

Title	Execution of Documents
Policy Number (Governance Purpose)	



Policy Type

Council

Policy Purpose

To establish, in accordance with the requirements of Division 3 sections 9.49 and 9.49A of the Local Government Act 1995 (the Act):

- Protocols for affixing and administration of the City of Cockburn Common Seal; and
- Authority for the Chief Executive Officer and other Officers and Agents to execute (sign) documents on behalf of the City of Cockburn.

Policy Statement

This Policy applies to all City officers preparing documents for execution and/or who have been authorised through the provisions of 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 Council decision will take precedent over this Policy in the event of any inconsistency.

The Policy covers three categories of documents as outlined below.

(1) Category 1 Documents – Common Seal

1. Category 1 documents require the City's common seal to be affixed.
2. The Mayor and Chief Executive Officer be authorised to affix the Common Seal to documents appertaining to all dealings initiated by a Council Resolution. In this regard the Council Resolution need not refer to the sealing of a document or documents and may express its wish for certain action which may ultimately require the affixing of the Common Seal to a document or documents to achieve the Council's intention
3. In the absence of the Mayor and/or the Chief Executive Officer, as the case may be, the Deputy Mayor and the Acting Chief Executive Officer be authorised to affix the Common Seal. In the absence of the Mayor or the Deputy Mayor the provisions of Section 5.35(2) of the Local Government Act, be invoked
4. The Mayor and Chief Executive Officer are authorised to affix the Common Seal to new Funding or Contracts of Agreement between the Council and State or Commonwealth Governments
5. Following is a list of documents that are Category 1 documents:
 - (a) Local Planning Scheme and Local Planning Scheme Amendments
 - (b) Adoption or Repeal of Local Laws
 - (c) Debenture document for loans which Council has resolved to raise

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- (d) Documents of a ceremonial nature
- (e) Documents which, in the opinion of the CEO, a Director and/or Legal Services, are sufficiently complex, high risk and/or significant in nature to warrant the affixing of the common seal
- (f) New Funding Agreements

6. Land Matters

The affixing of the Common Seal to documents relating to land matters including (but not limited to) the following:

- (a) Deeds, including Deeds of Arrangement, Development Contribution Deeds, Deeds of Indemnity and Memorandums of Understanding in respect to sale, purchase or other commercial dealings relating to assets and equitable interests
- (b) Leases (including extensions, renewals, assignments and variations)
- (c) Licences to occupy land or premises
- (d) Restrictive Covenants - under section 129BA of the Transfer of Land Act 1893 and any discharge or variation of covenants
- (e) Lodgement, modification and withdrawal of memorials
- (f) Easements and the surrender or modification of easements
- (g) Rights of carriageway agreements and withdrawal or variation of rights of carriageway agreements
- (h) Reciprocal access agreements and withdrawal or variation of reciprocal access agreements

shall be undertaken by two (2) of the following persons;
the Mayor, Deputy Mayor, Chief Executive Officer, Director, Manager Strategic Planning and Property & Lands Officer.

7. Existing Funding Agreements

The affixing of the Common Seal or the signing of funding agreements for programs to which Council has previously adopted or additions to existing programs which in the view of the Chief Executive Officer are in accordance with the original intent of the adopted program, including those provided by Federal and State Government Agencies, shall be undertaken by two (2) of the following persons:

the Mayor, Deputy Mayor, Chief Executive Officer, Director, Manager Community Development and Child Care & Seniors Manager.

- (2) Category 2 Documents - do not require the common seal to be affixed

Under section 9.49(A) (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. Where a Category 2 document falls into more than one descriptor, the lowest organisational level prescribed is authorised to sign.

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Description	Authority to Execute
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 Land gate forms listed as Category 1 documents.	CEO
Documents required to enact a decision of Council, which are not Category 1 documents.	CEO; any Director.
Community Services Projects; Service Agreements, Licenses & Related Documents	CEO; any Director, Manager, Community Development, Family & Development Manager, and Child Care & Seniors Manager
Marina Related Documents; Pen licensees	CEO; any Director; City officer delegated authority by the CEO; Manager Infrastructure Services, and Marina & Coastal Engineering Manager.
Documents required to enact a decision made under delegated authority or as a condition of approval given under delegated authority.	City officer delegated authority by the CEO.
Documents required when the City owns land, or manages land under a management order, or lease	CEO; any Director; Manager, Strategic Planning and Property & Lands Officer.
Application for subdivision, survey strata, strata title or development approvals as they relate to the City's land	CEO; any Director; Manager, Strategic Planning and Property & Lands Officer
Documents prepared for registration at Land gate. The above authorisation does not extend to: <ul style="list-style-type: none"> • mortgage documents; and • Transfer of Land forms, which are category 1 documents. 	CEO; any Director; Manager Strategic Planning. Manager, Statutory Planning
Indemnity given by the City to a third party. (Indemnities can only be issued following confirmation from Council Insurer that the project is covered by the City's insurance)	CEO; any Director; (Land matters only) Manager, Strategic Planning and Property & Lands Officer
Memorandums of Understanding and other statements of intent and terms and conditions.	CEO; any Director; Senior Managers. Land matters only - Property & Lands Officer

(3) Category 3 Documents

1. 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.
2. Category 3 documents are correspondence which relate to day-to-day routine communications or transactions and do not require specific authorisation

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through this Policy, as they are the subject of Section 5.41(d) of the Local Government Act, 1995, prescribing the CEO’s duty to manage the day to day operations of the City. Such duties are undertaken by “acting through” Officers.

Strategic Link:	Corporate Governance Framework
Category	Governance
Lead Business Unit:	Governance
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