

SECTION 18: DISTRICT WIDE RULES

The rules contained in this section apply across all Zones unless otherwise stated. The relevant Zone rules and other district wide rules, such as those relating to historic heritage and hazardous substances will still apply.

18.1 CATEGORIES OF ACTIVITIES

18.1.1 PERMITTED ACTIVITIES

- (a) Relocated buildings (including the removal of a building from its original site).
- (b) Temporary buildings ancillary to a building or other construction project.
- (c) Temporary activities.
- (d) Temporary military training activities.

18.1.2 CONTROLLED ACTIVITIES

- (a) Temporary military training activities which do not meet one or more of the performance standards in Section 18.2.5.

Matters to which the Council restricts its control:

- (i) The size and positioning of buildings and structures;
- (ii) The measures used to avoid, remedy or mitigate adverse effects from excavation;
- (iii) The actual or potential effects of the activity on the values of the historic site.
- (iv) Methods to manage effects on the amenity and character of the area as a result of non-compliance with the duration permitted activity condition;
- (v) The actual and potential adverse effects on the safety and efficiency of the road network, as a result of additional traffic generation for a prolonged period of time; and
- (vi) The provision of safe and efficient vehicular access and on-site car parking to avoid, remedy or mitigate potential traffic effects.

18.1.3 RESTRICTED DISCRETIONARY ACTIVITIES

- (a) Any relocated buildings which do not comply with any one or more of the Performance Standards in Section 18.2.1.

Matters to which the Council restricts its discretion:

- (i) External appearance of the building and site reinstatement
- (ii) Effects on amenity values
- (iii) Length of time taken to re-construct, repair or refurbish the building
- (iv) Performance bond.

- (b) Unless listed elsewhere in the District Plan, any permitted activity listed in Section 18.1.1, which does not meet one or more of the performance standards in Section 18.2.

Matters to which the Council restricts its discretion:

- (i) Avoiding, remedying or mitigating of actual or potential effects deriving from non-compliance with the particular performance standard(s) that is not met.

18.1.4 DISCRETIONARY ACTIVITIES

None.

18.1.5 NON-COMPLYING ACTIVITIES

None.

18.1.6 PROHIBITED ACTIVITIES

None.

18.2 PERFORMANCE STANDARDS – PERMITTED ACTIVITIES

18.2.1 Relocated Buildings

1. All relocated buildings shall comply with the relevant rules and standards of the Zone into which the building is to be relocated or relevant Concept Plan.
2. Building Inspection Report
 - (i) Prior to the building being relocated onto a site, a building consent(s) shall be obtained that covers all of the matters listed below; and
 - (ii) A building inspection report prepared by a Council Building Officer or other Licensed Building Practitioner shall accompany the building consent application. The report is to identify all reinstatement work required to the exterior of the building and an estimate of the costs for the external refurbishment works after relocation (see District Wide Rule Appendix 1 for report contents); and
 - (iii) The building shall be placed on permanent foundations approved by the building consent, no later than two months from the date the building is moved to the site; and
 - (iv) All other work required to reinstate the exterior of any relocated building, including painting if required, shall be completed within twelve months of the building being delivered to the site. Reinstatement work is to include connections to all infrastructure services and closing in and ventilation of the piled foundations; and
 - (v) The owner of the site on which the relocated building is placed shall certify that the reinstatement work will be completed within the twelve month period. The site owner shall be responsible for ensuring this work is completed.
3. Previous Use

- (i) Any relocated building intended for use as a dwelling or for visitor accommodation must have previously been designed, built and used as a dwelling or for visitor accommodation.

