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| Planning and Subdivision Fees Regulations 2016Last updated 13/10/2016 |
| **QUESTIONS AND ANSWERS** |

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# General

## Why have the fees been set as fee units?

Under previous regulations the fees were not set in monetary units which required the fees to be increased by an amendment to the regulations.

The planning and subdivision fee regulations have now been set in monetary fee units in accordance with the *Monetary Units Act 2004*. This means the fees will be indexed annually at the value set by the Treasurer for a particular financial year.

## How do the monetary fee units apply?

For your convenience, the department has converted the fee units into monetary units based on the value of the fee unit for a particular year.

The value of a fee unit for a particular year can be found under legislative information on the Victorian Government Legislation website at: <http://www.legislation.vic.gov.au/>.

## How to you calculate the fee units as a monetary value?

In accordance with the *Monetary Units Act 2004,* the fees in the planning and subdivision fee regulations are stated as monetary units and allow the amount of the calculated fee to be rounded to the nearest 10 cents. Any fee ending in a multiple of 5 cents is rounded up.

## When should a planning authority or responsible authority apply fee waivers or rebates?

Regulations 19 (planning scheme amendments) and 20 (anything that is not a planning scheme amendment) set out when fees can be waived or rebated.

Regulation 21 requires that the matters taken into account in making a decision to waive or rebate a fee must be recorded in writing.

# Planning scheme amendment fees

## The process for amending a planning scheme commenced before the new regulations came in effect. What fee should be applied?

If an amendment to a planning scheme commenced prior to 13October 2016, the applicable fee would have been set under the previous regulations. Any stage commenced post 13 October should be charged in accordance with the relevant stage of the amendment under the table to regulation 6. Column 1 specifies the ‘stage in the process for amending a planning scheme’ against the ‘time at which fee must be paid’ under column 4. Column 1 specifies the prescribed fee against each stage.

It is important to note that for the first 12 months from commencement of the regulations, the fees for planning scheme amendments will be charged at 50% of the fees set out in the 2016 regulations to enable an appropriate transitional period for these fees.

## What fee applies where the Minister amends a planning scheme under section 20(4) of the Act?

The fees set out for the various stages as specified in regulation 6 do not apply where the Minister prepares and approves an amendment under section 20(4) of the Planning and Environment Act 1987.

Regulation 7 sets the fee specific to an amendment under section 20(4) of the Act. The fee is 270 fee units which on the fee units value set for the 2016/17 financial year ($13.94) is $3763.80.

## What fee applies where the Minister amends a planning scheme under section 20A of the Act?

The fees set out for the various stages as specified in regulation 6 do not apply where the Minister prepares and approves an amendment under section 20A of the *Planning and Environment Act 1987.*

Regulation 8 sets the fee specific to an amendment under section 20A of the Act. The fee is 65 fee units which on the fee units value set for the 2016/17 financial year ($13.94) is $906.10.

## When should the relevant planning scheme amendment fee be paid?

The table to regulation 6 provides when the fee for the relevant stage of the amendment is to be paid.

## Do we include late submissions when determining the stage 2 fee?

Unless directed by the Minister, the planning authority can exercise it’s discretion over whether to accept a late submission.

## Do pro-forma submissions count towards the total number of submissions?

Yes. However, it is important to note for stage 2(iii) in the table to regulation 6 that the fee for submissions that exceed 20 or more submissions is capped at 2727 fee units or **$38,014.40 based on the fee units value set for the 2016/17 financial year.**

## Who pays the panel costs?

In accordance with section 156 of the Act, the planning authority is responsible for the panels costs. However, under 156(3) the planning authority can ask the proponent to agree to contribute to the amount due. If the proponent does not agree to pay the amount required to be paid, the planning authority may abandon the planning scheme amendment without referring submissions to a panel.

# Planning permit fees

## I have submitted a planning application before 13 October 2016, but I would like to amend the application after 13 October 2016. What fee do I pay?

if an application is made to amend a permit application on or after 13 October 2016, then the relevant fee is to be charged under regulation 12 of the 2016 regulations.

## How is an amendment to an application for a permit calculated? Is the fee charged at 40% of the original permit fee or the new permit fee?

If an application is made on or after 13 October 2016, then the relevant fee is to be charged under regulation 12 of the 2016 regulations must be charged at 40% of the fee under the *new* planning fee regulations as the applicable regulations in operation at that point in time.

An application received on or after 13 October 2016 should be calculated as: 40% of the applicable new (higher) application fee plus any difference in the new fees between the existing permit class under regulation 9 and the new permit class.

