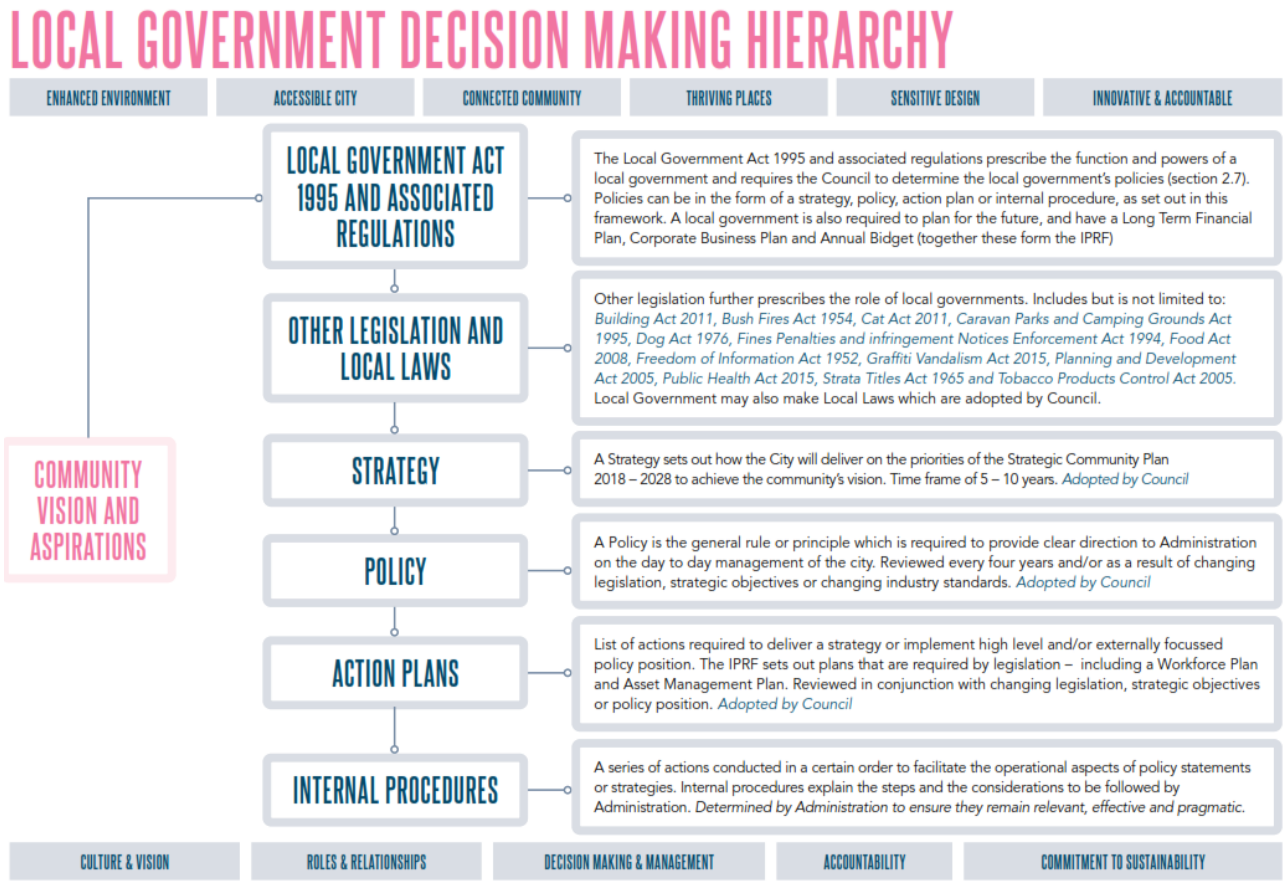
In accordance with section 2.3 of the Corporate Document Development Policy:

The purpose of a policy is to provide a general rule or principle to guide Administration and the community on the City's decision making and advocacy.

There is no statutory requirement for Vincent to have a policy in relation to development fee reductions or refunds.

The purpose of the proposed policy is to provide a clear framework for when the City may reduce or refund development application and building permit fees.

The Policy has been prepared in accordance with the Corporate Document Development Policy.



RISK MANAGEMENT IMPLICATIONS

Low: There is a low risk associated with the Draft Development Fee Reductions and Refunds Policy as it has been prepared in accordance with the City's Corporate Document Development Policy, relevant legislative requirements, and has undergone community consultation. It introduces a clear and consistent framework for assessing fee reductions and refunds, supporting transparency in decision-making.

Low: There is a low risk in consulting on the revocation of a local planning policy that is no longer fit for purpose, particularly where its preparation is not a statutory requirement.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2022-2032*:

Enhanced Environment

Our urban forest/canopy is maintained and increased.

Sensitive Design

Our built form character and heritage is protected and enhanced.

Innovative and Accountable

Our decision-making process is consistent and transparent, and decisions are aligned to our strategic direction.

SUSTAINABILITY IMPLICATIONS:

This is in keeping with supporting the following key sustainability outcomes of the City's *Sustainable Environment Strategy 2019-2024.*

- *Sustainable Energy Use/Greenhouse Gas Emission Reduction*
- *Water Use Reduction/Water Quality Improvement*
- *Urban Greening and Biodiversity*

PUBLIC HEALTH IMPLICATIONS:

This does not contribute to any public health outcomes in the *City's Public Health Plan 2020-2025.*

FINANCIAL/BUDGET IMPLICATIONS:

The budget impact of the proposed policy is outlined below.