4. Performance Bond

- (i) A bond of 125% in an amount equal to 125% of the cost of external reinstatement works identified in the Building Inspection Report under Performance Standard 18.2.1.2 shall be lodged with the Council along with the application for building consent, as security for completion of the external reinstatement works.
- (ii) The bond shall either be a cash bond deposited with the Council, or an on demand performance bond issued by a bank registered in New Zealand or another entity approved by the Council, and shall in either case be lodged in terms of the form of Deed annexed as District Wide Appendix 2 to the District Plan.
- (iii) Subject to the provisions of the Deed, the bond will be refunded or released, after the Council has inspected and confirmed compliance with external reinstatement requirements. The Council will consider a partial reduction in the quantum of the bond when the main components (i.e. roof, wall cladding, foundation cladding) of the external reinstatement work are completed. In considering any such partial reduction, the Council shall take into account the amount specified for the relevant completed works in the building inspection report.

18.2.2 Temporary buildings ancillary to a building or other construction project

1. All temporary buildings ancillary to a building or other construction project shall meet the following requirements:
 - (i) Maximum gross floor area: 50m² per site and
 - (ii) The duration of the temporary building shall not exceed the duration of the project, or 12 month period, whichever is the lesser.

18.2.3 Temporary carnivals, bazaars, markets, public meetings and private functions and associated ancillary temporary buildings or other structures including tents

1. The duration of any temporary event shall not exceed 10 consecutive days, except as provided for under Standard 18.2.3.2. For the purpose of this rule, 'day' means a whole day, or part of a day;
2. A temporary event can exceed the relevant noise standard in Section 11 by 15dBa for up to 2 days in any 12 month period per site. For the purpose of this rule, 'day' means a whole day, or part of a day;

Note: A temporary event provided in Rule 18.2.3.2 allows for one single event that operates for two consecutive days, or for two events that operate over one day each.

3. The duration of a series of temporary events shall not exceed a cumulative period of 31 days in any 12 month period per site. For the purpose of this rule, 'day' means a whole day, or part of a day;

4. Any temporary event shall setup and operate between the hours of 7.00am – 10.00pm;
5. All temporary buildings and structures shall comply with the maximum height standards for the zone in which the activity is located within.

18.2.4 Temporary Filming Activity

1. All temporary filming activities shall:
 - (i) Not occupy the site for filming activities for more than fourteen (14) consecutive days.
 - (ii) Ensure all temporary structures are removed within 30 days of the end of film capture.
 - (iii) Not be located within an area identified as a Historic Site or Site of Significance to Tāngata Whenua in Schedule 1B, Significant Natural Area in Schedule 2, and/or Area of Outstanding Natural Character or Outstanding Natural Feature or Landscape in Schedule 8.
 - (iv) Not involve any earthworks or the clearance of vegetation which exceeds the standards for the Zone or Overlay Area in which the proposed filming is located.
2. All temporary buildings and structures are exempt from the maximum height and maximum building coverage standards for the zone in which the filming will occur.

Note: For the purpose of this rule, filming shall include the use of land and buildings for the purpose of commercial video and film production and includes the setting up and dismantling of film sets and associated facilities for staff.

18.2.5 Temporary Military Training Activities

1. No permanent structures shall be constructed.
2. No earthworks (permanent or mechanical) shall be carried out which exceeds the standards for the Zone or Overlay in which the proposed temporary military training activity is located within.
3. No temporary military training activities shall be located within an area identified as a Historic Site or Site of Significance to Tāngata Whenua in Schedule 1B.
4. The duration of the activity must not exceed a period of thirty one (31) consecutive days.
5. All temporary military training activities shall comply with the noise standards in Section 11.2.10 of this Plan.

18.3 District Wide Rules Appendix 1: Building Inspection Report for Relocated Building (Performance Standard 18.2.1.2)

A Building Inspection Report for Relocated Buildings shall contain the following information:

- (a) Applicant's Contact Details
- (b) Building Details and Condition (description, condition, required upgrades and comments)
 - (i) Roof
 - (ii) Spouting and Downpipes
 - (iii) Wall Cladding
 - (iv) Foundation Cladding
 - (v) Sub-Floor Cladding and Ventilation
 - (vi) Window and Door Joinery
- (c) Photographs
- (d) Estimate of Costs of External Reinstatement Works
- (e) Building Surveyors Signature, Qualifications and Licence Details

