

Execution of Documents

Policy Type: Council Policy Policy Owner: Chief Executive Officer	Policy No.: CP- 111 Last Review Date:
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Policy Objectives

To establish, in accordance with the requirements of Part 9 Division 3 sections 9.49A and 9.49 of the *Local Government Act 1995* (the Act), Council authority for the Chief Executive Officer and other Officers and Agents to execute documents on behalf of the City of Melville.

Policy Scope

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 of Melville.

In the case of legislation, formal requirements of a Commonwealth or State department, authority or agency (as described in a Policy) or Council decision expressly specifying a particular way in which a document is to be executed, that requirement will take precedence over this Policy in the event of any inconsistency. This policy is not intended to over-ride any authority delegated by Council.

The Policy covers two categories of documents as outlined below. If it is unclear which category applies to a particular document, then the requirements of the higher category are to take precedence. Documents executed on behalf of the City must not be inconsistent with a Council policy, resolution or delegation.

Policy Statement

~~**Category 1 Documents — documents to which the City's Common Seal is to be affixed.**~~

~~There is no longer any legislative requirement for the City's Common Seal to be affixed to any document, although provision for affixing the Common Seal remains in section 9.49A(1) of the *Local Government Act 1995*, with the requirements for affixing the Common Seal set out in section 9.49A(2) and (3), and in the *City of Melville Meeting Procedures Local Law 2017 Part 22*.~~

~~Council may resolve in particular circumstances that a document or class of documents is to have the Common Seal affixed. In such cases the documents are to be executed by having the Common Seal affixed in the presence of and being attested to by the Mayor~~

~~and CEO or the Mayor and a senior employee authorised by the CEO to do so pursuant to section 9.49A(3) of the Act.~~

~~For the purposes of Category 1 documents, the CEO authorises Directors to attest to the fixing of the Common Seal where the document is related to their area of responsibility.~~

~~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 are authorised to affix the Common Seal. In the absence of both the Mayor and the Deputy Mayor the provisions of Section 5.35 of the Local Government Act will be invoked.~~

~~Each use of the City's Common Seal is to be recorded in the Common Seal Register.~~

Category 2-1 Documents – documents that commit the City to a course of action or specific responsibility, and do not require the City's 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 are subordinate to any delegations which may be in place. Where a Category 2-1 document falls into more than one descriptor, the lowest organisational level prescribed is authorised to sign.

Where a document is considered high risk and/or significant in nature having for example substantial political, reputational, legal or financial consequences for the City, the CEO or a Director may determine how such documents are to be executed.

Description of Document	Authority to Execute
Local Laws following resolution by Council to adopt, amend or repeal	CEO
Local Planning Scheme and Local Planning Scheme amendments following resolution by Council to adopt or amend	CEO
Debenture documents for loans which Council has resolved to raise	CEO Director Corporate Services
Documents required to secure the repayment of a loan granted by the City, a loan granted to the City by a third party and/or to secure the pre-funding of construction works by the City	CEO Director Corporate Services Director Technical Services
Agreements related to new grant funding from State or Commonwealth Governments	CEO Director Corporate Services
Agreements for existing funding programs that 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 program, including those provided by Federal and State Government Agencies	CEO The responsible Director
Deeds, including Deeds of Arrangement, Development Contribution Deeds, Deeds of Indemnity and	CEO The responsible Director



