

Policy 11: Land Development Guidelines

Section 11

11.0 Bonding Requirements

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11.1 Introduction

These Guidelines provide Council's minimum requirements for bonding of Developments Obligations. They shall be read in conjunction with Council's other policies and by laws.

'Bonding' is the submission of a financial security to Council by the developer, and is used in the following circumstances:

- a) To cover uncompleted development obligations in order to obtain the early release of Survey Plans.
- b) To cover all development construction works during the maintenance period.

Note: *Development obligations refer to all conditions of approval relative to the development permit. This includes, but is not limited to, Civil Works, Park improvements, provision of 'As Constructed' information, test certificates, revegetation, sediment and erosion control.*

11.2 Types of Bonds

11.2.1 Performance Bond

Council may require a bond to be submitted (ie. earthworks, sediment erosion) prior to the commencement of works. The amount of the bond will depend on the type of development works being carried out.

11.2.2 Uncompleted Work Bonds

Council may, at the request of the Principal Consultant, agree to release the Survey Plans prior to completion of development obligations subject to the following:

- a) 100% bulk earthworks completed and stabilised to Council's satisfaction.
- b) Construction works (excluding bulk earthworks) to be generally a minimum of 50% complete.
- c) Sewerage works 90% complete (all manholes, pipes and pump station wells to be installed and to lock up stage), and construction is to be progressing satisfactorily.
- d) Water reticulation to be generally 50% complete, however, reservoirs and associated pump stations must be commissioned prior to the lodgement of survey plans unless otherwise approved by Council.
- e) An uncompleted works bond submitted by the Principal Consultant (on behalf of the Developer) for consideration by Council as follows:
 - 120% of the agreed value of uncompleted development obligations;

Note: *If this bond is to include maintenance requirements once works are completed, the value of the maintenance bond must be included in the total amount of the bond. Additionally, the wording of the bank guarantee must reflect the maintenance purpose. Refer to Section 11.2.3 of these Guidelines for further detail on the maintenance bond.*

- \$1500 – whichever is the greater amount.
- f) Council is to be satisfied that all works will be completed and all services operational, within three months of acceptance of an Uncompleted Works Bond. Uncompleted Works Bonds are refundable after formal acceptance by Council of the works 'On Maintenance', with the exception of those items that need extension to the maintenance period ('As constructed' information, revegetation, sediment and erosion control, etc).

11.2.3 Establishment and Maintenance Bond

It is the developer's responsibility to establish and maintain all living components (eg. flora, grassed areas, revegetated areas) within parks, open space and playing fields that are to be handed over to Council, prior to acceptance 'On Maintenance' for a duration to be determined by Council. This period shall commence from the formal acceptance of the development 'On Maintenance' of 'non-living' components (civil works) in accordance with Council procedures.

Council requires the developer to submit an Establishment Bond to Council to ensure the above works are maintained during this period.

The Establishment Bond shall be a separate bond for the non-living components (civil works) and separate bond(s) for landscaping works or other auxiliary works to the agreed value of the development obligations.

It is the developer's responsibility to maintain all development works which are to be handed over to Council (including open space areas), for a minimum period of twelve (12) months or as otherwise advised by Council. This period shall commence from the formal acceptance of the development 'On Maintenance'.

Council requires the developer to submit a Maintenance Bond to Council to ensure the above works are maintained during this period.

The Maintenance Bond shall be:

- 5% of the agreed value of the development obligations; or
- an amount otherwise negotiated with Council.

11.2.4 Formal Agreement

The developer shall enter into a formal agreement with Council prior to the formal acceptance of 'uncompleted works' or 'on maintenance' whichever is applicable.

There are two agreements and both can be obtained from Council. One relates to uncompleted works combined with maintenance requirements. The second agreement covers the maintenance requirements only. The agreements have been implemented to ensure that the developer is clear in relation to their obligations and the course of action Council can take if these obligations are not fulfilled in relation to uncompleted works or maintenance bonds. Refer to **Section 11.4.1** of these Guidelines regarding submission of bonds and formal agreements.

The developer may enter into an extended maintenance arrangement when it is the intention of the Developer to maintain open space in excess of an existing requirement. In such instances, the Developer shall nominate the intended duration of maintenance period and shall terminate the extended formal agreement with written advice to Council two (2) months prior to the intended date of termination.

11.3 Form of Bond

11.3.1 Form

Bonds may be in the form of either:

- cash
- cheque
- bank guarantee

Council will not accept any other form of security, such as mortgages, holding Titles to land, shares or insurance bonds, etc.

11.3.2 Cheques

Personal cheques for any amount are **NOT** recommended as it may incur delays. Processing of applications will not occur until personal cheques are cleared.

11.3.3 Bank Guarantees

Bank Guarantees must:

- be irrevocable guarantees from a recognised trading bank, approved by Council. Guarantees from Finance/Insurance companies and merchant Banks are not acceptable;
- be open ended with no expiry date;
- include the full and correct real property description to identify the property in which the works are being bonded (eg. Lots 11 to 22 on Survey Plan No 123456, cancelling part of Lot 999 on SP 100482. Indicating 'Stage 8 of Paradise Estate' on its own is now acceptable);
- include a statement describing the purpose of the bond (eg. Uncompleted development works, Maintenance bond, etc);
- bank guarantees are to be in the developer's name.

Bonds of \$5,000.00 or less shall be cash or bank cheque only.

11.4 Submission of Bonds

11.4.1 Requesting Approval of Bond Amount

The Principal Consultant is required to lodge a formal request to Council when bonding development works (ie. uncompleted or maintenance). This formal request shall consist of a written submission outlining the reasons for the bond and other relevant development details.

Prior to Council approving uncompleted or maintenance bonds, the developer is to enter into a formal agreement with Council. Refer to **Section 11.2.4** of these Guidelines.

Council requires the formal request be accompanied by the Bill of Quantities for the works including a schedule of rates, and a description of those works completed and those works uncompleted.

11.4.2 Requesting Return or Reduction of Bond Amount

The Principal Consultant shall lodge a formal request with Council for the return or reduction of a bond. This formal request would consist of a written submission outlining the reasons for the bond return or reduction and other relevant development details.

The minimum details to be included in the request are as follows:

- Real Property description of development;
- Council file reference for development;
- bond amount originally lodged with Council;
- name of Trading Bank (Bank Guarantee Bond only);
- Council receipt number (Cash/Cheque Bonds only);
- date bond lodged with Council.

The inclusion of the above information will help in the speedy return of bonds to the developer.

Unless otherwise notified by the applicant, the maintenance bond will be refunded after acceptance by Council of the Works formally 'Off Maintenance'.

Uncompleted Works Bonds will be automatically reduced to the maintenance amount at the time of formal on maintenance acceptance. It must be noted that for the automatic reduction to occur the original submission must indicate both the uncompleted works and maintenance bond details.