

POLICY

Subdivisions

Bonding Policy for Uncompleted Subdivision Works and Maintenance Bonds

1 Introduction

Waimakariri District Council (WDC) allows for bonding of uncompleted subdivision works in certain circumstances to allow issuance of the Resource Management Act 224(c) Certificate to the developer prior to final completion of all required works for assets which are to be vested in Council. Developers require the 224(c) Certificate to be issued to obtain the Title Certificates required for selling sections.

Maintenance bonds provide for the period of time after an asset has been constructed and vested in Council. Maintenance bonds protect against design defects and/or failures in workmanship, and guarantees that assets are regularly and adequately maintained throughout the maintenance period.

2 Policy Context

The bonding policy seeks to address those instances where uncompleted subdivision works are minor in nature and have been delayed beyond the developer's control. Under these circumstances it would be unreasonable to withhold the 224(c) Certificate as the risk of granting the 224(c) Certificate with the works uncompleted is minimal. These situations should be limited to those where works are approximately 95% completed and the consequences of the not issuing the 224(c) Certificate would outweigh the risk of bonding the works and the administrative costs of administering the bond.

3 Policy Objective

The objective of the Bonding Policy is to provide the core principles on what the Council bonds and under what circumstances these items may be bonded. This policy applies only to those works that are on land that will become public land as a result of completing the works to obtain 224 (c) Certificate. Works to be completed on property that will remain in private ownership will not be bonded under any circumstances.

4 Policy Statement

4.1 Approach to Bonding Uncompleted Works

Uncompleted works may be bonded only where the developer can demonstrate that one of the following conditions apply:

- (a) Adverse weather conditions do not allow for the completion of the works.
- (b) Future damage to the infrastructure (i.e. – final sealing) is likely during completion of works for the subdivision.
- (c) It is more practical to complete works at a later date which will result in a better long term asset to the community.

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4.2 Conditions for Bonding Uncompleted Works

4.2.1 Council will only bond works which are to be vested in Council. Acceptance of bonds for uncompleted works will be determined based on an evaluation of the following:

- (a) Value of the works to be completed.
- (b) Percentage of the uncompleted works with respect to the total value of the required works.
- (c) Timeframe required to complete uncompleted works.

The developer shall submit items (a) – (c) above in support of any request to WDC to bond uncompleted works.

4.2.2 Examples of items that may be considered for bonding are listed below. Uncompleted works bonds will only be considered for those assets that are located on public land and will be vested in Council.

- (a) Final sealing of roads, footpaths, and access points where physical and practical access is available to the site.
- (b) Final seeding of berms.
- (c) Street trees when the timing of the completion of works occurs outside of the planting season.

4.2.3 Uncompleted works bonds are to be paid prior to issuance of 224(c) Certificate.

4.2.4 The portion of uncompleted work that has been completed (e.g. basecourse of a road) will be subject to a maintenance bond as defined below.

4.3 Maintenance Bonds

4.3.1 Maintenance bonds are to be provided upon completion of works prior to issuance of 224(c) Certificate and shall be in force for the entire maintenance period as defined in this policy. Maintenance bonds must be provided for the following infrastructure:

- (a) Roading assets
- (b) Water assets
- (c) Sewer assets
- (d) Stormwater assets

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- (e) Landscaping
- (f) Reserves assets

4.3.2 Where maintenance bonds are required on works covered by an uncompleted works bond:

- (a) The uncompleted works must have been completed.
- (b) The maintenance period as defined below is to start at the completion of the works.
- (c) Uncompleted works bonds will be returned for the completed works less the required amount for the maintenance bond (5% plus GST of the actual total of the work).

4.4 Value of Bonds

4.4.1 Non-cash bonds for uncompleted works:

- (a) Non-cash bonds shall be 200% plus GST of the value of the work required to be done, as confirmed by the Waimakariri District Council.
- (b) Non-cash bonds must be issued from a bank acceptable to Council.

4.4.2 Cash bonds for uncompleted works:

- (a) All cash bonds will be assessed at 150% plus GST of the value of the actual work.

4.4.3 All uncompleted works bonds with a value of the works to be completed that is less than \$100,000 shall be in the form of a **cash bond**.

4.4.4 Uncompleted works bonds for a value that exceeds \$100,000 but is less than \$1,000,000 shall also be in the form of a cash bond unless an alternate method is requested by the developer and approved by Management Team.

4.4.5 Uncompleted works bonds for a value that exceeds \$1,000,000 shall be at the discretion of Council.

4.4.6 For complex works (as approved by Management Team), the bond value can be adjusted on an ongoing basis.

4.4.7 Maintenance bonds:

- (a) Maintenance bonds shall be 5% plus GST of the actual total value of the work for the periods specified below.

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- (b) Maintenance bonds shall be cash bonds.

4.5 Time limits

4.5.1 All written bonds shall have written into them that:

- (a) they are payable on demand, **AND**
- (b) irrespective of how many sections are sold payment of the full bonded amount (less the amounts previously paid) will be made to the Council at the expiration of one year from the date of execution of the bond.

4.5.2 All bonds shall be a subject of a written request from the developer which shall:

- (a) request that specific works be bonded (the works need to be listed)
- (b) provide documentation as required by 4.2.1
- (c) acknowledge that the developer will undertake to complete the work to the Councils requirements within the timeframe stated on the request (one year maximum from of the lodgement of the bond)
- (d) authorise the Council to deduct the administration fee at cost from the bond (cash bond) or invoice the developer for the administrative costs (non-cash bond) and receive payment prior to release of the bond
- (e) acknowledge that no interest shall be paid by the Council on the bonded amount.

4.5.3 The following items are subject to a 1-year maintenance bonding period:

- (a) Roothing assets
- (b) Water assets
- (c) Sewer assets
- (d) Stormwater pipes and structures

4.5.4 The following items are subject to a 2-year maintenance bonding period:

- (a) Landscaping
- (b) Stormwater management areas

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- (c) All other plantings

4.6 Administration

- (a) All costs associated with bonding will be the developer's responsibility.
- (b) The Waimakariri District Council will charge actual and reasonable costs with a minimum fee of \$25 for the administration of each bond.
- (c) The Waimakariri District Council will charge at cost for the discharge or partial discharge of each caveat or bond.

4.7 All written bonds will include the Council's ability to register a mortgage over each and every lot in the subdivision.

4.8 All written bonds will be registered by way of a caveat or by way of Memorandum of Understanding on each and every lot in the subdivision.

Note: The Council resolved not to bond subdivision Development Contributions after 1 July 2001.

5 Delegation

The following Council staff members and Council groups have delegation to approve subdivision bonds in accordance with Council's delegation manual:

- District Plan Manager
- Manager Planning and Regulation
- Chief Executive
- Management Team
- Council

6 Links to legislation, other policies and community outcomes

Local Government Act 2002
Resource Management Act
Engineering Code of Practice
QP-C811-AD Uncompleted Works Bond
QP-C811-AE Maintenance Bond

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7 Adopted by and date

Adopted by Council on 1 March 2016.

8 Review

Review every six years or sooner on request.