



# Brighton Council

**POLICY NAME: BOND POLICY**

**POLICY No: 6.3**

## **PURPOSE:**

The objective of this policy is to provide for the adequate provision of services and infrastructure.

## **SCOPE:**

This policy relates to all applications for development and subdivision determined by or on behalf of the Brighton Council.

## **DEFINITIONS:**

In this policy:

“**Council**” means the Brighton Council;

“**Defects Liability Period**” means the period of time during which a developer shall be responsible for the rectification of defects associated with civil works that will become assets owned and maintainable by Council;

“**Developer**” means the holder of a permit for use and/or development issued by Council pursuant to the *Land Use Planning and Approvals Act 1993* (Tas);

“**Early Title**” means the early endorsement of the Final Plan of Survey prior to all relevant works being completed on site by the developer/contractor, assuming substantial commencement has occurred.

“**Final Plan of Survey**” means the final plan submitted to Council for sealing and lodgement with the Recorder of Titles pursuant to s. 89 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* (Tas);

“**CEO**” means the person occupying the position of Chief Executive Officer of the Brighton Council appointed in accordance with the *Local Government Act 1993* (Tas);

“**Policy**” is a reference to this policy; and

“**Total Value**” means the value of road, stormwater, public open space, footpath, lighting, vehicular crossing, fencing, landscaping, soil and water management or other infrastructure to be adopted by council, as set out in a contract or estimated by a suitably qualified person associated with a particular development or subdivision.

## **1. CIVIL WORKS - DEFECTS LIABILITY PERIOD**

- 1.1. Where private civil works become Council assets, the Developer will be responsible for the rectification of any defects in those works which become apparent within a Defects Liability Period of twelve (12) months commencing on the date that all relevant civil works are certified by Council's CEOas being complete. Council may require an extension of the Defects Liability Period if defects with the works are identified during the initial Defects Liability Period. If there is a delay between completion and title issue, the twelve (12) month period may be varied to commence from the date that titles were issued.

- 1.2. Where private civil works become Council assets, the Developer will be wholly responsible for:
  - (a) maintaining those assets for the duration of the Defects Liability Period or as otherwise conditioned; and
  - (b) the costs of such maintenance; and
  - (c) documenting the necessary ongoing maintenance schedule and requirements as needed.
- 1.3. Where private civil works become Council assets, Council will require the Developer to provide security to Council for the duration of the Defects Liability Period. Such security may be in the form of either:
  - (a) a cash bond; or
  - (b) an unconditional bank guarantee from a reputable financial institution carrying on business in Australia;

The value of the security provided by the Developer pursuant to paragraph 1.3 must be equal to ten percent (10%) of the **Total Value** of the relevant works plus a contingency sum of 10%.

- 1.4. Council will not pay interest to a Developer with respect to any security held in the form of a cash bond.
- 1.5. Where a Defects Liability Period applies, the developer must enter into a Defects Liability Bond Agreement with Council to ensure compliance with the requirements of this Policy.
- 1.6. Notwithstanding clause 1.3 of this Policy, the minimum value of any security provided pursuant to paragraph 1.3 of this Policy will be equal to the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)**.

## 2. EARLY ENDORSEMENT OF FINAL PLAN OF SURVEY

- 2.1. Council may permit the endorsement of a Final Plan of Survey prior to the completion of all relevant works on the following basis:
  - (a) subdivision works must be substantially completed, with only minor works outstanding (e.g. final course of road surfacing, street signs and footpaths);
  - (b) drainage and access works must be operational;
  - (c) ordinarily, deferred completion of subdivision works will only be permitted for works that subsequently become owned by the Council. For works that subsequently become owned by an authority other than Council the developer must submit a letter of release to Council from the relevant authority;
  - (d) as-constructed plans for completed works must be submitted to Council prior to endorsement of the final plan;
  - (e) all outstanding works must be completed within six (6) months of the endorsement of the Final Plan of Survey;
  - (f) a schedule of costs of works completed and outstanding by the Developer's engineer must be provided to Council;