Income

The table below outlines the income sources for the Development and Design and Building Services business units.

For the 2024/25 financial year:

- 209.80 percent of its budgeted income was received by Building Services.
- 96.81 percent of its budgeted income was received by Development and Design.

	Development Applications	Building Applications
2024/25 Budget	$500,000	$250,000
2024/25 Actuals*	$484,065	$524,511
2023/24 Actuals*	$436,589	$314,700

**This amount includes all refunds issued throughout the financial year.*

Fee reductions and refunds would reduce income received from these sources, depending on the type of application. The potential loss of revenue from fee reductions and refunds is outlined in more detail below.

Expenditure

Past and Current Expenditure

In the financial years 2023/24 and 2024/25, the following refunds have been issued for development applications:

- 2023/24: $10,056 (2.3 percent of the development application fee income).
- 2024/25: $10,423 (2.2 percent of the development application fee income).

Less than half of the number of eligible refunds were processed. This is primarily because the City has not received banking details from applicants to allow for the processing of refunds. The figures above reflect the value of refunds paid to applicants.

Impact of Draft Development Fee Reductions and Refunds Policy on Planning Fees

The Draft Development Fee Reductions and Refunds Policy introduces additional or modified fee reductions and refunds currently offered under Appendix 20, as outlined in **Attachment 3**. The Draft Development Fee Reductions and Refunds Policy is expected to result in approximately $2,163 per year in fee reductions and refunds, based on the average of eligible applications from the 2023/24 financial year and 2024/25 figures, as shown in the table below.

Development Application Type	Budget Impact ($ per year)
Exempt Applications (Works)	-225
Exempt Applications (Land Use)	-371
Greentrack – Multiple Dwellings	-200
Not For Profit Organisation	-482
Re-lodged DAP applications	-885
Total	**-2,163**

This represents an estimated additional revenue reduction of approximately 0.45 percent, based on the 2024/25 development application fee income. Given the overall volume of application revenue, this modest shortfall can be absorbed within existing income levels and is not expected to impact the City's broader financial position or service delivery.

Impact of Draft Development Fee Reductions and Refunds Policy on Building Fees

The Draft Development Fee Reductions and Refunds Policy would continue to apply to building applications. The *Building Act 2011* sets requirements for fees to be refunded in prescribed circumstances. This includes when an application is not determined within the statutory timeframe. The Draft Development Fee Reductions and Refunds Policy does not impact these requirements.

It is not anticipated that there would be any budgetary impact from the Draft Development Fee Reductions and Refunds Policy. In the past two years the City has not granted any discretionary reductions or refunds for building applications.

One non-discretionary fee reduction for building applications is provided for in the Draft Development Fee Reductions and Refunds Policy for Business Enhancement Grant proposals. Any fee reduction for a building application would form part of the budget for that grant.

The inclusion of building applications in the Draft Development Fee Reductions and Refunds Policy allows Council to consider future programs which provide building application fee reductions. It also continues to allow for the consideration of discretionary refunds by the City.

COMMENTS:

One submission was received during the consultation period, indicating support without any additional comments. As no issues were raised, no changes have been made to the Draft Development Fee Reductions and Refunds Policy that was advertised, and it is recommended that Appendix 20 is revoked.

While no changes have been made to the Draft Development Fee Reductions and Refunds Policy following consultation, a schedule of modifications outlining the differences between Appendix 20 and the Draft Development Fee Reductions and Refunds Policy is included in **Attachment 3**.

Administration's comments on the Draft Development Fee Reductions and Refunds Policy remain unchanged from the report presented to the 17 June 2025 Ordinary Meeting of Council.

DEVELOPMENT FEE REDUCTIONS AND REFUNDS POLICY

Legislation / local law requirements	*Local Government Act 1995.*
Relevant delegations	16.1.1 Determination of various applications for development approval under the City's Local Planning Scheme 2.2.20 Defer payment, grant discounts, waive fees or write off debts
Related policies, procedures and supporting documentation	Development Fee Reductions and Refunds Processes: D25/33468 Community Funding Policy Local Planning Policy: Development Guidelines for Heritage Places

PRELIMINARY

INTRODUCTION

The City recognises the importance of processing development fee reductions and refunds consistently, transparently, and fairly. This aligns with the City's Innovative and Accountable priority in its Strategic Community Plan 2022-2032.

The City's Fees and Charges are adopted annually with the Council's budget, outlining the fees set for each financial year. This includes fees relating to planning and building.

Planning Fees

Planning fees are established in accordance with Part 7 and Schedule 2 of the *Planning and Development Regulations 2009*

Under Regulations 48 and 49 of the *Planning and Development Regulations 2009*, local governments are authorised to recover costs and expenses associated with the provision of specified planning services. It prescribes the maximum amount that can be charged.

Fees may be waived or refunded (in whole or part) under Regulation 52 of the *Planning and Development Regulations 2009.*

Building Fees

Building fees are established in accordance with the *Building Act 2011* and the *Building Regulations 2012*.

Under Section 17 of the *Building Act 2011*, local governments can charge prescribed fees for the provision of building services and the processing of building applications. It prescribes the maximum amount that can be charged.

