

POLICY NO

C3:30

**POLICY TITLE BONDING FOR CIVIL ENGINEERING
CONSTRUCTION WORKS ASSOCIATED
SUBDIVISIONS AND OTHER DEVELOPMENTS**

VERSION I: Adopted 19 July 2005

Last reviewed: 19 July 2005

OBJECTIVES

To enable the release of Subdivision and Occupation Certificates associated with development within the Shire.

To provide a formal bonding agreement between developers and Council for outstanding civil engineering works associated with subdivision and other developments within the Shire.

To confirm the rights and obligations of both Council and the developer for the protection of both parties.

POLICY STATEMENT

That unconditional bank guarantees, or cash bonds, provide Council with access to a developer's money if the developer should fail to complete their obligations to Council as a consequence of conditions of Development Consent. However, unless there is a clear agreement between the Council and the developer, the Council's rights to use that money on the completion of the works, and in some cases to enter upon the developer's land to do the work, are not certain, and equally, the developer has no certainty that the Council will not arbitrarily call up the developer's security prematurely.

The standard bond agreement is to set out the extent of works being bonded, the security offered, the time-table for completion, and the authority and process for Council to complete the works or take the payment as applicable, should the developer fail to do so within the agreed time-table. The agreement is to provide for an opportunity for the time-table to be extended at Council's discretion, if appropriate, and will provide for the recovery of costs incurred if they exceed the amount of the bond provided.

A standard proforma bond agreement is to be set up in advance with some of the details of the project and developer to be inserted at the time. It is appropriate that the General Manager, Executive Manager Infrastructure & Assets, be given authority to execute bond agreements on behalf of Council.

Loadings

Bonds for outstanding civil engineering construction work will always need to include an extra loading to ensure that Council would have adequate funds available to complete the work should the developer fail to do so. The inclusion of a 40% loading (which includes 10% GST component in the event Council draw on the bond to carry out works) on bonds for construction works be applied. Council will not accept bonds for Section 94 Contributions.

Developers carrying out associated civil engineering construction works are required to maintain the works, and to rectify any defects arising within six months from the date of completion and issue of an Occupation Certificate, or until the registration of the final plan of subdivision, whichever occurs last. To ensure the developer's performance of these responsibilities, the developer is to provide a bond of 5% of the cost of the construction works.

The amount of security needs to fully cover the developer's obligations pursuant to the conditions of development approval, and engineering plan approval for a particular development.

Bonding Periods

In order that Council retains effective control and to ensure that development obligations do not remain outstanding permanently, it is appropriate that bonding agreements include a time period for compliance, but with the option for that period to be extended at Council's discretion.

Council will establish a standard period of six months for the completion of civil engineering construction works, unless an extension for a further six months can be justified by the developer. Council will only agree to one 6 months extension for any one Bond Agreement.

The standard bond agreement will include a provision that if any civil engineering construction works are not completed to the satisfaction of Council at the end of the twelve month period (in the case of having the standards 6 months extended), that the developer authorises Council to call up the security provided, in order to complete the works identified in the bond agreement.

Costs to Council

Councils Bond Administration Fee will apply.

The Bond Administration Fee of 1% (one percent) of the bond amount submitted to Council, with a minimum charge of \$165.00 which includes a 10% GST component.

Acceptable Security

To minimise financial risks to Council any Bank Guarantees provided must be unconditional and most importantly must not have an expiry date, because delays in claiming any money owed could result in Council losing its ability to claim.

Where a developer provides an Interest Bearing Deposit as security, it must be in Council's name and detailed that the money can only be withdrawn with authorization from Council's senior financial staff.

Date Policy Adopted	Minute No	Authority
19 July 2005	32680	Council Resolution