

## Policy Type

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Council

## Policy Purpose

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The aim of the policy is to:

- (1) Ensure that the City of Cockburn's common seal is used and documents are executed in accordance with the *Local Government Act 1995* (the Act);
- (2) Establish protocols for the use of the City of Cockburn's common seal; and
- (3) Authorise the Chief Executive Officer (CEO) and other employees to execute documents on behalf of the City of Cockburn.

This policy applies to all Elected Members the CEO and employees of the City of Cockburn (City).

## Policy Statement

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- (1) Introduction
  - 1.1 Documents executed by the City must be executed in accordance with the Act and the provision set out in this policy.
  - 1.2 Section 9.49A(1) of the Act provides that a document is considered duly executed by a local government if:
    - 1.2.1 the common seal is validly affixed to it in accordance with section 9.49A(2) and 9.49A(3) of the Act; or
    - 1.2.2 it is signed by an officer authorised by the Council to do so in accordance with section 9.49A(4) of the Act.
  - 1.3 Pursuant to section 9.49A(4) of the Act, a local government may, by resolution, authorise the CEO, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.
- (2) Implementation
  - 2.1 For the purpose of this policy, documents are classified into three categories:
    - 2.1.1 documents requiring the common seal and a Council resolution (Category 1(A) documents);

2.1.2 documents requiring the common seal without a specific Council resolution (Category 1(b) documents); and

2.1.3 documents not requiring the common seal (Category 2 documents)

(3) Category 1(A) documents

3.1 The following documents are Category 1A documents, being documents that require a specific council resolution to affix the common seal:

3.1.1 local laws;

3.1.2 local planning schemes (including amendments and repeals);

3.1.3 documents of a ceremonial nature (eg. Sister city agreements);

3.1.4 mortgages and loan/debenture documents;

3.1.5 leases of real property granted by the City, pursuant to a Council resolution;

3.1.6 any agreement, consent, Notice of Intention to Take Order or Taking Order under Part 9 of the *Land Administration Act 1997*; and

3.1.7 Power of Attorney to act for the City.

(4) Category 1(B) documents

4.1 The following documents are Category 1B documents, being classes of documents authorised by Council to be executed under common seal without a specific Council resolution:

4.1.1 variations, assignment, novation, extension or surrender of a lease agreement approved by Council, where the lessee requires that the agreement be signed under seal;

4.1.2 easements or covenants under the Land Administration Act 1997, Strata Titles Act 1985 or Community Titles Act 2018;

4.1.3 notifications, covenants, easements and caveats under the Transfer of Land Act 1893;

4.1.4 State and Commonwealth Funding Agreements; and

4.1.5 any other documents requested to be duly executed under seal.

4.2 A Category 1(B) document does not need to be executed by common seal. It may be executed under signature by those officers listed in Schedule 1.

(5) Category 2 documents

- 5.1 The following documents are Category 2 documents, being classes of documents that Council authorises the CEO and other officers listed in Schedule 1 to execute without affixing the common seal:
- 5.1.1 leases, licenses and hire agreements concerning City property, other than those specified in clause 3.1.5 above;
  - 5.1.2 variation, assignment, novation, extension or surrender of a lease, license or hire agreement, where the lessee does not require the agreement to be signed under seal;
  - 5.1.3 variation, withdrawal or surrender of notifications, covenants, easements and caveats;
  - 5.1.4 lodgement, modification and withdrawal of memorials;
  - 5.1.5 contracts for the sale or purchase of real property;
  - 5.1.6 transfer of land documents and forms;
  - 5.1.7 planning, building or subdivision application forms for development of land owned or managed by the City;
  - 5.1.8 grants, funding or sponsorship agreements, other than those specified in clause 4.1.4 above;
  - 5.1.9 Memorandums of Understanding (MOUs);
  - 5.1.10 deeds of any description;
  - 5.1.11 contracts for the supply of goods and services;
  - 5.1.12 communications on behalf of the City with Federal or State Ministers, Agencies, and peak industry bodies;
  - 5.1.13 all other documents required to enact a decision of Council; and
  - 5.1.14 all other agreements or contracts not already specified.
- 5.2 For the avoidance of doubt, where the CEO or other officer:
- 5.2.1 has delegation or authorisation to make a decision or do any thing - that person does not require a specific Council authority to execute documents which give effect to that decision or are necessary for them to do that thing; or
  - 5.2.2 is conferred powers or duties directly under any written law or Council policy - that person is authorised to execute any document necessary for the exercise of those powers or duties.

(6) Limits on authorisation

- 6.1 The CEO and other officers authorised under clause 5.1 may only execute a document where:
- 6.1.1 any total financial liability created by the document is equal to or less than that person's purchasing authorisation limit, unless the expenditure is authorised in advance by a Council resolution;
  - 6.1.2 in the event of a contract, agreement or MOU, the term does not exceed 3 years unless approved in advance by the CEO or a Director;
  - 6.1.3 for employees who are not the CEO, the document relates to the matters within their scope of authority, or for Directors and Managers, the matter relates to matters within the scope of their directorate/business unit; and
  - 6.1.4 the document is first executed by the other party, unless a written law or standard convention requires it to be signed by the City first, or it is not practicable or appropriate for the City to sign it first.

### **Schedule 1 – Document Categories**

<b>Document Type</b>	<b>CEO</b>	<b>Director</b>	<b>Manager</b>	<b>Lead or Equivalent</b>
Category 1(B) documents	X	X		
Leases, licenses and hire agreements, other than those specified as a Category 1(B) document	X	X	X	
Variation, assignment, novation, extension or surrender of a lease, license or hire agreement	X	X	X	
Variation, withdraw or surrender of notifications, covenants, easements and caveats	X	X	X	
Lodgement, modification or withdrawal of memorials	X	X	X	
Contracts for the sale or purchase of real property	X			
Transfer of land documents and forms	X			
Planning, building or subdivision application forms for development of land owned or managed by the City	X	X		
Grants, funding or sponsorship agreements, other than those specified as a Category 1(B) document	X	X	X	
Memorandums of Understanding (MOUs)	X	X	X	
Deeds of any description	X	X		
Contracts for the supply of goods and services	X	X	X	X
Communication on behalf of the City with Federal or State Ministers, Agencies and peak industry bodies	X	X	X	
All other documents required to enact a decision of Council	X	X	X	
All other agreements or contracts not	X	X	X	X

<b>Title</b>	<b>Execution of Documents</b>
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<b>Document Type</b>	<b>CEO</b>	<b>Director</b>	<b>Manager</b>	<b>Lead or Equivalent</b>
already specified				

<b>Strategic Link:</b>	Corporate Governance Framework
<b>Category</b>	Governance
<b>Lead Business Unit:</b>	Legal and Compliance
<b>Public Consultation:</b> (Yes or No)	No
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