These fees may be waived or refunded (in whole or part) under Section 6.12(1)(b) of the *Local Government Act 1995*.

PURPOSE

The purpose of this Policy is to provide a clear framework for when the City may reduce or refund development application and building permit fees.

DEVELOPMENT FEE REDUCTIONS AND REFUNDS POLICY

OBJECTIVE

The objectives of this Policy are to:

1. Ensure consistent and efficient processing of fee reductions or refunds in considering the unique circumstances of each case.
2. Contribute to achieving the priorities in the City's Strategic Community Plan 2022-2032 by reducing financial barriers associated with development that —
    a) contributes to the preservation of heritage protected places;
    b) protects the City's urban tree canopy;
    c) supports a sustainable built environment; or
    d) relates to any other initiatives supported by Council.

SCOPE

The Policy applies to fees charged by the City for **development and building applications** made under the *Planning and Development Act 2005* and *Building Act 2011* but excluding—

a) Fees that must be refunded under legislation or due to incorrect charges.

b) Fees collected by the City on behalf of external agencies.

POLICY PROVISIONS

DEFINITIONS

For the purposes of this Policy, definitions are provided in Schedule 2.

POLICY

1) **Prescribed Circumstances for Fee Refunds and Reductions**

    1.1 **Development application fees**, **building application fees** and **additional expense charges** are to be reduced or refunded by the amount specified in Column 3 of Table 1, Schedule 1 if —
        a) the application is of a type specified in Column 1 of Table 1, Schedule 1; and
        b) all relevant conditions set out in Column 2 of Table 1, Schedule 1, for that development type are satisfied.

    1.2 A fee reduction under Clause 1 does not apply to applications to amend a previously determined application that has already received a fee reduction, unless stated otherwise in Column 1.

    1.3 The fee reduction or refund amount cannot exceed the amount paid or owed to the City for the application.

    1.4 **Complex applications,** including Development Assessment Panel applications are not eligible for refunds under this clause.

2) **Additional Circumstances that may be eligible for Fee Refunds and Reductions**

2.1 For circumstances that are not prescribed in Schedule 1, the City may reduce or refund a **development application fee**, **additional expense charge**, or **building application fee** based on the following factors:

a) The amount and value of work already undertaken by the City in processing the application;

b) The circumstances that led to the **development application** or **building application** being made, including but not limited to –

i) the time since the development work was completed for where approval is being sought retrospectively; and

ii) the history of property ownership.

c) Whether the City has unreasonably impacted the processing of the application and the extent that it is inconsistent with its procedures or service standards.

Notes:

i) An unreasonable impact does not include the City not supporting a proposal, or requesting further information be provided in relation to an application.

ii) Exceeding the statutory timeframe for determining an application under the *Planning and Development (Local Planning Schemes) Regulations 2015* does not itself constitute an unreasonable impact.

d) Any other matter the City deems relevant to the specific request.

OFFICE USE ONLY	
Responsible Officer	Manager Development and Design
Initial Council Adoption	DD/MM/YYYY
Previous Title	City of Vincent Planning and Building Policy Manual Appendix 20: Refunding and Waiving of Planning and Building Fees
Reviewed / Amended	DD/MM/YYYY
Next Review Date	MM/YYYY

Table 1 – Applications Eligible for Reduced Fees

Column 1 **Application Type**	Column 2 **Conditions**	Column 3 **Fee Reduction**	Column 4 **Guidance**
Heritage Protected Place Development application for works on a Heritage Protected Place; or Development application to amend an existing development approval for works on a Heritage Protected Place	1) The development as shown on plans submitted with the **development application**, would not have required development approval if it were not located on a **heritage protected place**; and a) any proposed demolition works satisfy the Acceptable Outcomes A1.2 and A1.3 of Local Planning Policy: Development Guidelines for Heritage Places; and b) does not adversely affect the significance of the **heritage protected place** as outlined in the Statement of Significance.	100 percent of the **development application fee**	• With reference to Condition 1b, the consideration of whether works 'adversely affect' the heritage-protected place is to be established by assessment against the Local Planning Policy: Development Guidelines for Heritage Places, advice from the Heritage Council of Western Australia and/or advice from a member of the City's Design Review Panel specialising in heritage development. • **Complex applications** are not eligible for this reduction as they are not able to be exempt under Clause 61 of the **Deemed Provisions**.
Single House or Dwelling Alterations Development application for a Single House, or for Alterations and Additions to a Single House, Grouped Dwelling or Multiple Dwelling (Exempt)	1) The application is for a single house, or for alterations and additions to a single house, grouped dwelling or multiple dwelling. 2) The development as shown on the plans submitted with the **development application** does not require development approval.	100 percent of the **development application fee** minus $295.00	• The $295.00 fee retained is consistent with the fee applicable for a Clause 61A Deemed-to-Comply Check. • Where the fee that has been charged is less than $295.00, the entirety of the fee is retained.
Land Use Development application for the use of land (Exempt); or Development application to amend an existing development approval for use of land (Exempt)	1) The application is for use of land, or modification to an existing development approval for the use of land, which does not require development approval.	100 percent of the **development application fee** minus $73.00	• The $73.00 fee retained is consistent with the fee applicable for a Written Planning Advice, given the City is providing advice that the use is exempt. • If the applicant changes the land use or scale of the proposal during the application process, making it exempt from development approval, the fee reduction does not apply.
Non-Residential Property Works Development application for works to non-residential development (Exempt); or Development application to amend an existing development approval for works to a non-residential property (Exempt)	1) The **development application** is for the alterations and additions to a non-residential development. 2) The works as shown on the plans submitted with the **development application** does not require development approval.	100 percent of the **development application fee** minus $295.00	• The $295.00 fee retained is consistent with the fee applicable for a Clause 61A Deemed-to-Comply Check. • Where the fee that has been charged is less than $295.00, the entirety of the fee is retained.
Significant Trees Development Application for Modifications to a Significant Tree	1) The modifications to the **significant tree** would not harm the long-term or ongoing viability of the **significant tree**.	100 percent of the **development application fee**	• With reference to Condition 1, the consideration of whether works harm the long-term or ongoing viability of the significant tree is to be established on advice from — a) The City's Parks team; b) Independent arborist reports; and/or c) Advice from a member of the City's Design Review Panel specialising in landscaping.
Environmentally Sustainable Design GreenTrack Development Application	1) The development application is for the construction of, or alterations or additions to — a) a single house; b) grouped dwellings; or c) no more than six multiple dwellings. 2) The Residential Design Codes Volume 1 applies to the application.	The cost incurred by the applicant for obtaining the Life Cycle Assessment, to a maximum of $200.00.	• **Complex applications** are not eligible for this fee reduction. • Applications that require assessment under Residential Design Codes Volume 2 are not eligible. • This incentive is available for as long as it remains approved by Council. Incentive extended at the 12 December 2024 Ordinary Meeting of Council.