18.4 District Wide Rules Appendix 2: Relocated Building Bond Template (Performance Standard 18.2.1.4)

THIS DEED is dated the day of 20xx

BETWEEN *[name of land owner]* ("the Owner")

AND SOUTH TARANAKI DISTRICT COUNCIL ("the Council")

BACKGROUND

- A. The Owner(s) is/are the registered proprietor of land onto which it is intended to place a Relocated Building.
- B. Rule 18.1.1(a) of the South Taranaki District Plan classifies Relocated Buildings as a Permitted Activity provided they comply with the Performance Standards in Rule 18.2.1.
- C. The Performance Standards require that the Owner provide a Relocated Buildings Bond in favour of the Council to secure the performance of the Reinstatement Works required to the exterior of the Relocated Building in accordance with the Building Pre-Inspection Report.

- D. The Owner and the Council have agreed that the performance by the Owner of the Owner's obligations under this Relocated Buildings Bond is to be secured by the provision of a Cash Deposit or Performance Bond on the terms and conditions set out herein.

NOW THIS DEED WITNESSES:

1. INTERPRETATION

1.1 Defined Terms

In this Deed unless the context otherwise requires:

"Act" means the Resource Management Act 1991 as amended from time to time, and includes any legislation enacted in substitution for that legislation;

"Bond" or "Relocated Buildings Bond" means the Bond created by this Deed;

"Building Inspection Report" means a report prepared by an appropriately qualified person in accordance with District Wide Rules Appendix 1 of the District Plan identifying the Reinstatement Works;

"Cash Deposit" means any sum or sums of money deposited in cleared funds with the Council from time to time by the Owner, any financial institution at the request of the Owner or other party at the request of the Owner, which have a value totalling the Quantum;

"Completion of the Reinstatement Works" means the date on which the Council confirms in writing to the Owner that the Reinstatement Works have been completed;

"Commencement Date" means the date on which the Relocated Building is placed on the site, whether on temporary supports or otherwise;

"Council" means the South Taranaki District Council and its successors and assigns;

"Monitoring Sum" means the Council's actual and reasonable costs for carrying out monitoring and administration in relation to the Reinstatement Works;

"Owner" means *[name of registered proprietor(s) of the land onto which the Relocated Building is to be placed and who is/are to be bound by this Bond]* together with successors and permitted assigns;

"Performance Bond" means an on demand performance bond in favour of the Council issued by the Owner and a bank registered in New Zealand, on a joint and several basis, under which the Owner and the bank unconditionally agree to pay the Quantum to the Council in the event that the Council confirms in writing that the Owner has defaulted on its obligations under this Deed, the Act or the District Plan.

"Performance Standards" mean the Performance Standards in Rule 18.2.1 of the South Taranaki District Plan;

"Plan" or "District Plan" means the South Taranaki District Plan;

"Quantum" means the sum as determined from time to time in accordance with clause 3.1;

“Reinstatement Works” means the extent of the work required to the exterior of the Relocated Building as specified in the Building Pre-Inspection Report for the purposes of the District Plan. The exterior reinstatement works will not include matters regulated by the building legislation such as re-joining of the roof; re-joining of the building (if shifted in more than one section) or connection to foundations; but may include matters required by the District Plan for work to be undertaken and completed to the exterior of the building to a workmanlike standard and to achieve a tidy appearance, including, without limitation:

- (a) Repair of broken windows and window frames;
- (b) Repair of rotten weatherboards or other damaged wall cladding;
- (c) Necessary replacement or repair of roof materials;
- (d) Cleaning and/or painting of the exterior where necessary e.g. roof, walls, window frames etc; and/or
- (e) Replacement and painting of baseboards or other foundation cladding.

“Relocated Building” shall have the same meaning as the definition of “Relocated Building” in Section 1 of the District Plan;

“Security” means the Cash Deposit or Performance Bond;

“Site” means the whole of the land onto which the Relocated Building is to be placed;

“Term” means the period from the Commencement Date to Completion of the Reinstatement Works.

