

Execution of Documents and Application of Common Seal Policy

Responsible Division	Office of the Chief Executive Officer
Responsible Business Unit	Office of the Chief Executive Officer
Responsible Officer	Chief Executive Officer
Affected Business Units	All Business Units
ECM Document Set ID	3267108

Purpose

To establish procedures for:

- Affixing the City's common seal; and
- Determining whether a document is executed by way of common seal or signed by an authorised employee.

Policy Details

In accordance with section 9.49A of the *Local Government Act 1995* (WA), a document is duly executed by a local government if the common seal is affixed to it or it is signed by an officer authorised to do so.

The execution requirements, including the making, varying or discharge of documents pursuant to section 9.49B of the *Local Government Act*, shall be as outlined in Attachment 1 of this Policy.

Procedure for Affixing the Common Seal

The Mayor and Chief Executive Officer are authorised to affix and sign all documents to be executed under the common seal; however, in the absence of the Mayor and/or the Chief Executive Officer, as the case may be, the Deputy Mayor and a Director as authorised in accordance with the provisions of the *Local Government Act 1995* (WA).

Procedure for Execution by Authorised Officers

Employees authorised under section 9.49A of the *Local Government Act 1995* (WA) may sign the documents identified for that purpose as set out in Attachment 1 of this Policy.

Directors may only execute documents relevant to matters within the scope of the activity of their Directorate. Documents relevant to the activities of multiple Directorates may only be executed by the Chief Executive Officer.

Managers may only execute documents relevant to matters within the scope of activity of their Branch. Documents relevant to the activities of multiple Branches, may only be executed by the relevant director, or where Branches within multiple Directorates are affected, the Chief Executive Officer.

Principals may only execute documents relevant to matters within the scope of the area of their service area. Documents relevant to the activities of multiple service areas are affected may only be executed by

the relevant manager. Documents relevant to the activities of multiple Branches may only be executed by the relevant director, or where Branches within multiple Directorates are affected, the Chief Executive Officer.

Register of documents executed under Common Seal

Details of all transactions where the common seal has been affixed shall be recorded in a register, with such register to record each date on which the common seal was affixed to a document, the nature of the said document, and the parties to any agreement to which the common seal was affixed. The register is to record each transaction with a reference number that may be retrieved in the City's document management software.

Limitation on Specific Authorities

The specific authorities established in **Attachment 1** are limited by the following conditions:

1. Chief Executive Officer

- a) Unlimited \$value; and/or
- b) Commitment period is specifically resolved by Council or in any other case, no greater than a 5 year period; and/or
- c) Moderate or lesser financial risk, legal complexity or political sensitivity, unless specifically resolved by Council.

2. Director

- a) <\$250,000p/a; and/or
- b) Commitment is no greater than 3 year period; and/or
- c) Moderate or lesser level of financial risk, legal complexity or political sensitivity.

3. Manager

- a) <\$100,000p/a; and/or
- b) Commitment is no greater than a 3 year period; and/or
- c) Minor or lesser level of financial risk, legal complexity or political sensitivity.

4. Principal

- a) <\$50,000; and/or
- b) Commitment is no greater than a 3 year period; and/or
- c) Minor or lesser level of financial risk, legal complexity or political sensitivity.

Deputising or Signing on Behalf of Another Person

In accordance with section 9.49A(4) of the *Local Government Act 1995 (WA)*, which requires authority for execution of documents to be resolved by Council, a document may only be executed by a person who holds a position authorised by Council's adoption of this Policy.

Therefore, in the absence of a person authorised by this policy another person may deputise where they have been appointed in writing to act in the authorised person

Related Legislation

Local Government Act 1995 (WA)

Document details

Relevant delegations EFD-02, Execution of Documents

Risk evaluation Moderate

Strategic link Leadership and Governance

Council adoption 27 November 2018

Reviewed/modified 7 April 2020

Reviewed/modified 31 January 2023

Next review due Q4, 2025

Attachment 1

DOCUMENT TYPE Note: (✓) Common Seal <u>only</u> to be applied where specified in a document prepared by an external party	COMMON SEAL	MAYOR	EXECUTION BY SIGNATURE ONLY (AUTHORISED EMPLOYEES)			
			CEO	Director	Manager	Principal
Local Laws – made and amended	✓	x	x	x	x	x
Planning Schemes – adopted and amended	✓	x	x	x	x	x
Land Transaction documents, including <ul style="list-style-type: none"> • Sale; • Purchase; • Vesting; • Contributed assets; • Notifications of factors affecting land under s 70A of the Land Transfer Act 1893 – lodge or withdraw • Easements – by land transfer <ul style="list-style-type: none"> ○ Rights of carriage way; ○ Right of support to land burdening by buildings; ○ Rights to erect a party wall; ○ Rights to light and air (Property Law Act 1969); ○ Rights to take water from wells or bores; ○ Rights to install, maintain and operate oil, gas or other pipelines ○ Rights to install, maintain and operate electric power lines, telephone and other cables and supporting pylons. • Restrictive Covenants – by land transfer • Deeds – land transfer for public purposes 	✓	x	✓	x	x	x