	3) The application is accompanied by a Life Cycle Assessment that demonstrates the development satisfies the environmental performance standards in Policy 7.1.1 – Built Form relating to Environmentally Sustainable Design. 4) Proof of payment for the Life Cycle Assessment is provided to the City.		
Tree Retention GreenTrack Development Application	1) The development application is for a single house, grouped dwellings, multiple dwellings, commercial and/ or mixed-use development, including additions thereto, that — a) has a construction cost greater than $50,000; and b) retains **significant existing trees** as outlined in Condition 2. 2) The **significant existing tree**(s) retained have the following characteristics: a) Healthy specimens with ongoing viability; and b) Species is not included on a National, State or local area weed register; and c) Height of at least — i) 1.2 metres for Xanthorrhoea (grass tree) species; or ii) 3.0 metres for Banksia species; or iii) 4.0 metres for all other tree species; and/or d) Trunk diameter of at least 160 millimetres, measured 1.0 metres from the ground; and/or e) Average canopy diameter of at least 4.0 metres; and/or f) Any other species likely to be a remnant or regrowth local native tree with a height or canopy width deemed significant by the City; and/or g) Established trees that are significant from an Aboriginal Heritage perspective; and/or h) Any mature specimens that provide habitat or food for local fauna.	$200.00	• **Complex applications** are not eligible for this fee reduction. • Trees significant to Aboriginal Heritage include Nuytsia floribunda (Western Australian Christmas Tree). • Examples of mature trees that provide habitat or food for local fauna include Banksia and Hakea species which are known food sources for the Carnaby's Black Cockatoo. • This incentive is available for as long as it remains approved by Council. Incentive established at the 12 December 2024 Ordinary Meeting of Council.
Business Enhancement Grants Application associated with a Business Enhancement Grant	1) A **development** or **building application** is required in connection with a Business Enhancement Grant.	As established through Business Enhancement Grant.	• Fee reductions are provided as 'in-kind' support and are included in the project budget considered through the Business Enhancement Grant. The amount of the reduction, if any, is determined during the assessment of the grant application.
Withdrawn Applications Development applications that are withdrawn by the applicant, for any reason	1) The development application is withdrawn by the applicant by way of written notice. 2) At the time the application is withdrawn — a) the application has not been assessed by the City; or b) the application has been, or is in the process of being, assessed and community consultation has not commenced; 3) If Condition 2(b) applies, the application is not eligible for the fee reduction if it is for a change of use of land.	Fee reduction based on the applicable situation in Condition 2: 2(a): 90 percent of the **development application fee** paid. 2(b): 50 percent of the **development application fee** paid minus $295.00.	• In relation to Condition 3, this relates to an application for which a $295 application fee has been charged for an application for a 'Change of Use'. • In relation to the fee reduction 2(b), if 50 percent of the fee is to be refunded a minimum of $295 is to be retained.
Not-for-Profit Organisations Development applications where the proponent or applicant is a not-for-profit organisation	1) The proponent or applicant has an income tax exemption status from the Australian Taxation Office and proof of this status is provided to the City.	100 percent of the **development application fee** and **additional expense charge**	• For the purposes of Condition 1 a not-for-profit organisation can engage a third-party to be the applicant on their behalf. To be eligible for the fee reduction the application must be for the purpose of supporting the work of the not-for-profit organisation.

