

EXECUTION OF DOCUMENTS POLICY

Responsible Directorate:	<i>Office of the CEO</i>
Responsible Service Unit:	<i>Legal and Governance</i>
Contact Person:	<i>Legal Counsel</i>
Date of Approval:	<i>7 April 2025</i>
Policy Review Committee No:	<i>5.9</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* (the 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 2021 – 2031:

*“7 – A well governed and managed City that makes informed decisions, provides strong community leadership and valued customer focused services
7.2 – Responsibly and ethically managed”*

6. IMPLEMENTATION

CATEGORY 1 DOCUMENTS

Category 1 documents require the City’s common seal to be affixed. Section 9.49A (3) of the Act requires the common seal to be affixed in the presence of and signed by the Mayor and either the CEO or a Director.

Category 1 documents require a resolution of Council, either specifically or generally, to give effect to an act or enter an agreement which is the subject of the document. The Common Seal cannot be affixed to a document until the subject of that document is approved by Council.

The following documents are authorized under section 9.49A(2) of the Act to be affixed the Common seal. They are documents required to give effect to a decision of Council or give effect to a decision of the CEO in respect to a function exercisable to them under any written law:

- a) mortgage documents;
- b) transfer of land forms;
- c) local planning schemes and amendments;
- d) local laws;
- e) loan documentation relating to loans which Council has resolved to raise; 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.

These are expanded on in the Register of Appointment Tables below.

CATEGORY 2 DOCUMENTS

Category 2 documents do not require the common seal to be affixed. Pursuant to section 9.49A(4) of the Act, Council authorizes the CEO to sign any document on behalf of the City that is necessary or appropriate in carrying out the CEO’s functions under any written law.

Directors and Managers may only execute documents relevant to matters within the scope of activity in their Directorate or Unit.

Written decision-making authorities (listed below) are authorizations that give effect to carrying out the CEO’s functions and are inclusive of the authority to sign documents:

- a) Delegated Authority
- b) Statutory Authorisation; or
- c) Operational authorisation

The CEO can delegate or authorise another City employee or employees any part of the authorisation given by Council via a written decision-making authority or other means. These authorisations do not undermine any delegations which may be in place.

Register of Appointments					
Document Type	Common Seal *only if specified in the document	CEO	Director	Manager	CATEGORY
Local Laws	YES				1
Planning Schemes – adopted / amendments	YES				1
Land Transaction documents, including: <ul style="list-style-type: none"> • Sale • Purchase • Vesting • Contributed (gifted) assets • Notification of factors affecting land under s.70A of the Land Transfer Act 1893 – lodge or withdraw • Easements – by deed, deposited plan or other legal instrument. • Restrictive Covenants • Deeds • Lease and licence agreements. 	YES*	YES			1,2
Mortgages, Loans and Debentures		YES			2
Power of Attorney (to act for the Local Government)		YES			2
State or Commonwealth Funding agreements	YES	YES	YES		1,2
Grants and funding agreements with private entities (incoming and outgoing)		YES	YES		2
Contracts and legal instruments , for example: <ul style="list-style-type: none"> • Service agreements (incoming or outgoing services) • Procurement Contracts (below tender threshold and subject to the Purchasing Policy) • Heritage Agreements • Acquittal of Planning Conditions 	YES*	YES	YES	YES	1, 2
Development, subdivision strata-title, building and demolition approvals for development of Local Government land		YES			2
Memorials Deed					

Register of Appointments					
Document Type	Common Seal *only if specified in the document	CEO	Director	Manager	CATEGORY
Memorandum of Understanding		YES	YES		2
Communications on behalf of the Local Government to Commonwealth or State Ministers		YES			2
Communications on behalf of the Local Government to CEO's of Commonwealth or State agencies and peak industry bodies.		YES	YES		2
Communications on behalf of the Local Government to equivalent positions within Commonwealth or State agencies and peak industry bodies.			YES	YES	2
Ceremonial Certificates i.e. Honorary Freeman, Citizen of the Year, Awards, etc.	YES				1
Deeds of Settlement – employment matters		YES			2
Enterprise Bargaining Agreements		YES			2

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

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

LIMITS ON AUTHORISATION

The specific authorities established in the Register of Appointments can execute documents relevant to the scope of the positions **unless** documents that commit the City to:

Chief Executive Officer	A total financial liability greater than that listed in the purchasing approval limits for this Officer; or A period of time greater than 5 years; or A risk that has been assessed as being moderate or higher risk.
Director (Executive Manager)	A total financial liability greater than that listed in the purchasing approval limits for this Officer; or A period of time greater than a 3-years; or A risk that has been assessed as being a moderate or higher risk.

Manager	<p>A total financial liability greater than that listed in the purchasing approval limits for this Officer; or</p> <p>A period of time greater than 3 years; or</p> <p>A risk that has been assessed as being a minor or high risk.</p>
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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 authorizes 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 General Counsel 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 there is not too great of an administrative burden in arranging the execution of documents.

11. RELATED DOCUMENTS

- Execution of Documents Management Procedure (17/116553[v2])
- Purchasing Approval Levels (22/44806)

12. REFERENCES

Nil

13. RESPONSIBILITY FOR IMPLEMENTATION

General Counsel

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]
7 April 2025 Policy Review Committee (Item 5.9)	April 2028	23/76019[v3]