



Subdivision Bonds and Guarantees Policy



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Document Control

Policy	Subdivision Bonds and Guarantees Policy	Policy Number	TBA
Author/Reviewer	Director Sustainable Growth	Review Period and Date	Reviewed within 12 months of election/4 yearly - September

This policy shall be reviewed: -

- This policy shall be reviewed within 12 months of an election, and thereafter at four yearly intervals at least, to ensure it meets all statutory requirements and the needs of council. It may also be reviewed at other times as determined by council.

Document History

Date	Status	Version	Resolution	Description
26 July 2017	Draft	0.1		Presented to Council for endorsement, public exhibition 28 days
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25 October 2017	Final	1.0	17/283	Adopted



1. INTRODUCTION

Section 109J(2) of the *Environmental Planning and Assessment Act, 1979* (the Act) allows Council to release a Subdivision Certificate for a subdivision with outstanding civil works (such as road work, kerbing and guttering, footpaths, drainage etc.) as required by a development consent where an agreement has been reached between the developer and Council, concerning the security to be given by the developer to Council with respect to outstanding subdivision works and when it will be completed.

2. AIMS AND OBJECTIVES

This Policy aims to:

- Provide clear and transparent guidelines for when Council will consider the bonding of certain incomplete subdivision works required to be constructed in association with a development consent;
- Establish circumstances where bonding of incomplete subdivision works for a substantially complete subdivision is acceptable; and
- Protect Council and the community from unsustainable social and economic costs as a consequence of accepting partial or incomplete subdivision works.

3. LEGISLATION

Environmental Planning and Assessment Act, 1979.
Environmental Planning and Assessment Regulation 2000.

4. POLICY STATEMENT

Council may consider a formal request from a developer to accept an unconditional security for outstanding subdivision works, in order to facilitate the issue of a Subdivision Certificate, provided Council is convinced that the developer will be able to complete such work within a reasonable timeframe. The deferral of such works however must not present a safety issue that cannot be satisfactorily managed.

Before Council will agree to the payment of a security in lieu of completing subdivision works the following key infrastructure must be substantially complete:

Roads:

1. all internal roads pavements including initial seal and associated drainage infrastructure; and
2. all external arterial/connector road improvements, intersection upgrades etc. including initial seal and associated drainage infrastructure.

Drainage:

3. all internal drainage;
4. all downstream works to the legal point of discharge; and
5. all permanent stormwater quality treatment facilities.

Sewerage:

6. all internal sewerage facilities; and
7. all pumping stations, rising mains, odour control facilities and any external works necessary to deliver sewage to the designated discharge point.

Water:

8. all internal water supply works; and
9. all connecting mains and any other external works necessary to ensure adequate water supply.



Electricity:

10. all works, unless the electricity provider has agreed to allow a bond in lieu of construction and proof of that agreement is provided to Council;

Telecommunications

11. all works unless the telecommunications provider has agreed to allow a bond in lieu of construction and proof of that agreement is provided to Council;

Gas

12. all works, unless the gas provider has agreed to allow a bond in lieu of construction and proof of that agreement is provided to Council.

Infrastructure where a security may be accepted in lieu of completing subdivision works includes:

1. final seal, linemarking and signage;
2. concrete footpaths on road verges;
3. landscaping;
4. other minor structures; and
5. minor defects or omissions, or exceptional circumstances involving key infrastructure.

In this Policy, **substantially complete** means:

1. the subdivision works are complete except for minor defects:
 - a) which do not prevent the works from being reasonably capable of being used for their purpose; and
 - b) where it is determined there is reasonable grounds for not promptly rectifying; and
 - c) the rectification of which will not prejudice the convenient use of the works; and
2. those tests which are required to be carried out and passed before the works reach practical completion have been carried out and passed; and
3. documents and other information required which are essential for the use, operation and maintenance of the works have been supplied.

Security for subdivision works

If approved the security amount payable will be 150% of the estimated cost of constructing the outstanding subdivision works. The estimated cost will be based on a detailed quotation provided by a suitably qualified and experienced contractor and be based on the approved design plans and construction specification accepted by Council. All valuations are to include GST and any other statutory costs.

The security shall be in the form of cash or an unconditional, unlimited time bank guarantee lodged with Council.

Timeframe for completion of subdivision works

If a security is accepted then construction of the subdivision work must be completed within an agreed time (not exceeding 12 months) from the date of issue of the Subdivision Certificate or Council will access the security and undertake the subdivision work after notifying the Developer, unless an extension of time is agreed.

Council to undertake subdivision works

If Council decides to access the security and complete subdivision works then if the final cost of the works is more than the security amount Council will be responsible for the balance, however if the final cost of the works is less than the security amount no refund will be provided.