	2) The application is either for a change of use or has a value of less than $100,000.		• 100 percent of **additional expense charges** being waived means that mailout fees would not be passed onto the applicant. The City is permitted to charge the applicant these fees under Regulation 49 of the *Planning and Development Regulations 2009*.
Development Assessment Panel Amendments Development applications to amend a determination of the Development Assessment Panel	1) The development application is lodged under Regulation 17A of the *Planning and Development (Development Assessment Panels) Regulations 2011* after withdrawing a previous Regulation 17 application and is consistent with that proposal.	100 percent of the **development application fee**	• Applications lodged under Regulation 17 are required to be determined by the Development Assessment Panel. Applications under Regulation 17A are to be determined by the City. • This refund allows applicants to withdraw an application under Regulation 17, and apply under Regulation 17A, without being subject to a further application fee for the consideration of the same development.

DEVELOPMENT FEE REDUCTIONS AND REFUNDS POLICY

SCHEDULE 2 - DEFINITIONS

Additional expense charge	Means additional costs and expenses incurred by the City for which the City may charge applicants in accordance with Regulation 49 of the *Planning and Development Regulations 2009.*
Building application	Means an application made to the City under the *Building Act 2011.*
Building application fee	Means the money charged by the City for an application of that type set out in Schedule 2 of the *Building Regulations 2012* and the City's Schedule of Fees and Charges.
City	Means the City of Vincent.
Complex application	As defined in the *Planning and Development (Local Planning Schemes) Regulations 2015.* *The Planning and Development (Local Planning Schemes) Regulations 2015 definition is:* *"Complex application means —* *a) an application for approval of development that is a use of land if the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; or* *b) an application of a kind identified elsewhere in this Scheme, or in a local planning policy, as a complex application for development approval;"* *For the purposes of clause (b), the City of Vincent Community and Stakeholder Engagement Policy states:* *"[A] complex development application means a development application which proposes or is of the type:* • *Telecommunications infrastructure* • *Development on City owned and managed land* • *Mandatory or Optional Development Assessment Panel Form 1 applications as defined by the Planning and Development (Development Assessment Panel) Regulations 2015.*
Deemed Provisions	Means Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
Development application	As defined in the *Planning and Development Act 2005*. *The Planning and Development Act 2005 definition is:* *"Development application means an application under a planning scheme, or under an interim development order, for approval of development."*
Development application fee	Means the money charged by the City for a development application of that type set out in Schedule 2 of the *Planning and Development Regulations 2009* and the City's Schedule of Fees and Charges.

DEVELOPMENT FEE REDUCTIONS AND REFUNDS POLICY

SCHEDULE 2 - DEFINITIONS

Heritage protected place	As per the definition provided for 'heritage-protected place' in the *Planning and Development (Local Planning Schemes) Regulations 2015* *The Planning and Development (Local Planning Schemes) Regulations 2015 definition is:* *"A heritage-protected place is a place —* *a) that is entered in the State Register of Heritage Places under the Heritage Act 2018 section 42; or* *b) that is under consideration for entry into the State Register of Heritage Places as described in subclause (2); or* *c) that is the subject of an order under the Heritage Act 2018 Part 4; or* *d) that is the subject of a heritage agreement that has been certified under the Heritage Act 2018 section 90; or* e) *that is included on a heritage list as defined in clause 7; or* f) *that is within a heritage area as defined in clause 7."* *Note: For this clause, 'e)' includes the City of Vincent Heritage List.*
Significant Existing Tree	As defined in the Residential Design Codes Volume 1. *The R Codes definition is:* *"Significant Existing Tree means an existing tree that meets the following criteria:* • *healthy specimens with ongoing viability; and* • *species is not included on a State or local area weed register; and* • *height of at least 4m; and/or* • *trunk diameter of at least 160mm, measured 1m from the ground; and/or* • *average canopy diameter of at least 4m; or* • *as specified with the local planning framework."*
Significant Tree	See Tree of Significance.
Tree of Significance	As defined in the City of Vincent Local Planning Policy: Trees of Significance. *The Local Planning Policy: Trees of Significance definition is:* *"Tree of Significance means any tree(s) listed on the City's Trees of Significance Inventory."*

Where a definition is not provided, refer to the relevant Act or subsidiary regulations relevant to that application type.

APPENDIX NO: 20

REFUNDING AND WAIVING OF PLANNING AND BUILDING FEES

OBJECTIVES

This Policy outlines the circumstances where the City may refund or waive planning fees charged in accordance with the *Planning and Development Regulations 2009* and building application fees charged in accordance with the *Building Regulations 1989.* This Policy does not apply to fees that are charged in accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011.*

POLICY STATEMENT

1. Personal Circumstances

Financial hardship, personal or family circumstances will not ordinarily be considered to be grounds for the waiving or refunding of planning or building licence fees. However, this may be taken into consideration if the value of the Development Application does not exceed $10,000.

2. Waiving of Planning Fees

Planning fees will not ordinarily be waived in their entirety except under the provisions of section 4 of this Policy or by a resolution of the Council. The exception being for all City of Vincent development on land owned and/or vested in the City, in which no fee will apply.

3. Waiving of Building Fees

Building fees will only be waived or refunded in circumstances considered extraordinary by the Chief Executive Officer or the Director Development Services, which are charged in accordance with the *Building Regulations 1989*. Building Fees collected through the Builder's Registration Board (BRB), cannot be waived and do not apply to this Policy.

