



POLICY No: WSC006

POLICY FOR BONDING OF DEVELOPMENT WORKS

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CERTIFIED A TRUE COPY OF POLICY ADOPTED BY COUNCIL

AUTHOR SIGNATURE	
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History of Revisions:

Version	Date	TRIM Doc. #
1	17/5/2010	D02240690
2	9/4/2014	D06269877

A. POLICY SUMMARY

A1 This Policy is applicable to works that have been conditioned to be constructed as part of a development consent where those completed works are dedicated to Council and become Council's Asset when complete.

A2 This Policy is required to:

- Provide for the issue of a Subdivision Certificate prior to completion of all works required under the conditions of consent or other associated approvals subject to the works being substantially complete.
- Provide for the bonding of works but only when Council is satisfied that the works that have been completed are able to perform the intended function without creating safety issues that cannot be satisfactorily managed and the remaining works can subsequently be completed by the Developer.
- Provide for the bonding of works but only in the circumstances where Council is satisfied that there will be no negative environmental impact.

B. POLICY BACKGROUND

B1 In certain circumstances it may be considered appropriate that incomplete works of a development which have been substantially completed may be bonded for subsequent completion by the developer to enable the issue of the Subdivision Certificate or Interim Occupation Certificate. A Policy is required to clarify when bonding of works may be acceptable and what action needs to be undertaken to permit the bonding of works to occur.

B2 The Environmental Planning and Assessment Act section 109J(2) provides for a consent authority to accept security for work to be completed.

C. DEFINITIONS

C1 **Council** means Wyong Shire Council, being the organisation responsible for the administration of Council affairs and operations and the implementation of Council policy and strategies.

D. POLICY STATEMENTS

Jurisdiction

D1 This Policy covers all elected members of Council, all personnel employed by Council, any person or organisation contracted to or acting on behalf of Council, any person or organisation employed to work on Council premises or facilities and all activities of the Council.

D2 This policy does not confer any delegated authority upon any person. All delegations to staff are issued by the General Manager.

General

- D3 Any incomplete works that a Developer would like to bond will be the subject of a formal application to Council. Consideration will be given to permit the bonding of incomplete works subject to satisfying the following criteria:
1. The works have been substantially completed and do not adversely affect the efficiency and/or operation of the development or a vital element of the development.
 2. The incomplete works do not present a safety issue that cannot be satisfactorily managed.
 3. The completion of the incomplete works can be carried out without significant impact on the operation of the development site and/or will not inhibit the commencement of building development on the proposed lots.
 4. The nature and value of incomplete works can be accurately estimated and validated.
 5. The developer can retain sufficient control of the site to satisfactorily carry out the incomplete works.
- D4 If Council agrees the proposal meets the abovementioned criteria the following is to be provided or complied with:
1. A timeframe and schedule for the carrying out of the bonded works acceptable to Council.
 2. Suitable security being either cash, a bank cheque or irrevocable bank guarantee is to be provided to Council to cover the future cost of the work including administrative, increases in construction costs due to the timing of works and contingency costs. This shall be generally 130% of the agreed costs plus any additional increase due to the proposed timing of the works. This is essential to ensure that Council is not financially disadvantaged should it be necessary for Council to arrange for the works to be carried out.
 3. Bank guarantees shall not have an expiry date and shall be from a reputable financial institution that may require approval from the Manager, Financial Services.
 4. The lodgement of security or the making of a payment to Council for the completion of works has been agreed in writing by the applicant. This shall include statements as to the completion date and an agreement of Council's absolute right to draw on the security to carry out the works and if required to recover any additional costs incurred in the carrying out of the works. In addition permission for unencumbered access for Council to enter the site and carry out works if required is to be provided.
 5. The payment of the appropriate fees for the assessment of the application in accordance with Council's Strategic Plan.
 6. Where any charge, fee, supply of products or services under this policy is subject to a goods and services tax (GST), an amount equal to the GST paid or payable in respect of the charge, fee, supply of products or services, shall be included in the amount of consideration paid or payable under this policy.
 7. An agreement from the Developer to pay Council fees for all inspections and administration relating to the bonded works and release of the bond when the works are completed.

E. POLICY IMPLEMENTATION - PROCEDURES

Applications

- E1 An application form for the Bonding of Works can be found on Council's Web of the "Forms" web page.
- E2 The application form is to be completed and lodged with payment of Council's applicable fee as contained in the Strategic Plan.