1.2 Joint and Several

- 1.2.1 References in this Deed to the “Owner” are references to the parties (if more than one) named in this Deed as the Owner jointly and severally, and the representations, covenants and undertakings of the Owner in this Deed shall be deemed to be given jointly and by each of them severally.

2. THE BOND

2.1 Undertaking to Comply

The Owner undertakes to the Council to:

- (a) complete, at the expense of the Owner, the Reinstatement Works as set out in the Building Inspection Report within the timeframe specified by Rule 18.2.1 of the District Plan or within such reasonable timeframe otherwise agreed by the Owner and the Council in writing; and
- (b) promptly remedy any breach by the Owner of its obligations under this Deed within seven (7) days of a request in writing by the Council to do so, or within such reasonable timeframe otherwise agreed by the Owner and the Council in writing.

2.2 Council Right to Access

The Council may from time to time, under section 171 of the Local Government Act 2002, enter onto the Site to ascertain whether the Reinstatement Works have been completed to the satisfaction of the Council.

2.3 Council Right to Rectify

If the Owner fails to comply with the Owner's obligations, or any of them, referred to in clause 2.1 within seven (7) days of receipt of the notice in writing from the Council referred to in clause 2.1(b), or within such reasonable timeframe otherwise agreed by the Owner and the Council in writing, which notice shall refer to the failure and request the failure to be rectified, then:

- (a) the Council may (but shall not be under any obligation to) undertake, or procure that its contractors undertake, all or part of those obligations referred to in the notice;
- (b) for that purpose, the Council (including its contractors and assigns) may, at all reasonable times, enter the Site, including any Relocated Building on the Site; and
- (c) the Owner will pay to the Council upon demand the amount of all costs, expenses, liabilities and other amounts incurred by the Council under or in connection with the exercise by the Council of its rights under clause 2.3(a) and (b), less the amounts paid to the Council and which the Council is entitled to retain on its own behalf from the Security under clause 4.1 or otherwise.

2.4 Provision of Security

To better secure to the Council the completion by the Owner of its obligations under this Deed and the District Plan, the Owner undertakes on or before the date the Council issues a building consent to relocate the building to the Site, to either:

- (a) deposit into a bank account in the name of the Council, with a bank nominated by the Council in cleared funds, the Cash Deposit totalling the Quantum; or
- (b) provide a Performance Bond in favour of the Council.

2.5 Application of Security

- 2.5.1 The Council may, from time to time, apply all or part of the Cash Deposit or any proceeds from a demand under the Performance Bond for payment of the Monitoring Sum, which sum shall be deducted from the Cash Deposit or drawn under the Performance Bond before or on repayment of the balance of the Cash Deposit or the release of the Performance Bond upon Completion of the Reinstatement Works in accordance with clause 3.2.1.
- 2.5.2 If the Owner fails to comply with any of its obligations referred to in clause 2.1 within seven (7) days of receipt of a notice in writing from the Council, which refers to the failure and requests the failure to be rectified, or within such reasonable timeframe otherwise agreed by the Owner and the Council in writing, then the Council may, from time to time apply all or part of the Cash Deposit, or make a demand under the Performance Bond and apply all or part of the proceeds, towards the payment of any sum payable by the Owner to the Council under this Deed, the District Plan and/or the Act, including any sum incurred by the Council under clause 2.3 of this Deed, or draw and retain all or part of those proceeds to cover amounts as reasonably estimated by the Council to be incurred or which may (in the reasonable estimation of the Council) be incurred by the Council or its contractors under clause 2.3 or in respect of those matters.

3. QUANTUM PROVISION AND RELEASE OF THE SECURITY

3.1 Quantum and Provision of the Security

- 3.1.1 The Quantum of the Security as at the Commencement Date shall be one hundred twenty five (125) percent of the estimated cost of the Reinstatement Works as established by the Building Inspection Report. A loading of 25% of the estimated cost of remediation is added to protect the Council from price fluctuations.
- 3.1.2 For the avoidance of doubt, the Quantum of the Security does not include any bond required by the Council for the purposes of its Land Transport Bylaw.