4. Partial or Full Waiver of Planning Fees

An application for partial or full waiver of planning fees may be approved by the Director Development Services. Circumstances in which such an application will ordinarily receive favourable consideration include:

(a) Where the application relates to development of a property listed on the City's Municipal Heritage Inventory (The Heritage List), and the value of the development is not more than $2.5 million, owners may have fees waived (reduction fee is increment based on the value of the development) in part or in full in the following instances:

  (i) where the proposed development would not otherwise require the submission of an application for planning (development) approval under clause 33 of the Town Planning Scheme No. 1 (i.e. it would otherwise be "exempt" development); or

(ii) the sole purpose of the proposed development is to restore or conserve the heritage attributes of a significant building 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) development application involving a change of use of a heritage-listed place that does not involve any significant physical construction; or

(v) development application involving alterations and additions which has no adverse affect on the heritage significance associated with the heritage listed place; or

(vi) development application involving partial demolition which has no adverse affect on the heritage significance associated with the heritage listed place; or

(b) Where the applicant is a "not for profit" organisation and:

(i) has obtained an income tax exemption status from the Australian Taxation Office; or

(ii) the application is either for a change of use or has a value of less than $100,000; or

(iii) the subject land is either owned by, or vested in the City.

For the purpose of clarity, the waiver of planning application fees under (4) (a) above does not apply to any fees that may be charged for the clearance of subdivision conditions; building strata fees; applications for rezoning; an application relating to an unauthorised existing development or use under clause 34 of the Town Planning Scheme No. 1; or any costs and expenses referred to in section 5 of this Policy.

Furthermore, where an application for a partial waiver of fees is made under (4) (b) above, the applicant will be required to provide sufficient proof of current "not for profit" status at the time of submitting the request. For the purpose of this Policy, a "not-for-profit" organisation is defined as an organisation whose principal objective is not the generation of profit, and which does not distribute any profit to the organisation's members. Not-for-profit organisations range from sporting clubs and hobby groups to community centres, neighbourhood houses, traditional charities and disability support groups.

Ordinarily, unless otherwise stipulated in the City's Schedule of Fees and Charges, a successful application will result in a reduction of 50 percent of the applicable planning fee.

5. Refund of Planning Fees where Application Withdrawn

The City will consider a written request for the refund of planning fees where the development application is withdrawn prior to a determination being issued. Ordinarily these requests will be granted in the following circumstances:

(a) Where, in the opinion of the Manager Planning and Building Services, no assessment work has been undertaken by the City and the application is subsequently withdrawn in writing within seven days of the date of application, 90 percent of the application fee will usually be refunded; or

(b) Where assessment work has commenced by the City, a refund of 50 percent of the application fee will ordinarily be approved where:

  (i) the application has not been advertised; and

  (ii) the application is withdrawn in writing by the applicant within fourteen days of the date of lodgement of the application.

6. Costs and Expenses

The City will not ordinarily waive or reduce any costs or expenses that may be charged to an applicant where these are incurred through the provision of a service under Regulation 49 of the *Planning and Development Regulations 2009* regardless of whether the application fee has been wholly or partly waived.

7. Unauthorised Existing Development

The waiver or refund of planning fees will not ordinarily apply to applications made under clause 34 of Town Planning Scheme No. 1 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. Building Licence Fees

The *Building Regulations 1989* do not make provision for a building licence to be transferred to another builder and therefore a change in the building contractor requires the issue of a new licence.

Furthermore, the *Building Regulations 1989* make no provision for refund of fees paid for a Building Licence Application; therefore such fees paid will not be refunded. The City's Technical Services Division will organise a refund of the relevant Works Bonds paid.

A refund of any Building and Construction Industry Training Fund (BCITF) levy paid may be obtained on application to the Training Fund at No. 55 Salvado Road, Wembley (PO Box 746, Jolimont). The relevant BCITF Levy form number will be required.

9. Authority to Vary Extent of Refunding or Waiving of Planning and Building Fees

Up to 100 percent of planning and building fees and charges may be reduced, waived or refunded where in circumstances considered extraordinary by the Chief Executive Officer or Director Development Services.

Table 1: Review of City of Vincent Planning and Building Policy Manual: Appendix 20 – Refunding and Waiving of Planning and Building Fees

