

Title	Execution of Documents
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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 (CEO) 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 Common Seal of the local government is to be affixed to documents appertaining to all dealings initiated by a Council resolution, in the presence of:
 - (a) the Mayor, and
 - (b) the CEO; or
 - (c) An Executive Committee Member (*Ex-Co – Chief Financial Officer, Chief Operations Officer, Chief of Community Services, Chief of Built and Natural Environment, Executive Governance and Strategy, Executive Corporate Affairs, Executive People, Culture and Safety*) authorised by the CEO.

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 resolution.

3. Where the CEO is not present, an Executive Committee Member (Ex-Co) employee authorised by the CEO, must be present with the Mayor to affix the Common Seal.



4. In the absence of:

- (a) the Mayor, and
- (b) the CEO; or
- (c) An Executive Committee Member (Ex–Co) authorised by the CEO.

As the case may be, the Common Seal may not be affixed to any document.

5. The Common Seal of the local government is to be affixed to new Funding or Contracts of Agreement between the Council and State or Commonwealth Governments, in the presence of:

- (a) the Mayor, and
- (b) the CEO; or
- (c) An Executive Committee Member (Ex–Co) authorised by the CEO.

6. Following is a list of documents that are Category 1 documents:

- (a) Local Planning Scheme
- (b) Adoption or Repeal of Local Laws
- (c) Debenture document for loans which Council has resolved to raise
- (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; and
- (f) New Funding Agreements

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 CEO 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:

- (a) the Mayor; and
- (b) CEO; or
- (c) An Executive Committee Member (Ex–Co) authorised by the CEO in the presence of each other.

(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:

1. Land Matters

Following is a list of documents relating to land matters that are Category 2 documents, which do not require the City's Common Seal to be affixed.



These documents shall be signed by any two (2) of the following persons:

- (a) the Mayor,
- (b) Deputy Mayor;
- (c) CEO;
- (d) Executive Committee Member (Ex-Co);
- (e) Head of Planning; and
- (f) Property and Lands Officer.

These documents include, but are not limited to:

- (a) Local Planning Scheme Amendments;
- (b) Deeds, including Deeds of Arrangement, Development Contribution Deeds (only where a development contribution plan is awaiting gazettal), Deeds of Indemnity and Memorandums of Understanding in respect to sale, purchase or other commercial dealings relating to assets and equitable interests
- (c) Leases (including extensions, renewals, assignments and variations)
- (d) Licences to occupy land or premises
- (e) Restrictive Covenants - under section 129BA of the Transfer of Land Act 1893 and any discharge or variation of covenants
- (f) Lodgement, modification and withdrawal of memorials
- (g) Easements and the surrender or modification of easements
- (h) Rights of carriageway agreements and withdrawal or variation of rights of carriageway agreements
- (i) Reciprocal access agreements and withdrawal or variation of reciprocal access agreements
- (j) Notifications (and removals thereof) under section 70A of the Transfer of Land Act 1893; and
- (k) Transfer of land documents.

2. Statutory Planning Matters

Following is a list of documents relating to land matters that are Category 2 documents, which do not require the City's Common Seal to be affixed.

These documents shall be signed by any two (2) of the following persons:

- the Mayor;
- Deputy Mayor;
- CEO;
- Executive Committee Members (Ex-Co);
- Head of Planning;
- Head of Development & Compliance;
- Statutory Planning Coordinator; and
- Property and Lands Officer.

These documents include, but are not limited to:

- (a) Restrictive Covenants – under section 129BA of the Transfer of Land Act 1893 and any discharge or variation of covenants (and removal of);
- (b) Easements and the surrender or modifications of easements;
- (c) Rights of carriageway agreements and withdrawal or variation of rights of carriageway agreements;
- (d) Reciprocal access agreements and withdrawal or variation of reciprocal access agreements; and
- (e) Notifications (and removals therefore) under section 70A of the Transfer of Land Act 1893.

Description	Authority to Execute
Council initiated resolution for specific contract variations exceeding \$750,000 (ex-GST)	<ul style="list-style-type: none"> • Mayor; • CEO; or • Executive Committee Member (Ex-Co); • Employee authorised by the CEO, <p>to sign and seal documents, in the presence of each other.</p>
Offer and Acceptance forms and associated documents required to enact a decision of Council to purchase or sell land.	<ul style="list-style-type: none"> • CEO; and • Head of Planning; • Head of Property and Assets; or • Property and Lands Officer.
Documents required to enact a decision of Council, which are not Category 1 documents.	<ul style="list-style-type: none"> • CEO; any • Executive Committee Member (Ex-Co)
Community Services Projects; Service Agreements, Licenses & Related Documents	<ul style="list-style-type: none"> • CEO; • Any Executive Committee Member (Ex-Co); • Head of Community Development; • Family & Community Development Manager; or • Child Care & Seniors Manager
Marina Related Documents; Pen licensees	<ul style="list-style-type: none"> • CEO; • Any Executive Committee Member (Ex-Co), delegated authority by the CEO; • Head of Property and Assets; or • Port Coogee Marina 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

Description	Authority to Execute
Documents required when the City owns land, or manages land under a management order, or lease	<ul style="list-style-type: none"> • CEO; • Any Executive Committee Member (Ex-Co); • Head of Planning; • Head of Property and Assets; or • Property & Lands Officer
Application for subdivision, survey strata, strata title or development approvals as they relate to the City's land	<ul style="list-style-type: none"> • CEO; • Any Executive Committee Member (Ex-Co); • Head of Planning; or • Property & Lands Officer
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)	<ul style="list-style-type: none"> • CEO; • Any Executive Committee Member (Ex-Co). <p><u>Land matters only</u></p> <ul style="list-style-type: none"> • Head of Planning; • Head of Property and Assets; or • Property & Lands Officer
Memorandums of Understanding and other statements of intent and terms and conditions.	<ul style="list-style-type: none"> • CEO; • Any Executive Committee Member (Ex-Co); • Relevant Senior Managers (Heads of). <p><u>Land matters only</u></p> <ul style="list-style-type: none"> • Head of Planning; • Head of Property and Assets; or • Property & Lands Officer
Documents which seek to either defer or allow instalments of a development contribution plan liabilities (except where a development contribution plan is awaiting gazettal).	<ul style="list-style-type: none"> • CEO; • Any Executive Committee Member (Ex-Co); • Head of Planning.

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

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Strategic Link:	Corporate Governance Framework
Category	Governance
Lead Business Unit:	Legal, Governance and Risk Management
Public Consultation: (Yes or No)	No
Adoption Date: (Governance Purpose Only)	March 2021
Next Review Due: (Governance Purpose Only)	March 2023
ECM Doc Set ID: (Governance Purpose Only)	8030199