

Fees and deposits

This updates the previous *Practice Note 2005-10* issued June 2005.

1. Summary

Under the Building Regulations 2006 (the Regulations) bonds or guarantees may apply to the issuing of building permits. The Regulations state the amounts and how they are imposed. Fees are applicable when obtaining information from a council regarding particular hazards and when applying for consent and reports.

Note: For notes on the information available from councils relating to the building permit process, please refer to practice note 2006-18 'Responses from municipal councils'.

2. Guarantees and bonds

Regulation 323 sets the bond or guarantee referred to in section 22 of the Building Act 1993 (the Act):

- (a) in the case of the demolition or removal of a building, must not exceed the lesser of—
 - (i) the estimated cost of carrying out the work authorised by the building permit; or
 - (ii) \$100 for every 1m² of floor area of the building; and
- (b) in the case of re-erection of a building, must not exceed the lesser of —
 - (i) the estimated cost of carrying out the work authorised by the building permit; or
 - (ii) \$5000

Under section 22 of the Act, the relevant building surveyor (RBS) may issue a building permit with a condition that a bond or guarantee be deposited. This section gives 'permission' to include a condition on a building permit that would not ordinarily be appropriate. When the prescribed circumstances described by regulation 323 arise, a bond or guarantee is required. There is, however, discretion under regulation 323 for the RBS to determine the appropriate amount of bond or guarantee. The amount set out in the regulation is the upper limit of the bond or guarantee. The RBS must determine the amount.

The RBS is responsible for ensuring that the work is completed in accordance with the Act and the Regulations. The council may use the bond or guarantee to carry out any work necessary to finish

the building (section 123(2) of the Act). Likewise, a bond or guarantee deposited with the Building Commission (the Commission) may be used to carry out any work necessary to finish the building (section 199(4)(b)). Therefore the RBS should set a realistic amount that would cover the cost of completing the work.

If an RBS sets an unrealistically low amount, the Building Practitioners Board (BPB) could investigate the building surveyor. The RBS must set the amount of bond for each building permit issued. Transport costs are not to be included in the bond.

When the Commission receives written confirmation from the RBS that an occupancy permit has been issued and that the approved building work has been completed satisfactorily, the bond or guarantee will be refunded.

A building permit that approves work on two separate allotments cannot be issued. Relocation of a building would normally require two separate permits – one for the removal of a building from an allotment and another to re-erect it on another allotment. The removal of a building is treated in the same way as a demolition. Therefore section 29A and B of the Act applies to the removal of a building.

3. Property information

Councils must provide information about specific hazards in their municipality. This information includes information about flooding, termites, bushfires or significant snowfalls etc. Hazard maps detail parts of municipalities that have been designated as subject to specific hazards. These maps are available from council offices.

Written requests for information about a specific property can also be made to a council. Under regulation 327, the fee for all items reported on in regulation 326 (1), 326 (2) or 326 (3) is \$40 for each sub-regulation.

A request about whether a planning permit is required for a particular development and if so, whether it has been issued, may require a fee to be paid to the council's planning department.

4. Community Infrastructure Levy

When responding to a request, councils are advised to provide information as to whether an amount of Community Infrastructure Levy is payable under the Planning and Environment Act 1987. An RBS must not issue a building permit (Section 24(5) of the Act) unless any such required levy has been paid, or an agreement to pay the levy has been entered into.

Further information is available in Practice Note 2006-54 'Building Permits and Community Infrastructure Levies'.

5. Councils as a reporting authority

Under the Regulations, council is a reporting authority for a number of matters relating to the issuing of building permits.

The report and consent of the council is required for a building permit application involving these matters. Under regulation 312 the maximum fee payable to the relevant council will be \$200 for a consideration under Parts 4, 5 or 8 and under regulation 604 (4) for each report and consent. The maximum payable fee for a consideration under 610 (2) will be \$50.

6. Council comments on modifications

When council is the reporting authority for a matter before the Building Appeals Board (BAB), the council's comments will generally be sought.

Council can charge a fee to provide comments on applications for modifications, depending on who is seeking the comments. If an applicant or agent seeks council's comments directly and agrees to pay a fee, the council may charge a fee. Where the BAB seeks the comments, council may either provide comments without charge or may decline to comment. If the council declines to comment, the matter will be determined without that statement.