Topic/ Clause	Existing Policy Approach	Proposed Changes in Draft Policy	Administration Comment
Policy format	Is separated into the theme headings of objectives and policy statement.	The draft Policy to include an introduction, purpose, objectives, scope, definitions and policy provisions.	The draft Policy has been prepared in the City's updated policy template to align with the Policy and Development Review Policy.
Objectives	*This Policy outlines the circumstances where the City may refund or waive planning fees charged in accordance with the Planning and Development Regulations 2009 and building application fees charged in accordance with the Building Regulations 1989. This Policy does not apply to fees that are charged in accordance with the Planning and Development (Development Assessment Panels) Regulations 2011.*	The objectives of the draft Policy have been updated as follows: 1. *Ensure consistent and efficient processing of fee reductions or refunds in considering the unique circumstances of each case.* 2. *Contribute to achieving the priorities in the City's Strategic Community Plan 2022-2032 by reducing financial barriers associated with development that —* *a) contributes to the preservation of heritage protected places;* *b) protects the City's urban tree canopy;* *c) supports a sustainable built environment; or* *d) relates to any other initiatives supported by Council.*	The draft Policy objectives have been updated to be outcome based and that align with the City's strategic objectives. The objective is clearer and removes references to outdated legislation.
Scope	Applies to planning and building applications, does not include money paid to external agencies.	Applies to planning and building applications, does not include money paid to external agencies or money paid for 'Complex' development applications.	The scope of the policy is not intended to change. It is intended that the policy only to relate to fees collected and paid to the City, not fees collected on behalf of external agencies.
Head of Power	Adopted under Town Planning Scheme No. 1 as a Local Planning Policy. In accordance with Clause 85A of Schedule 1 of the City's Local Planning Scheme No. 2, the policy continues to have effect as a local planning policy.	Adoption under the *Local Government Act 1995.*	It is proposed that the draft Policy be adopted under the *Local Government Act 1995*, as a policy of the City, rather than as a Local Planning Policy. This is because both Appendix 20 and the draft Policy cover planning and building applications and serve an administrative function, rather than a town planning function.
Definitions	Does not contain any definitions.	Definitions for the following terms used in the draft Policy have been included: • Additional expense charge • Building application • Building application fee • City • Complex application • Deemed Provisions • Development application • Development application fee • Heritage protected place • Significant Existing Tree • Significant Tree • Tree of Significance	New definitions provide clarity of terminology used throughout the draft Policy.
Policy provisions	Appendix 20 provides provisions for the following matters: 1. Personal Circumstances 2. Waiving of Planning Fees 3. Waiving of Building Fees 4. Partial Waiver of Planning Fees 5. Refund of Planning Fees where Application Withdrawn 6. Costs and Expenses 7. Unauthorised Existing Development 8. Building Licence Fees 9. Authority to Vary Extent of Refunding or Waiving of Planning and Building Fees	The draft Policy is split into two operative parts: 1. <u>Non-Discretionary:</u> This section outlines a clear framework for the automatic reduction or refunding of application fees, which applies to cases that meet predefined criteria. No discretionary judgement is required, ensuring consistency and efficiency in the process. 2. <u>Discretionary:</u> This section allows for fee reductions or refunds to be considered on a case-by-case basis based on factors. It ensures a transparent and consistent approach, considering specific circumstances of each request.	The split of the policy is proposed to ensure there is clarity about which applications are eligible for fee reductions and the value of the reduction. Further detail on the amendments to this portion of the policy are provided below.
Sections 1, 2, 3 & 7	1. <u>Personal Circumstances</u> Outlines that personal or financial circumstances will ordinarily not be taken into consideration unless the value of development is less than $10,000. 2. <u>Waiving of Planning Fees</u>	No provision.	The draft Policy does not include references to circumstances where requests will ordinarily not be successful. Instead, it provides circumstances where applications would be eligible. The draft Policy provides that City may consider any matter, including personal circumstances, if it deems that it is relevant to the specific request.

	Outlines that planning fees will not ordinarily be waived in their entirety except where the City is the developer or landowner. 3. <u>Waiving of Building Fees</u> Outlines that fees will not be refunded except in extraordinary circumstances as deemed by the Chief Executive Officer or the Director Development Services. Notes fees collected on behalf of another agency cannot be waived. 7. <u>Unauthorised Existing Development</u> Outlines that requests the fee waivers or reductions relating to unauthorised existing redevelopment will not ordinarily be successful.		
Section 8	8. <u>Building Licence Fees</u> Outlines that the former Building Regulations 1989 did not allow for changing of the builder for a licence and do not make the provision of refunding of fees. Provides contact details for the Building and Construction Industry Training Fund if seeking a refund of this money.	The draft Policy includes a Scope section which outlines the extent of application of the policy and notes it does not include fees collected on behalf of other agencies.	The Building Regulations 1989 and associated act have been replaced by the *Building Act 2011* (Building Act) and *Building Regulations 2012*. The Building Act sets out that fees must be refunded in certain circumstances. This includes when an application is not determined within the statutory timeframe. The Building Act also provides for amendments to Building Permits, including the nomination of a new builder.
Sections 4 & 5	4. <u>Partial or Full Waiver of Planning Fees</u> Outlines circumstances in which requests for fee reductions or waivers would ordinarily be successful, including development to heritage properties. 5. <u>Refund of Planning Fees where Application Withdrawn</u> Provides for a scaled reduction in the fees refunded on planning applications that are withdrawn, depending on the time since lodgement and extent of work undertaken on the application.	The draft Policy includes a table as Schedule 1, which outlines the type of development eligible for a reduced fee, the conditions that must be satisfied to be eligible for the fee reduction, the value of the fee reduction and guidance notes.	The draft Policy provides improved clarity on the types of development that are eligible for fee reductions. Each class of development is provided a value of the fee reduction, which ensures the fee reductions are applied consistently between applications. The Schedule incorporates fee reductions that are identified in other policies, such as the City's Policy No. 7.6.3 - Trees Of Significance. Specifics on changes to the eligibility of applications to be eligible for fee reductions is provided in Table 2 below.
Section 6	6. <u>Costs and Expenses</u> Outlines that requests to waive the charging of costs incurred by the City will not ordinarily be successful.	The draft Policy includes a new defined term 'additional expense charge' which relates to costs incurred by the City during the assessment of the application.	It is proposed that additional expense charges are not passed onto Not-for-Profit organisations. The draft Policy provides a framework for the City to not charge other classes of applications additional expense charges, such as consultation mail-out fees, in the future.
Section 9.	9. <u>Authority to Vary Extent of Refunding or Waiving of Planning and Building Fees</u> Provides that up to 100 percent of planning and building fees and charges may be reduced, waived or refunded extraordinary circumstances, at the discretion of the Chief Executive Officer or Director Development Services.	Clause 2 of the draft Policy provides matters which are to be given regard when considering if a discretionary refund should be granted including: • The amount and value of work already undertaken by the City in processing the application. • The circumstances that led to the development application or building application being made. • Whether the City has unreasonably impacted the processing of the application and the extent that it is inconsistent with its procedures or service standards. • Any other matter the City deems relevant to the specific request.	The current wording of Appendix 20 reads as a delegation from Council. The delegation to waive fees or grant discounts is provided through Delegation 2.2.20 of the Register of Delegations and Authorisations. The condition of the delegation requires planning and building fees to be refunded in accordance with this policy. Appendix 20 does not provide guidance on what matters may be considered 'extraordinary'. This could result in a lack of consistent decision making in relation to discretionary refunds. The draft Policy provides guidance on the matters to be considered by the City when assessing a request for a fee reduction or refund. No specific positions within Administration are mentioned. Delegations to specific officers within Administration would be handled through the Register of Delegations and Authorisations. Flexibility in the application of discretionary refunds is proposed to be retained. In addition to the matters listed there is also the ability to consider any matter specifically relevant to the request. This enables the ability for the City to consider discretionary requests for fee reductions for unforeseen circumstances.

