

DRAFT - BANK GUARANTEE POLICY

OBJECTIVE: The purpose of this policy is to outline risk management guidelines for the lodgement, retention and release or claiming of bank guarantees.

POLICY:

Introduction

Security in the form of a bank guarantee is sound business practice where Council needs to avoid or minimise financial loss due to the risk of another party failing to perform their legal obligations.

Council typically requires security for the preservation of Council infrastructure, maintenance and performance of works constructed on behalf of or vested with Council, and obligations under a lease or other legal agreement. The requirement for security shall be detailed in the related agreement, development consent or standard as administered by the relevant Division.

This policy applies to any party that provides security to Council in the form of a bank guarantee.

Acceptable Bank Guarantee

Council will only accept bank guarantees that comply with the following requirements:

- a) Guarantees shall be referenced as agreed with the relevant Council officer:
 - i. guarantees relating to developments require reference to the development application or subdivision works certificate number, lot and survey plan numbers and an explanation detailing the purpose of the guarantee.
 - ii. guarantees relating to property require reference to lot and survey plan numbers and an explanation detailing the purpose of the guarantee.
 - iii. guarantees relating to contracts require reference to the contract number and a brief description of the contract.
- b) Guarantees must have no expiry date.
- c) The bank guarantee shall be unconditional and irrevocable and shall enable the Council to have immediate access to the monies secured by the bank guarantee at any time where the Council is satisfied the owner is in breach of any requirements concerning the completion of obligations.
- d) Separate bank guarantees shall be provided for separate obligations.
- e) Guarantees will only be released at the discretion of Council once all required obligations under the guarantee are satisfied.
- f) Council will only accept bank guarantees from institutions that comply with the following requirements:
 - i. An authorised deposit-taking institution (ADI) licenced by the Australian Prudential Regulatory Authority (APRA) in accordance with the Banking Act 1959;
 - ii. Have a physical presence in the state of New South Wales and suitable access to funds during normal banking hours; and
 - iii. Have a minimum long term credit rating of BBB with Standard and Poor's, a minimum long term credit rating of Baa2 with Moody Investor Services or a minimum long term credit rating of BBB with Fitch Ratings.

Note: In the event of the credit rating of the bank being downgraded below the above requirement, the General Manager has discretion to either continue the surety or to ask that a new surety be provided with a higher rated financial institution.

Process Administration and Protocols

Council shall maintain a procedure for managing bank guarantees. The general protocol for lodgement, holding and release of Bank Guarantees is outlined below.

Lodgement of Bank Guarantees

Bank guarantees will only be accepted by appointment, following agreement regarding the bank guarantee value and obligations under the guarantee.

Bank guarantees shall be presented with a suitable cover letter detailing the relevant reference numbers and/or plans and the purpose of the guarantee. The cover letter shall be signed by the Council officer/s as evidence of the receipt of the original bank guarantee and a copy shall be retained by the counterparty.

Where the counterparty or their representative cannot attend in person, bank guarantees may be mailed via registered post.

Holding of Bank Guarantees

The original bank guarantee shall be held by the Council's Records Division for secure filing, and an electronic copy shall be made for record keeping.

A digital ledger shall be maintained for recording bank guarantees, their purpose and any relevant dates for the completion of obligations under the guarantee.

Release of Bank Guarantees

Bank guarantees will only be released by appointment, following the completion of all obligations under the bank guarantee to Council's satisfaction.

Council will issue a cover letter detailing the surrender/release of the bank guarantee. The cover letter shall be signed by the counterparty as evidence of the receipt of the original bank guarantee and retained by Council.

If a bank guarantee is being exchanged, the new bank guarantee must be receipted before the original will be released.

Where the counterparty or their representative cannot attend in person, bank guarantees may be mailed via registered post at the discretion of the relevant Director.

Claim on Bank Guarantees

A claim on a bank guarantee may only be made in accordance with the related agreement, development consent or standard, and with the approval of the relevant Director.