

# Eligibility for Waiver of Council fees and charges Policy



<b>Policy type</b>	Chief Executive Officer
<b>Adopted by</b>	Chief Executive Officer
<b>Responsible General Manager</b>	General Manager Corporate
<b>Responsible officer</b>	Manager Governance & Risk
<b>Date adopted</b>	This Policy was approved at the Corporate Management Team meeting held on 10 November 2020.
<b>Scheduled for review</b>	This policy will be reviewed four years from the date of adoption, or sooner if required.

## PURPOSE

This policy provides a consistent framework for assessing and determining requests or proposals to:

- waive Council fees and/or charges
- provide in kind support in the form of not seeking payment of fees and/or charges.

This policy must be read and applied in conjunction with related legislation, council policies, plans, delegations, budget and associated legislation.

## SCOPE

- The policy applies to Council-set fees and charges adopted through Council's annual budgetary process and amendments of these that may occur from time to time.
- This policy excludes rate notices and statutory fees and charges. Council may consider waiving or refunding building permit fees in certain circumstances. Council's Waiver or Refund of Building Permit Fees Policy covers this criteria.
- The policy does not apply to Section 65 (Community Asset Committee) managed facilities.
- Requests and proposals include those received from external agencies, organisations and individuals as well as staff and Councillors in the course of their business responsibilities.

## DEFINITIONS

<b>Not for profit</b>	(as defined in section 126(1) of <i>Local Government Act 2020</i> ): Means a body that – a) Operates exclusively for charitable, civil or other social purposes; and b) Does not share or allocate the funds or profits of the body or organisation with the owners, shareholders or executives of the body or organisation. This is deemed to include, but is not limited to, sporting clubs, arts societies, and special interest groups.
<b>Charity</b>	An entity determined by the Australian Charities and Not-for-profits Commission (ACNC) to be a charity.

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<b>Funded Bodies</b>	(Federal and State Government) Organisations that are externally funded or receive an income from external sources such as a level of government to assist in their operations eg Schools, delegated committee of Council, health care service or an organisation that receives significant/consistent donations.
<b>Fee waiver</b>	The fee or charge may be reduced (including reduced to zero).
<b>In kind support</b>	Council may absorb (not charge) fees and/or charges as part of a partnership or sponsorship between Council and an organisation or other entity. The unrecovered fees and charges are recorded as in kind support.

## POLICY

- Council seeks to fairly recover the costs of providing facilities and services from users through its fees and charges
- On occasion Council receives requests to reduce or waive fees or absorb the fees as an in-kind contribution to an initiative.
- Fee waivers can be a cost effective means of supporting delivery of services to the community.
- Where an alternative provider or facility is available, Council must ensure its decision to waive or absorb fees and or charges does not contravene its obligations under competitive neutrality (National Competition Policy).
- This policy provides guidance to Council officers to process requests to waive fees.
- A consistent framework for receiving, assessing, processing and measuring requests and proposals supports open, transparent and accountable governance and sound financial management.

## Assessment Criteria

Council may waive fees for events and/or organisations that meet the criteria described below and generally provide a benefit to the public.

## Organisations

Council will consider requests to waive fees from the following types of organisations as defined in this Policy:

- Not-for-profit
- Charity (registered)
- Funded bodies (Federal and State government)
- Community or Residents group (informal)
- Commercial Business

## Services, events and initiatives

Council will consider requests to waive fees to support the delivery of services, events and initiatives that the General Manager believes meet all of the following criteria:

- for public benefit

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- free and open to the public
- improve and respond to community wellbeing as described in the Council Plan and current adopted council strategies.

## Exclusions

Council will not consider requests to waive fees to support organisations and/or the delivery of services, events and initiatives that Council believes meet any of the following criteria:

- charge an entry fee
- community organisations that receive direct income from electronic gaming machines
- support activities that Council considers to be the entity's ordinary business activity
- return fundraising to the organisation, individual office holders or members
- undermine competitive neutrality
- are illegal or enable illegal activity
- are not appropriate association
- religious groups
- political groups

In assessing the decision the General Manager must consider:

- Is the requested service or facility fit for purpose?
- Is the request an appropriate use of Council resources?
- Does approval of the request conflict with Council's legislative obligations including competitive neutrality?
- Does approval of the request conflict with the obligations Council expects of managers of other Council facilities (for example a Section 65 Community Asset Committee)?

## Assessment process

Council will assess each request on a case by case basis against the criteria described in this policy and with reference to any further Council policy. The final decision is at Council's discretion.

General Managers may approve fee waivers in line with the functions of their directorate. General Managers cannot waive or vary statutory fees and/or charges or the fees and charges applied by a Section 65 Community Asset Committee.

The following table is provided for clarification:

<b>General Manager</b>	<b>Scope</b>
General Manager Corporate	Hire and use of council facilities including parks, halls and reserves managed by Council.
General Manager Community	Waste and waste disposal

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## **In kind support - absorbing fees and charges**

Council may absorb (not charge) fees and or charges as part of a partnership or sponsorship agreement between Council and an organisation or other entity. The beneficiary may not normally meet the criteria for fee waiver.

The assessment of requests for in kind support occurs as part of determining the partnership or sponsorship agreement. In kind support cannot be provided without a documented agreement and with reference to Council's Sponsorship Policy.

The CEO may revoke any prior decision that has not been enacted.

## **RELATED POLICIES**

Sponsorship (outgoing) Policy  
Waiver or Refund of Building Permit Fees Policy

## **RELATED LEGISLATION**

*Local Government Act 2020*  
*State Concessions Act 2004*  
*Charter of Human Rights & Responsibilities Act 2006*

## **REFERENCES**

Moirá Shire Council Annual Budget – Fees and Charges  
[Australian Taxation Office](#)  
[Australian Charities and Not-for-profits Commission](#)  
[National Competition Policy](#)