Table 2: Changes to Fee Reductions

Existing Fee Reductions	
Class of Development	**Comment**
Heritage Protected Place	Amended to reflect current development standards. Aims to ensure that heritage protected places are not penalised by way of application fees, where approval would not have been required if they were not heritage listed and there is no adverse heritage impact.
Trees of Significance	No change. Taken from the City's Policy 7.6.3 – Trees of Significance
Greentrack: • Environmentally Sustainable Design • Significant Existing Tree Retention	Environmentally Sustainable Design • First adopted by Council at its 21 November 2023 meeting. • Proposed change: Expand program to include multiple dwellings assessed under R Codes Volume 1 – Part C. This is because the introduction of Part C of the R Codes provided for a Deemed-to-Comply pathway for multiple dwellings. The extent of assessment under this pathway for Multiple Dwellings is commensurate with that for Grouped Dwellings. This provides opportunities for innovative small scale multiple dwelling developments to go through the Greentrack program. The limit of six dwellings is to limit complexity of the proposal to multiple dwelling proposals to ensure that the City can meet its assessment prioritisation commitments. Significant Tree Retention • First adopted by Council at its 21 November 2023 meeting. • No Changes
Business Enhancement Grants	Provided through the community funding policy and includes building permit applications. The extent of the funding is to be established through the individual grant.
Withdrawn Applications	Amended as follows: • Remove references to requests being made within certain time limits. This is because the extent of any refund should reflect the value of the work done, not the time the application has been with the City. • Provide that for applications that are withdrawn and consultation has commenced or a request for further information has been issued are eligible for a 30 percent application fee refund.
Not For Profit Organisations	Fee reduction, retained from Appendix 20. Expanded to include additional expense charges (such as mail-out fees) which may be charged to the applicant.
New Fee Reductions	
Class of Development	**Comment**
Single House or Dwelling Alterations *Development application for a Single House, or for Alterations and Additions to a Single House, Grouped Dwelling or Multiple Dwelling (Exempt)*	Covers situations where a development application is lodged, but no approval is required in accordance with Clause 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015.* A minimum fee is retained of $295, which is equivalent to the fee charged for a Clause 61A 'Deemed-to-Comply Check' which is available to Single Houses. This item only applies where the development is exempt based on the plans provided at lodgement, and does not provide for refunds where a review finds the proposal does not meet the Deemed-to-Comply standards, but the applicant subsequently amends the plans to meet these standards.
Land Use	Covers situations where a development application is lodged, but no approval is required in accordance with Clause 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015.* A minimum fee is retained of $73, which is equivalent to the fee charged for written planning advice. This item only applies where the development is exempt based on the information provided at lodgement, and does not provide for refunds where a review finds the proposal is not exempt from requiring development approval, but the applicant subsequently amends the proposal to be exempt.
Non-Residential Property Works	The City's Local Planning Policy: Planning Exemptions provides for various exemptions from requiring development approval for non-residential development. This item covers development applications for non-residential works which are found to be exempt from requiring development approval. A minimum fee is retained of $295, which is equivalent to the fee charged for a Clause 61A 'Deemed-to-Comply Check' which is available to Single Houses. This is to reflect the work undertaken on the application. This item only applies where the development is exempt based on the plans provided at lodgement, and does not provide for refunds where an initial assessment finds the proposal is not exempt from requiring approval, but the applicant subsequently submits amended plans.
Development Assessment Panel Amendments	This item is to cover applications that are initially lodged as a Development Assessment Panel (DAP) application, but are subsequently withdrawn from the DAP stream. Because a new application is required to be made to lodge the application in accordance with Regulation 17A of the *Planning and Development (Development Assessment Panels) Regulations 2011* (amending a DAP application), this item ensures that applicants are not effectively double-charged for the same application.