Description of Document	Authority to Execute
Memoranda of Understanding in respect to sale, purchase or other commercial dealings relating to assets and equitable interests	
Documents required to effect and administer the grant of leasehold interests in land or a licence over property either by the City to a third party or by a third party to the City, including: <ul style="list-style-type: none"> a) Minor variations; b) Extension under original lease provisions; c) Assignment; d) Surrender; e) Sub-lease or licence of a portion of the premises by a lessee. 	CEO (to a maximum rental value of \$100,000 p.a. and term of 10 years) The City officers holding sub-delegated authority from the CEO to lease or licence property (to a maximum rental value of \$50,000 p.a. and term of 5 years).
Documents required to initiate and conclude the disposal (excluding disposal by way of lease) of land and property, under delegated authority or in order to implement a Council resolution, including: <ul style="list-style-type: none"> a) Offer-and-acceptance forms; b) Documents required to effect the transfer of land as part of a settlement transaction; c) Mortgage and transfer of land documents prepared for registration and/or lodgement at Landgate (WA Land Titles Office). 	CEO (to a maximum value of \$500,000) The following officers within the limits of the relevant sub-delegation of authority: Director Corporate Services Director Technical Services Manager Financial Services Manager City Buildings
Documents required in the management of land as a landowner or manager of land under a management order or lease.	CEO Any Director Executive Manager Governance and Legal Services Manager Governance and Property Manager City Buildings Manager Parks and Natural Areas
Application for subdivision, survey strata, strata title or development approvals as they relate to the City's land	CEO Any Director Executive Manager Governance and Legal Services Manager Governance and Property Manager City Buildings.
Certain documents related to land matters including (but not limited to) the following: <ul style="list-style-type: none"> a) Documents required to satisfy conditions of subdivision and/or development approval; b) Documents required to effect the subdivision of land, including the strata-titling of land; 	CEO The responsible Director Executive Manager Governance and Legal Services The City officer exercising the delegated authority



Description of Document	Authority to Execute
c) Restrictive Covenants - under section 129BA of the Transfer of Land Act 1893 and any discharge or variation of covenants; d) Lodgement, modification and withdrawal of memorials; e) Easements and the surrender or modification of easements; f) Rights of carriageway agreements and withdrawal or variation of rights of carriageway agreements; and g) Reciprocal access agreements and withdrawal or variation of reciprocal access agreements.	
Documents required to enact a decision of Council or of the relevant Development Assessment Panel.	CEO The responsible Director.
Community Services Projects; Service Agreements, Licenses & Related Documents	CEO Any Director Manager Neighbourhood Development Manager Healthy Melville
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 Executive Manager Governance and Legal Services
Memoranda of Understanding and other statements of intent and terms and conditions.	CEO Any Director Executive Manager Governance and Legal Services City officers delegated the relevant authority by the CEO For land matters only – Manager Governance and Property
Documents required to enact a decision made under delegated authority or as a condition of approval given under delegated authority	CEO The responsible Director The City officer exercising the delegated authority
Documents of a ceremonial nature	CEO The responsible Director
General deeds, legal and service agreements not otherwise listed, including employment and hire agreements.	CEO The responsible Director or Manager

Category **3-2** Documents – documents created in the normal course of business

1. Category **3-2** 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, procedures and relevant guidelines.
2. Category **3-2** documents relate to day-to-day routine communications or transactions that are necessary or appropriate to enable the CEO to carry out their functions under any delegation or authorisation from the Council and under any written law. This includes sub-sections 5.41(c) and (d) of the *Local Government Act 1995*, requiring the CEO to cause council decisions to be implemented and manage the day to day operations of the local government.
3. The CEO may undertake their functions, subject to relevant legislation, through delegation, authorisation or by "acting through" City officers. Category **3-2** documents are to be executed by the CEO, a Director, a Manager or a City officer where the authority and accountability has been extended through a delegation, authorisation, policy, corporate guideline or position description.

References that may be applicable to this Policy

Legislative Requirements: *Local Government Act 1995*, sections 2.7(2)(b); 5.41, 9.49A; 9.49B; 9.49
Local Government (Functions & General) Regulations 1996
City of Melville Meeting Procedures Local Law 2017, Part 22 – Common Seal.

Procedure, Process Maps, Work Instructions:

Other Plans, Frameworks, Documents Applicable to Policy: Legal Documents Sign Off Sheets
 Procurement Contracts Sign Off Sheet

ORIGIN/AUTHORITY

Item No.

Ordinary Meeting of the Council

19 May 2020

M20/5746

Reviews