

Guide to Asset Protection Permits

GUIDE

1. Asset protection – Top tips to improve processes, streamline requirements and reduce delays

Based on what some councils are already doing, we've identified key changes to make it easier for businesses to get started, and easier for councils to manage growing permit volumes.

- **Switch to a simple notification or levy** – this fast-tracks low-risk approvals, often within hours, cutting down paperwork and freeing up council officer time.
- **Coordinate across council teams to give builders clear start signals** – this ensures internal council alignment across teams to support clear communication with stakeholders when works can or cannot commence, reducing confusion and delays on-site.
- **Put the whole process online, including fees and any bond requirements** – this allows applicants to lodge, pay, and upload everything in one go – saving time for both sides and reducing errors.
- **Reduce reliance on bonds and implement bulk bond options for larger builders** – Setting up bulk bond options requires upfront administrative work – but this is balanced out by reducing overall administrative work for council staff, with less time spent issuing invoices and helps free up more working capital for builders to speed up additional building and housing works.
- **Develop clear compliance and enforcement measures tailored to your context** – including specific measures in local laws to guide council action in event of non-compliance. Councils may also use inspection powers under the *Local Government Act 1989* to manage risk and enforce compliance where appropriate.

Clear guidance helps suppliers get the process right on the first attempt, reducing time taken for councils to field basic ‘do I need a permit?’ calls:

- **Many businesses aren’t aware they need an Asset Protection permit** – proactively letting them know helps avoid delays and confusion.
 - Councils can use sections 30 and 80 of the *Building Act 1993* as triggers (when notified of a building surveyor’s appointment or intention to carry out works) to initiate an Asset Protection permit. Sending information to builders (not just landowners) under section 113 of the *Local Government Act 1989* also ensures the responsible party acts. For example, one council found that sending letters to builders after a section 30 or 80 notice led to 90 per cent of Asset Protection permits being submitted on time
- **Businesses value a simple, step-by-step fact sheet summary of the permit process** – this could be a short webpage or PDF with screenshots, fees, typical approval timeframes, site photographs/reports required, and an example bulk bond contract.
- **Clear contact details** – contact details provided for questions or updates help applicants feel supported.
- **If a bond applies**, outlining how to request a refund (including steps and timelines) makes the process faster and easier for everyone.

2. Benefits to your council and local businesses

- **Reduce council debt and improve asset management:** Strong enforcement measures and a tiered bond system promote greater cost-recovery, reduces damage-related debt and promotes better protection of council assets.
- **Build better relationships with local businesses:** One in three small businesses pay consultants to navigate permits. Setting expectations upfront and streamlining rules means they can do it themselves more often.¹
- **Support effective asset management processes:** Speeding up permit decisions by just two days could save the construction sector \$5 million and get projects moving sooner.²

¹ ABS, Australian Industry 2020–21.

² ABS, Australian Industry 2020–21, Department of Treasury and Finance, and Melton City Council.

3. Alternative options for protecting council assets to standard permitting

Standard permitting with bonds is just one way to ensure council assets are protected. Another two examples of good practice approaches – already in use by different councils – which can help protect council assets in a more consistent, efficient and risk-based way, are detailed below.

Permitting Solutions	Key features	How it works	Benefits to councils and businesses
1 – Notification or Levy only (refer 3.1 below)	<ul style="list-style-type: none"> Applicants are only required to fulfil notification and/or levy requirements. Applicants can commence works straight away. 	<ul style="list-style-type: none"> Applicants must notify council of any pre-existing damage to council assets or public infrastructure before building works begin. If no notification is received, it is assumed there is no existing damage. Any damage identified after the permit is issued will be presumed to have occurred during the works and must be repaired by the builder. Councils will still need a clear remediation process in place to ensure any damage is repaired promptly and to the required standard. 	<p>Highest – streamlines the building works process by allowing businesses to proceed quickly after notification, while minimising the need for bonds and simplifying council administration, without compromising on remediation standards for potential damage.</p> <p>Supports smaller councils teams dealing with high permit volumes.</p>
2 – Permitting with risk-based bond options (refer 3.2 below): 2.1 Standard Permit with fee but no bond 2.2 Standard Permit with fee and bond	<p>2.1: Councils may require an alternate security mechanisms or penalties rather than bonds to manage risks to assets.</p> <p>2.2: Where bonds are required, they follow a tiered-structure, and are based on a risk assessment of the applicant or potential damage to council assets.</p>	<ul style="list-style-type: none"> Applicants must secure an Asset Protection Permit before commencing works. A permit fee is applicable for all applicants. Councils then apply a risk-based decision-making process to determine whether a bond is required alongside the permit fee. The bond amount should reflect the estimated cost of rectifying potential damage and be aligned to tiered categories of works (e.g. residential vs commercial). Unlike a levy or notification, applicants must still wait for a permit to be issued before commencing works. Where a bond is not required, councils may accept an alternative form of security that provides reasonable assurance of compliance and recovery of rectification costs (such as guarantees), or specify penalties for failure to repair any damage. 	<p>High (2.1) – A risk-based bond approach reduces administrative processes and financial burdens for low-risk or smaller projects while enabling councils to focus resources on higher-risk sites.</p> <p>Lowest (2.2) – bond payment and refund processes help to manage costs associated with rectifying potential damages, but require considerable effort from council staff.</p> <p>Best for more well-resourced council teams.</p>

