

SC6.22 Planning scheme policy for performance bonds

SC6.22.1 Purpose

- (1) Council often imposes conditions of approval on development applications which seek to have the developer carry out works, make payments to Council or conduct construction and development in accordance with approved plans of development. As a means of achieving compliance with certain conditions, it is Council's practice to require security in the form of a cash bond or trading bank guarantee (bond).

Note—Section SC6.14.11.7 (Bonding) of the Planning scheme policy for development works provides further detail about bonding arrangements for operational works.

- (2) The purpose of this planning scheme policy is to provide advice about the circumstances in which Council may require payment of a bond and the manner in which the amount of any bond will be determined.

SC6.22.2 Application

This planning scheme policy applies to development requiring imposition of a bond for security purposes.

SC6.22.3 General advice about imposition of bonds

The following is general advice about the imposition of bonds:-

- (a) without limiting its powers under section 65 of the Act, Council may impose conditions on a development approval requiring the lodgement of a bond;
- (b) a bond is intended to provide an incentive to develop in accordance with conditions of approval, as very often, in the view of the community, particular conditions are critical to a satisfactory development outcome being achieved;
- (c) a bond is to be of sufficient scale to ensure that:-
 - (i) causing a breach on the basis of deliberate action is not a desirable option; and
 - (ii) monitoring to ensure that contractors and employees do not unknowingly cause a breach is a desirable option;
- (d) in determining the amount of a bond, Council will have regard to the following:-
 - (i) the critical attributes of the site;
 - (ii) the relative importance, in planning, environmental and engineering terms, of the Council's requirements;
 - (iii) the scale of the development and the specific matters against which security is required;
 - (iv) the likely degree of community concern should a breach occur; and
 - (v) the remedial action, if any can be taken, which may be required should a breach occur;
- (e) Council will usually require the bond to be lodged prior to the commencement of development works;
- (f) a bond will be returned following completion of development and fulfilment of all conditions the subject of the bond; and

Note—it is an applicant's responsibility to lodge a formal request with Council for the return of a bond at the completion of development works.

- (g) in certain circumstances where compliance with conditions is essential to avoiding serious environment harm or other serious adverse impacts, Council may require a bond from the specific contractor or builders as well as from the developer, as a means of ensuring compliance with one or more conditions of approval.