DOCUMENT TYPE Note: (✓) Common Seal <u>only</u> to be applied where specified in a document prepared by an external party	COMMON SEAL	MAYOR	EXECUTION BY SIGNATURE ONLY (AUTHORISED EMPLOYEES)			
			CEO	Director	Manager	Principal
<i>NOTE: Based on execution clause and requirements of specific documents.</i>						
Mortgages, Loans and Debentures	✓	x	x	x	x	x
Power of Attorney to act for the City <i>NOTE: Requires both Mayor and Chief Executive Officer signature</i>	x	✓	✓	x	x	x
Land Transaction documents, including: <ul style="list-style-type: none"> • Caveats – registering or removing • Leases • Easements – by deed, deposited plan or other legal instrument <ul style="list-style-type: none"> ○ Rights of carriageway; ○ Rights of support to land burdened by buildings; ○ Rights to erect a party wall; ○ Rights to light and air (Property Law Act 1969 (WA)); ○ Rights to take water from wells or bores; ○ Rights to install and operate drains and drainage works; ○ Rights to install, maintain and operate oil, gas or other pipelines; and ○ Rights to install, maintain and operate electric power lines, telephone and other cables and supporting pylons. • Restrictive covenants – lodge, modify or withdraw (other than by land transfer) • Deeds • Legal agreements 	(✓)	x	✓	x	x	x

DOCUMENT TYPE Note: (✓) Common Seal <u>only</u> to be applied where specified in a document prepared by an external party	COMMON SEAL	MAYOR	EXECUTION BY SIGNATURE ONLY (AUTHORISED EMPLOYEES)			
			CEO	Director	Manager	Principal
State or Commonwealth Government Funding Agreements <i>NOTE: Subject to relevant delegated authority, any of the identified authorised officers can execute</i>	(✓)	x	✓	✓	x	x
Grants and Funding Agreements with private agencies (incoming and outgoing) <i>NOTE: Subject to relevant delegated authority, any of the identified authorised officers can execute</i>	(✓)	x	✓	x	x	x
Memorandum of Understanding	(✓)	x	✓	✓	✓	✓
Contracts and legal instruments, including contract variations, related to: <ul style="list-style-type: none"> • Procurement Contracts • Service Agreements (incoming or outgoing services) • Heritage Agreements • Acquittal of planning conditions • Maintenance of the public realm 	(✓)	x	✓	✓	✓	✓
Development, subdivision and strata-title approvals for City Land	x	x	✓	✓	x	x
Memorial <ul style="list-style-type: none"> • <u>Deed Poll Registration</u>: A document lodged under the Registration of Deeds Act 1856, notifying the change of name of a person • <u>Memorial of Advertisement</u>: A document lodged at the Office of Titles by a Local Authority evidencing that the legal requirements necessary to sell land for the non-payment of rates, have been attended to. 	x	x	✓	✓	x	x

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			CEO	Director	Manager	Principal
<ul style="list-style-type: none"> Prohibiting dealings in land: A document lodged at the Office of Titles under one of a number of statutes, which when noted on a Certificate of Title acts as a caveat. 						
Documents that fulfil a statutory local government duty or power, for which there is no power of delegation or authorisation and is a matter which constitutes a potential risk to the City.	x	x	✓	✓	✓	✓
Communications on behalf of the City, with: <ul style="list-style-type: none"> Commonwealth or State Ministers Sister City counterpart political or government leaders 	x	✓	✓	x	x	x
Communications on behalf of the City, with CEO's of: <ul style="list-style-type: none"> Commonwealth or State Departments Industry representative bodies 	x	x	✓	✓	x	x
Communications on behalf of the City, relevant to the day to day operations of the City and which are subject of a level of political sensitivity or potential risk to the City.	x	x	✓	✓	✓	✓
Ceremonial Certificates – Common Seal may be affixed at the Mayor's discretion: <ul style="list-style-type: none"> Honorary Freeman 	✓	✓	✓	x	x	x

DOCUMENT TYPE Note: (✓) Common Seal <u>only</u> to be applied where specified in a document prepared by an external party	COMMON SEAL	MAYOR	EXECUTION BY SIGNATURE ONLY (AUTHORISED EMPLOYEES)			
			CEO	Director	Manager	Principal
• Honorary Citizenship						
Deeds of Settlement – Employee matters	x	x	✓	x	x	x
Enterprise Bargaining Agreements	x	x	✓	x	x	x