



## **Local Planning Policy 4.1.3 – Bank Guarantees and Bonds**

### 1. Introduction

Development approvals obtained under the Shire's District Planning Scheme No. 1 (the Scheme) often contain conditions that must be met prior to certain occurrences such as prior to the issue of a Building Permit, commencement of works or prior to occupation or use of the development. For a variety of reasons, sometimes the conditions cannot be met at that time. This Policy provides guidance on when a Bank Guarantee or Bond may be permitted in lieu of compliance with the condition timeframe, how the amount of the bank guarantee or bond will be calculated and the implications if the condition is not met.

### 2. Policy objective

To provide a guide for the administration of bank guarantees and bonds for approved developments within the Shire.

### 3. Policy scope

This Policy applies to all land within the Shire.

### 4. Policy


1. When Development Approval is subject to specific conditions requiring certain works to be undertaken, and such conditions have not been, or cannot yet be, fulfilled, a bank guarantee or bond may be permitted in certain circumstances.
2. The amount of a bank guarantee or bond will be:
  - a) Assessed based on the estimated cost to undertake, and manage, the works required by the conditions of Development Approval.
  - b) Increased by 30% of the estimated cost in Policy provision 2(a) as a contingency fee.
3. If a proponent wishes to undertake certain works required by specific conditions of the Development Approval at a later date, the proponent will be required to submit a written request to the Shire detailing:
  - a) The particular condition/s of the Approval to be the subject of a bank guarantee or bond.

- b) Reasons why the works required by the condition/s of the Approval have not been undertaken.
  - c) Estimated timeframe for when the works required by the condition/s of the Approval will be undertaken.
4. A bank guarantee or bond is to be received by the Shire prior to a Building Permit being issued and no part of the bank guarantee shall be reduced, or no part of the bond shall be returned until the development complies with all the conditions of the Development Approval.
  5. If the Shire is required to act to undertake the works in default by the proponent, the Shire shall be indemnified against any claim for compensation by means of either a clause written into a legal agreement for the development as a whole, or another form of indemnity which will incorporate the right of the Shire to enter onto the property.

The Shire will not act to undertake work in default by the proponent until after successful legal action has been taken against the proponent for failure to comply with a condition of Development Approval or a provision of a legal agreement.

## 5. Strategic objective

The policy aligns to the following strategic objective:

	<p><b>Effective civic leadership</b>          Effective civic leadership is visionary and influential. It means listening to the community, balancing competing demands, making fair decisions and acting with integrity.</p>
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## 6. Definitions

- Nil

## 7. Legislation

- *Planning and Development Act 2005.*
- Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 Deemed Provisions (Part 2).
- Shire of Harvey’s District Planning Scheme No. 1.

## 8. Related documents

- Delegated Authorities - 9.1.2, 9.1.3, 9.1.5, 9.1.6, 9.1.7, 9.1.8, 9.1.9, 9.1.10
- Former Council Policies 15.9 and 4.1.7.

Responsible officer	Director Sustainability
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Responsible team	Planning		
Responsible area	Planning Services		
Version control	Date	Resolution	Number
Version 1	24.03.1997	Resolution	
Version 2	11.12.2007	Resolution	21902
Version 3	19.09.2017	Resolution	17/259
Version 4	22.03.2022	Resolution	22/040