

Policy Name:	LOCAL PLANNING POLICY: DEVELOPMENT PERFORMANCE BONDS AND BANK GUARANTEES
Objective:	To outline circumstances whereby development performance bonds or bank guarantees may be accepted to secure compliance with planning approvals, in order to ensure a satisfactory standard of development.
Key Words:	Development Performance Bonds; Bank Guarantees
Statutory Compliance:	<ul style="list-style-type: none"> • Local Planning Scheme No. 23 • Planning and Development Act 2005

Policy Aims:

To outline circumstances whereby development performance bonds or bank guarantees may be accepted to secure compliance with planning approvals, in order to ensure a satisfactory standard of development.

Policy Provisions:

1. Where a planning approval is issued and that approval is acted upon, the developer is under a legal obligation to comply with the approved application, including any conditions of approval.
2. As a general rule, the Shire of Esperance will utilise powers available to it under relevant legislation to enforce compliance with the terms of any planning approval. However, notwithstanding these powers, consideration may be given to accepting a development performance bond or bank guarantee to ensure compliance. The circumstances warranting a possible requirement for a development performance bond or bank guarantee will be considered on their individual merits, however they may include (but are not limited to) the following:
 - where failure to complete a development, or part of a development, in accordance with approved plans and conditions could adversely affect an adjoining property or the public in general;
 - where a condition of approval requires ancillary works associated with a development to be completed within a specified timescale;
 - where failure to complete development satisfactorily could adversely affect adjacent Council infrastructure.
3. The terms of a performance bond (including the amount) are to be identified in each instance and applied as a condition of approval, along with explanatory footnotes as necessary. The amount shall be related to the estimated cost of the works to be guaranteed, but at Council’s discretion the amount required may be less than 100% of the total estimated cost.



4. In the event of a developer failing to complete approved works in accordance with conditions of a planning approval or as otherwise advised or agreed to by Council in writing, the Shire of Esperance may complete the outstanding works and deduct the cost including administrative or other overhead costs from the performance bond or guarantee.
6. Nothing in this Local Planning Policy shall constrain Council from taking legal action as prescribed under the Shire of Esperance Local Planning Scheme No. 23 and/or the *Planning and Development Act 2005* and associated Regulations.