

EXECUTION OF DOCUMENTS POLICY

Responsible Directorate:	<i>Office of the CEO</i>
Responsible Service Unit:	<i>Governance and Legal</i>
Contact Person:	<i>Lawyer</i>
Date of Approval:	<i>21 March 2023</i>
Council Resolution No:	<i>CE03-03/23</i>

1. POLICY STATEMENT

The aim of this policy is to ensure that the City's common seal is used and documents are executed in accordance with the *Local Government Act 1995* ('Act').

2. OBJECTIVE AND PURPOSE

Section 9.49A(1) of the Act provides that a document is duly executed by a local government if –

- the common seal of the local government is affixed to it; or
- it is signed on behalf of the local government by a person or persons authorised by the Council to do so.

Objective

The objective of this Policy is to create overarching authorisations to various City officers so that Council approval is not required every time a document is signed.

Purpose

The purpose of this policy is to categorise documents and provide the appropriate method of execution and use of the common seal.

3. KEY DEFINITIONS

Act means *Local Government Act 1995*

4. SCOPE

This Policy applies to all City officers preparing for execution or who have been authorised under this Policy to execute documents on behalf of the City. Any legislation, formal requirements of a Commonwealth or State department, authority or agency (as described in a Policy or procedure) or Council decision will take precedence over this Policy where there is an inconsistency.

5. IMPLICATIONS

This Policy aligns with the following objective within the Strategic Community Plan 2017 – 2027:

“4 Civic Leadership

4.2 Good Governance

4.2.1 Provide transparent and accountable governance and leadership”

6. IMPLEMENTATION

CATEGORY 1 DOCUMENTS

Category 1 documents require the City’s common seal to be affixed. The Act requires the common seal to be affixed in the presence of the Mayor and either the CEO or a Director.

Category 1 documents require at least two specific Council resolutions:

- a) The decision to do the act or enter and agreement;
- b) The approval to execute the document related to the above decision in accordance with the policy.

Category 1 documents include the following:

- a) Mortgage documents;
- b) Land Transfer Land forms;
- c) Local Planning Schemes and amendments;
- d) Local laws;
- e) Loan documentation relating to loans which Council has resolved to raise;
- f) Documents, which in the opinion of the CEO, a Director or Legal Services, are sufficiently complex, high risk or significant in nature to warrant the affixing of the common seal.

CATEGORY 2 DOCUMENTS

Category 2 documents do not require the common seal to be affixed. Prior to execution Category 2 documents must follow the processes and procedures outlined in the Execution of Documents Management Procedure, which assists officers in determining the category of a particular document.

Pursuant to section 9.49A(4) of the Act, Council authorises those officers listed in the table below to sign documents on behalf of the City. These authorisations do not undermine any delegations which may be in place.

	Description	Authority to Execute
I	Offer and Acceptance forms and associated documents required to enact a decision of Council to purchase or sell land. This does not include mortgage and Transfer of Land documents which are Landgate forms listed as Category 1 documents.	CEO

II	Documents required to enact a decision of Council, which are not Category 1 documents.	CEO; any Director
III	General deeds, legal and service agreements	CEO; any Director; Executive Manager Governance and Legal
IV	Leases, licences and access agreements, and associated documents	CEO; any Director; the City officer delegated authority by the CEO; Manager Property Services; Manager Approval Services
V	Documents required to enact a decision made under delegated authority or as a condition of approval given under delegated authority	The City officer delegated authority by the CEO
VI	Documents required when the City owns land	CEO; Director Corporate Strategy & Performance; Operations Manager Business & Finance; Manager Property Services
VII	Documents required when the City manages land under a management order	CEO; any Director; Operations Manager Business & Finance; Manager Property Services
VIII	Documents prepared for registration at Landgate. The above authorisation does not extend to: • mortgage documents; and • Transfer of Land forms which are category 1 documents.	CEO; any Director; Manager Property Services; Manager Approval Services; Manager Land Development.
IX	Indemnity given by the City to a third party	CEO; any Director; Executive Manager Governance and Legal.
X	Memorandums of Understanding and other statements of intent and terms and conditions	CEO; any Director; managers.

Where a Category 2 document falls into more than one descriptor, the lowest organisational level prescribed is authorised to sign.

CATEGORY 3 DOCUMENTS

Category 3 documents are documents that are created in the normal course of business to discharge the duties of an officer's position in a manner consistent with City policies and procedures. Category 3 documents are to be executed by the CEO, a Director or Manager, or

a City officer where the authority and accountability has been extended through an authorisation, policy, procedure, or a position description. It is therefore important to have a good knowledge of the documents that relate to the team which is responsible for the document.

The actions for the implementation of this Policy are detailed in the Execution of Documents Management Procedure.

ORDER OF SIGNING

Documents should be executed by all other parties prior to being executed by the City. Exceptions may arise with Scheme Amendments and Structure Plan documents which may be certified prior to the WAPC certifying the document or when it is not practicable or appropriate.

7. AUTHORITIES AND ACCOUNTABILITIES

Part 6 of this Policy authorises those officers listed in the table to sign documents on behalf of the City.

8. ROLES AND RESPONSIBILITIES

The common seal is in the custody of the Office of the Mayor which is responsible for arranging the affixing of the common seal to documents. A record of its use is kept in the City's Common Seal Register.

9. DISPUTE RESOLUTION

All disputes in regard to this policy will be referred to the Executive Manager Governance and Legal in the first instance. In the event that an agreement cannot be reached, the matter will be submitted to the CEO for a ruling.

10. EVALUATION AND REVIEW

This Policy will be reviewed at least every three years. An evaluation of the effectiveness of the policy should have regard to whether users of the Policy consider it comprehensible, documents are correctly executed and that there is no too greater administrative burden in arranging the execution of documents.

11. RELATED DOCUMENTS

CEO Transmittal Sheet (14/321601)
Execution of Documents Management Procedure (17/116553)
Legal Services Management Procedure (15/80032)

12. REFERENCES

Nil

13. RESPONSIBILITY FOR IMPLEMENTATION

Executive Manager Governance and Legal

REVISION HISTORY

Version	Next Review	Record No.
22 July 2003 - CEO08-07/08		
6 April 2004 – CEO04-04/04	22 July 2005	
26 July 2011 – CS07-07/11		
15 December 2011 – Administrative Change to remove “Per Delegated Authority Manual” from Cat. 2 Docs ... to enact a Council Decision” .	July 2013	11/38732
Repeal and adoption of new policy – 27 May 2014 – CS05-05/14	May 2016	14/2075
Repeal and adoption of new policy -25 July 2017 – CE01-07/17	July 2020	17/116513
21 March 2023 - CE03-03/23	March 2025	23/76019[v2]