

Council Policy

Development / Construction Security Deposit

Policy Statement

Council requires a security deposit, also referred to as a bond, from owners, developers and or builders to provide sufficient funds to complete works or repair any damage incurred within Council's road reserve or on Council Property during the construction of an approved development or works.

A security deposit relating to a Development Application or an Engineering Application is to be reasonably determined by Council in accordance with the Local Government Act 1993, Roads Act 1993 and the Environmental Planning and Assessment Act 1979.

The security deposit relating to a Complying Development Certificate is fixed in accordance with Council's Annual Fees and Charges as required by the Environment Planning and Assessment Regulation 2000.

The security deposit(s) is to be paid in accordance with the conditions of approved development consent for Development Applications and Engineering Applications or prior to the issue of a Complying Development Certificate when applicable.

As part of a Development Consent, Council may levy a number of security deposits to protect Council's interest, including but not limited to

- Asset protection – ensure Council assets are not damaged
- Construction – ensure the construction of public infrastructure is completed
- Maintenance – ensure public infrastructure meets Council's specifications
- Defects – non-conformances are rectified following the construction of public infrastructure

Council's Development/Construction Security Deposit Policy Guidelines (*the Guidelines*) serve to streamline the administration process to handle the security deposit.

Principles

Council will administer the Development/Construction Security Deposits policy in accordance with the following legislative framework and principles:

1) Legislative framework

- Local Government Act 1993 – S97
- Roads Act 1993 – S138 and S139
- Environmental Planning and Assessment Act 1979 – S4.17
- Environmental Planning and Assessment Regulation 2000 – S136 M

2) Determining a security deposit

Council determines the security deposit as appropriate for the development as prescribed by legislation relevant for the approved development and any provisions contained in the Guidelines:

3) Receiving a security deposit

The security deposit will be provided to Council prior to works commencing in a form (e.g. bank guarantee or cash) permitted by the legislation under which the application is being made.

4) Assessing existing condition

The existing condition of Council infrastructure to which a security deposit relates will be documented, submitted and retained by Council as prescribed by the Guidelines prior to works commencing and may be relied upon when assessing a request to return the security deposit.

5) Returning a security deposit

The security deposit is refunded less the cost of repairs for any damage, subject to Council's satisfaction that there are no remaining works under the approved development that may cause damage to Council's infrastructure. Council may also utilise the security deposit to complete unfinished works relating to Council infrastructure that were required as part of the approved development if the applicant fails to do so within a reasonable time frame.

Procedures for refunding security deposits are prescribed in the Guidelines.

6) Developers and Builders Compliance

The property owner/developer/builder must comply with the conditions of approved development consent where applicable. Failure to comply may result in the property owner/developer/builder forfeiting the security deposit.

Scope and application

This policy applies to all approved developments in the Northern Beaches Council local government area. The terms of this policy do not restrict Council's rights pertaining to security as outlined in relevant legislation.

References and related documents

- Council's Fees and Charges (as issued annually)
- Local Government Act 1993 – S97
- Roads Act 1993 – S138 & S139
- Environmental Planning and Assessment Act 1979 – S4.17
- Environmental Planning and Assessment Regulation 2000 – S136 M
- Development/Construction Security Deposit Policy Guidelines

Definitions

Approved Development: all development as defined in the Environmental Planning and Assessment Act 1979 approved by Council, Complying Development described within the SEPP (Exempt and Complying Development Codes) 2008 or approved works as defined in the Local Government Act 1993 including works requiring approval under the Roads Act 1993.

Engineering Application: Application to do works in Council's road reserve or works that impact Council's infrastructure.

Council's Infrastructure: Infrastructure, such as footpaths, kerbs, gutters, street trees, street furniture, staircases, roads, stormwater pipes and pits, that is owned, maintained, controlled or operated by Council for a public purpose within road reserves and on Council property.

Responsible Officer

Executive Manager, Environment & Climate Change

Review Date

December 2023

Revision History

| Revision | Date | Status | TRIM Ref |
|----------|-------------------|---|-------------|
| 1 | 17 December 2019 | First draft Development/Construction Security Deposits policy | 2019/680936 |
| 2 | 11 March 2020 | Second Draft | 2019/680936 |
| 3 | 10 June 2020 | Third Draft | 2019/680936 |
| 4 | 14 September 2020 | Fourth Draft | 2019/680936 |
| 5 | 18 September 2020 | Fifth Draft | 2019/680936 |
| 6 | 6 October 2020 | Sixth Draft | 2019/680936 |
| 7 | 13 October 2020 | Seventh Draft | 2019/680936 |
| 8 | 23 March 2021 | Policy Adopted by Council | 2019/680936 |