FOR EXAMPLE - If an application to amend a class 11 permit application is made on or after 13 October 2016:

* Under regulation 12(1), 40% of the original (class 11) application fee is $582.68 (i.e. 40% of $1456.70)
* Under Regulation 12(3), if the amendment to the application were to have the effect of changing the class of that permit to a new class (i.e. pushes it up to a class 12), the applicant must pay the difference between the two classes which is $1756.50 (i.e. $3213.20 - $1456.70 = $1756.50) **plus** the ‘40% fee’ under regulation 12(1).
* TOTAL: $582.68 (i.e. the 40%) + $1756.50 (i.e. the difference) = $2339.18

## A class 19 permit fee refers to per 100 lots created. Is it to be applied in lots of 100 or pro rata?

As set out in class 19 of regulation 9, a class 19 applies per 100 lots created and is *not* apportioned per lot. For example, a proposed development with 101 lots would be 2x the statutory fee of 89 fee units or $1240.70 which is $2481.40.

## Is there a fee for single dwellings with a development value over $2 million?

The single dwelling classes do not apply to dwellings valued over $2 million. This is because the single dwelling classes have been set at below cost recovery up to $2 million. This approach is designed to support affordability objectives for households.

If the estimated cost of single dwelling is more than $2 million, the 'develop land' classes 12-15 apply based on the applicable development value.

## What types of application can be charged as a class 21 permit (i.e. a permit not otherwise provided for)?

For any permit application that does not fall into the defined fee classes of regulation 9, class 21 of Regulation 9 of the Planning and Environment (Fees) Regulations 2016 provides for "a permit not otherwise provided for in the regulations" fee of $1240.70. For example this fee could be applied to a permit application relating to the provision of parking spaces and loading and unloading of vehicles.

## What is the appropriate fee for a two-lot subdivision?

Under Regulation 9 of the planning fee regulations, a two-lot subdivision falls into one of two fee classes:

* **Class 9**: VicSmart subdivision – is a fee of 13.5 fee units or $188;
* **Class 17**: A permit to subdivide land into 2 lots (other than a class 9 or class 16 permit) – is a fee of 89 fee units or $1240.70.

## I have already submitted and paid for my application fee prior to 13 October 2016 but my application hasn’t been finalised. Do I need to pay any additional fees?

No. If you paid and submitted your application before 13 October 2016, the 2015 interim fees were operative and apply prior to 13 October 2016.

# Planning permit amendment fees

## How do I work out which fee applies for an amendment to a permit issued before 13 October 2016?

Regulation 11 states that the fee to be charged for an application to amend a permit is the fee that is specified in column 2 of the table in regulation 11. Therefore, the fee to amend a permit will be the same as the fee to obtain such a permit.

The department is currently investigating this matter and further advice will be issued shortly. In the interim, responsible authorities may wish to exercise their powers to waive or rebate fees under regulation 20 in relation to applications to amend permits. One possibility for responsible authorities to consider might be to charge fees based on the value of the works for which the amendment to the permit is sought.

Please note, in accordance with regulation 21, any decision to waive or rebate a fee must be recorded in writing the matters taken into account which formed the basis of this decision.

## What fee should be charged for an amendment to a permit issued before 13 October 2016?

If an application for an amendment to a permit is made on or after 13 October 2016, the fee for amending permit must be charged in accordance with the new Planning and Environment (Fee) Regulations 2016 as the applicable regulations in operation at that point in time.

# Other fees

## What satisfaction matters does the fee apply to?

New regulation 18 of the planning regulations retains the wording of the 2015 interim regulations which allows a responsible authority to charge a fee for a satisfaction matter in relation to a planning scheme on a per matter basis.

## Is there a fee for secondary consents or a fee for applications for an extension of a permit?

No new fees will not be introduced without further investigation of the costs of undertaking this work and ensuring that those costs are not partially or fully covered by other fees. Whether a new fee is warranted in the future will be considered as part of the mid-term review of the Regulations. Note: Regulations have a 10 year lifespan.

# Subdivision fees regulations

## Engineering plans are usually prepared by the developer so why are we providing a fee for a council to prepare engineering plans?

In the event that a developer does not or is not able to have engineering plans prepared and the council prepares the plan, there needs to be a capacity for the council to charge a fee.

A council will only be able to charge the fee where it prepares the engineering plans.

## When should a Council apply fee waivers or rebates?

Regulation 12 of the subdivision fee regulations sets out when a Council can waive or rebate fees.

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