

Policy Type:	Administrative
Date Last Adopted:	12 May 2009
Date Adopted:	26 June 2012

Policy No:	SRS212
Date Last Reviewed:	26 June 2012

Legal (Parent):
1. Local Government Act – Clause 2.7(2)(b).

Legal (Subsidiary):
1.

ADOPTED POLICY	
Title:	PERFORMANCE BONDS
Objective:	To outline circumstances whereby Council may elect to require bonds to secure compliance with planning approvals, and the arrangements associated with the bond.

Where Council issues planning approval and that approval is acted upon, the developer is obligated to comply with the approved application, along with any attendant conditions.

As a general rule, the Council will utilise powers available under respective legislation to enforce terms of any approval. Notwithstanding, the Council reserves the right to require by way of condition of approval, a performance bond in order to ensure compliance with an approval, or for Council to undertake works if required to do so.

1.0 Criteria for Performance Bonds

Circumstances that warrant a bond may include, but not be limited to:

- 1.1 A significant work where there is a doubt as to whether the enforcement powers of the Council would enable it to ensure compliance with the condition.
- 1.2 The failure to comply with a condition may detrimentally affect the public.
- 1.3 The condition requires work to be done on a thing which involves an aspect of use by the public.
- 1.4 The condition requires expenditure on conservation or rehabilitation works, where non compliance will detrimentally affect the public.
- 1.5 The condition properly requires expenditure on public land in proximity to the development site (e.g. tree planting), or on private land used by the public (e.g. landscaping), where non compliance will for amenity reasons detrimentally affect the public.

2.0 Administration of Performance Bonds

The terms of a performance bond are to be identified in each instance and be applied as a condition of approval, along with explanatory footnotes, as may be necessary. In each instance, the approval notice is to identify the following:

- 2.1 The nature and extent of work being secured by the bond.
- 2.2 The amount of the bond (to be closely related to the cost of the works being secured).
- 2.3 Form of security to be cash bond or suitable bank guarantee.
- 2.4 Whether Council will undertake works in the case of default leading to forfeiture of the bond, or whether the bond will be forfeited without Council undertaking the works, and in that case, how to apply the funds.
- 2.5 Arrangements in respect to power of entry onto private land where the Council intends to remedy non compliance by completing the work.