Note that Approach 1 is not mutually exclusive – it could be adopted alongside Approach 2. Further detail on each of these approaches is outlined below.

3.1 Approach 1: Notification or levy

Suggested model local laws and requirements for notifications and levies

Key considerations for streamlining processes and achieving efficiencies:

- A notification of activity that may impact or damage council assets must include a statement outlining any existing damage to council assets or public infrastructure adjacent to or on the construction site, as well as any proposed requirements for repair.
- The applicant is then responsible for any damage to council assets and public infrastructure that occurs as a result of the building works, and must repair the damage to the state they were in prior to the work commencing.
- Inclusion of penalties for failure to repair to the satisfaction of council an asset or public infrastructure damaged as a result of the relevant building works.

Better practice example – Wyndham City Council Community Amenity Local Law 2023

Asset Protection on building sites

73. At least seven days prior to commencement of any work on a building site, a person in charge of a building site must notify council in writing, in a form approved by council, of any existing damage to council assets or an adjoining road.
74. If a person in charge of a building site fails to give written notice in accordance with [section 73], it will be presumed that there was no prior damage to any council assets or part of the adjoining road prior to the commencement of building work.
75. A person in charge of a building site or land where building work has been carried out must, to the satisfaction of council, repair any damage caused by the building work to the road, channel, drain, vehicle crossover or other council asset.
76. If council or an Authorised Officer identifies any damage which appears to result from non-compliance with this Local Law, or from any building work on any private land, an Authorised Officer may direct the owner of the private land and/or the person responsible for the damage to repair the damage within a specified time.

3.2 Approach 2: Asset Protection Permit with risk-based bond options

Model local law requirements – high-level guidance where a bond is not required

Council may choose to require only a fee – and not a bond – as part of an application for an Asset Protection Permit. This approach may be appropriate where:

- Other local law requirements effectively manage the risk of damage to council assets, including through alternative security mechanisms (e.g. guarantees), mandatory rectification of damage, or penalties for non-compliance (as referenced in section 5.1).
- A risk-based assessment of the applicant indicates a low likelihood of non-compliance (e.g. based on past behaviour or industry standing).
- The type and scale of proposed building works pose a relatively low risk to public infrastructure, and the estimated cost of rectification is minimal.

In this approach, a flat or tiered permit fee is charged to cover administrative and enforcement costs, with no bond required unless escalated risk factors are present.

Model local law requirements – high-level guidance where both a fee and a bond are required

Key requirements that councils should consider to streamline processes and achieve efficiencies when requiring a bond include:

- The value of any bond must be proportionate to the estimated cost of rectifying potential damage to council assets and public infrastructure.
- The use of bulk bonds for larger businesses and/or those with multiple building works, rather than requiring an individual bond per permit. The total bond required per builder should be capped at a certain amount, which councils are at discretion to determine, e.g. \$20 000 or \$50 000.
- The use of internal key performance indicators and/or clearly documented council processes to facilitate expedited bond refund processes. Councils should publish these times in guidance available on the council website to set clear expectations for businesses.

Better practice example – Moorabool Shire Council Local Law 2019

3.3 Asset Protection Permit

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- (b) An Asset Protection Permit may be subject to such conditions as Council sees fit, including but not limited to requiring:
- (i) protection works to be done;
 - (ii) the payment of an Asset Protection Bond;
 - (iii) the erection of temporary fencing to the satisfaction of Council; and
 - (iv) that any public asset or infrastructure damage be repaired, replaced or reinstated within a specified time and to a specified standard.

GUIDANCE NOTE:

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The amount of any Asset Protection Bond determined under Clause 3.3 will generally take into account:

- the type, size and nature of the Building work being undertaken;
- the total cost of the Building work being undertaken;
- the likely impact of the Building work on assets and infrastructure in the vicinity of the relevant Land; and
- any other factor that Council considers relevant.

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- (g) Council may, in its absolute discretion, accept an alternative form of security to an Asset Protection Bond.