- (g) security for outstanding works must be provided to Council prior to endorsement of the Final Plan of Survey in the form of:
    - a cash bond; or
    - an unconditional bank guarantee from a reputable financial institution carrying on business in Australia;
  - (h) the amount of the security referred to in paragraph 2.1(g) of this Policy shall be not less than:
    - 1.5 times the agreed Total Value of outstanding works for the value up to \$50,000; and
    - 1.25 times the agreed Total Value of outstanding works for the value greater than \$50,000;
    - Plus a 10% contingency
- 2.2. Where Council permits the endorsement of a Final Plan of Survey prior to the completion of all relevant works, the developer must enter into an Outstanding Works Bond Agreement with Council to ensure compliance with the requirements of this Policy.
- 2.3. Notwithstanding clause 2.1(i) of this Policy, the minimum value of any security provided pursuant to paragraph 2.1(h) of this Policy will be equal to the amount of **FIVE THOUSAND DOLLARS (\$5000.00)**.

### **3. PROTECTION OF COUNCIL SERVICES AND INFRASTRUCTURE**

- 3.1. Where the CEO reasonably believes that any subdivision or development works pose a risk of causing injury or damage to any existing council services or infrastructure (e.g. kerb, guttering, footpaths, grass verges, service lines and the like), Council may require payment by the Developer of a security bond against any such damage.
- 3.2. If required by Council, the security bond may be in the form of either:
- (a) a cash bond in an amount to be determined by the CEO; or
  - (b) an unconditional bank guarantee from a reputable financial institution carrying on business in Australia in an amount to be determined by the CEO;
- 3.3. The security bond will not be released by Council until:
- (a) the CEO is satisfied that the relevant works have been completed and no damage has been caused to any Council services or infrastructure; or
  - (b) any damage occasioned to Council services or infrastructure has been remedied to the satisfaction of the CEO.
- 3.4. In the event that Council services or infrastructure are damaged and not repaired within a reasonable timeframe (but not exceeding sixty (60) days) the CEO may, without giving notice to the Developer, apply the security bond towards repairing the relevant damage.
- 3.5. Where Council requires a security bond pursuant to clause 3.1 of this Policy, the developer must enter into a Protection of Council Infrastructure Bond Agreement with Council to ensure compliance with the requirements of this Policy.
- 3.6. The minimum value of any security provided pursuant to paragraph 2.1(g) of this Policy will be equal to the amount of **TWO THOUSAND DOLLARS (\$2000.00)**.

#### 4. ADMINISTRATION FEE

- 4.1. Council may charge administration fees for the establishment and/or variation of any of the security bonds and/or guarantee set out in this Policy. This includes only one request for reducing the amount of the guarantee. Further requests may incur additional fees. The fee amount shall be in accordance with a fee prescribed in the Brighton Council Fees and Charges document.
- 4.2. Council may reduce or waive the requirements of paragraph 4.1 of this Policy where deemed appropriate by the CEO or where works are deemed by the CEO to be minor in nature.

#### 5. OTHER MATTERS

- 5.1. All conditions of approval for subdivisions must be satisfied prior to the endorsement and sealing of the Final Plan of Survey by Council.
- 5.2. The CEO (or their duly authorised nominee) is authorised to determine the amount of security deposits for outstanding works and to release security upon satisfactory completion and to vary the time periods for completion of works as deemed necessary.
- 5.3. The CEO (or their duly authorised nominee) is authorised to decline to allow bonding of outstanding works where the deferred completion of works would not be in the best interests of Council or the community.
- 5.4. All requests for security (e.g. a bond or a bank guarantee) must be made to the CEO in writing by the Developer or their duly authorised representative and must be accompanied by a schedule of costs of works completed by the Developer's engineer.
- 5.5. All requests for reduction of guarantee are to be made in writing and are to include the value of all outstanding work prepared by the Developer's engineer.

#### REFERENCES:

This policy is developed in association with:

- Tasmanian Planning Scheme - Brighton
- Tasmanian Subdivision Guidelines (LGAT)
- *Local Government (Building and Miscellaneous Provisions) Act 1993* (Tas)
- *Land Use Planning and Approvals Act 1993* (Tas); and
- Other prescribed legislation, as required.

#### ADMINISTRATIVE DETAILS:

Policy compiled: February 2025  
Adopted by Council: 18/02/2025  
To be reviewed: February 2029  
Responsibility: Director Asset Services



#### CHIEF EXECUTIVE OFFICER

Being the General Manager as appointed by Brighton Council pursuant to Section 61 of the *Local Government Act 1993*