3.2 Release of Owner of Security

- 3.2.1 Upon Completion of the Reinstatement Works, the Council shall release the Owner from the obligations under clause 2 of this Deed, and either repay the balance of the Cash Deposit or authorise the release of the Performance Bond remaining after application under clause 2.5 or clause 4.1, if any.

4. PAYMENT OF QUANTUM AND CALLS ON THE SECURITY

4.1 If the Owner:

- 4.1.1 Fails to comply with the Owner's obligations, referred to in clause 2;
- 4.1.2 Abandons the Site without taking adequate and proper measures to rehabilitate the Site to the reasonable satisfaction of the Council; and/or
- 4.1.3 Fails to comply with any of the obligations of the Owner under this Deed,
the Council may, without notice and without limitation of its rights under clause 2, take such part of the Cash Deposit, or demand such amount under the Performance Bond, as it estimates will be the cost of carrying out remedial work (including the Reinstatement Works) or measures to rehabilitate the Site to a standard similar to surrounding properties (which costs may include any Monitoring Sum) and may call, apply or enforce, without further notice, on or exercise its rights in respect of the Security in that sum. The Council may at any reasonable time and from time to time enter the Site and take such steps and carry out such works as may be necessary to rehabilitate the Site;
- 4.1.4 Transfers ownership of the Site without the Council having received a bond from the Transferee containing the same terms and conditions as are set out in this Bond, then the Cash Deposit shall be forfeited to the Council or the Council shall be entitled to draw on the Performance Bond and retain the proceeds.

5. RESOURCE MANAGEMENT ACT 1991

The powers and remedies given to the Council in the Bond and the Security are in addition to all other powers and remedies conferred on it by the Resource Management Act 1991 and the exercise by the Council of any power or remedy under the Bond shall not prejudice its authority to exercise any other such power or remedy.

6. VARIATION AND RENEWAL

The Bond may be varied or renewed at any time by agreement in writing between the Owner and the Council.

7. ARBITRATION

In the event of any dispute or difference between the parties arising out of the Deed or the construction of interpretation thereof then the dispute or difference shall be referred to a sole arbitrator to be agreed upon between the parties or failing agreement, appointed in accordance with the provisions of the Arbitration Act 1996 and its amendments or any Act passed in substitution therefore.

8. NOTICES

All notices required or permitted to be given under or in connection with this Deed shall be in writing and be served on a person or on a body (whether incorporated or not) in accordance with the method of service of documents in section 352 of the Act or any section enacted in substitution thereof.

8.1 The Owner: If to the Owner to:

[add address]

8.2 The Council: If to the Council to:

The Chief Executive
South Taranaki District Council
105 – 111 Albion Street
Private Bag 902 HĀWERA 4640

9. COSTS

9.1 Without prejudice to any other right of recovery or reimbursement of costs or expenses by the Council at law or otherwise, the Owner agrees to pay to the Council, promptly upon receiving a request in writing and an appropriate tax invoice, the Council's reasonable legal costs and disbursements incurred in connection with the preparation and engrossment of this Deed.

10. MISCELLANEOUS

10.1 All payments under this Deed will be made in cleared funds without deduction, withholding, set-off or counterclaim.

10.2 The entry into and performance of obligations under this Bond shall not merge with or release any rights or obligations under the District Plan, nor shall the provision of the Security merge with or release the Owner's covenants under this Deed.

10.3 The Owner undertakes that it shall not exercise its rights under a Building Consent to relocate a building unless and until the Owner has signed this Deed and has caused the Cash Deposit to be deposited in cleared funds with the Council or a Performance Bond to be issued in accordance with this Deed, in each case having a value not less than the Quantum.

10.4 The Owner acknowledges and agrees that all references to the approval, determination or satisfaction of the Council in this Deed shall be deemed to mean the approval, determination or satisfaction of the Council at its reasonable discretion.



In witness of which this Deed has been executed.

SIGNED by *[Owner]*)
)
)
)

Director

Director

The Common Seal of)
SOUTH TARANAKI DISTRICT COUNCIL was)
affixed in the presence of:)

Mayor

Chief Executive