

# Council Policy

## Execution of Documents



Legislation/local law requirements	s.9.49A <i>Local Government Act 1995</i>
Relevant Delegation	N/A
Related policy procedures and documents	All related procedures relating to document control and record keeping

## Introduction

The City recognises that optimising administrative processes enhances the efficiency and effectiveness of local government operations, ensuring prompt and seamless transactions for the community's benefit.

This policy directs the execution of documents on behalf of the City, to ensure compliance with the provisions of the *Local Government Act 1995* while promoting consistency, efficiency and transparency.

## Purpose

The purpose of this Policy is to ensure that the City's common seal is affixed and documents are executed in accordance with the provisions of the *Local Government Act 1995* (Act).

## Objective

For the City to execute documents in a consistent and transparent manner, in accordance with the Act.

## Scope

This policy is applicable to all Elected Members, Chief Executive Officer, and employees of the City.

## Policy Provisions

### Policy

Pursuant to section 9.49A of the Act, 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 by Council to do so.

Executing documents by affixing the common seal or by an authorised person's signature does not constitute the decision to undertake a course of action. They can only be executed after a Council resolution, via the exercise of delegated authority, or as authorised by a Council policy.

The following will take precedent over this Policy in the event of any inconsistency:

- any legislation;
- formal requirements of a Commonwealth or State department, authority, or agency; or
- Council decision.

### 1. Execution of Documents

Council authorises the execution of documents on behalf of the City as follows:

Category 1 Document – Common Seal	
<b>Category 1(A): Documents requiring the common seal and a specific Council resolution</b>	
Category 1A documents require a specific resolution of Council. These documents are executed by <b>affixing the common seal</b> , under the authorisation of Council, in accordance with section 9.49A(3) of the <i>Local Government Act 1995</i> .	
The following is a list of Category 1(A) documents:	
#	Description
1	Local Laws.
2	Documents of a ceremonial nature (e.g. sister city agreements).
3	Local Planning Schemes (including any amendments).
4	Mortgages and loan documents.
5	Documents requested to be duly executed by common seal.
6	Leases of real property granted by the City.
<b>Category 1(B): Documents requiring the common seal without a specific Council resolution</b>	
Category 1B documents are to be executed by <b>affixing the common seal</b> as part of a class of documents authorised by Council to be executed under the common seal without a specific Council resolution.	
The following is a list of Category 1(B) documents:	
#	Description
1	General legal and service agreements not already listed in this Policy.
2	Agreements relating to grant funding, when the funder requires that the agreement be signed under seal.
3	Variations, assignment, novation or extension of a lease agreement approved by

	Council, where the lessee requires that the agreement be signed under seal.
4	Easements under the <i>Land Administration Act 1997</i> and/or <i>Strata Titles Act 1985</i> .
5	Notifications, covenants, easements, and caveats under the <i>Transfer of Land Act 1893</i> .
6	Leases for Banksia Park Retirement Estate and Callistemon Court Aged Persons Units (includes new leases, variations to existing leases and deeds of surrender).
7	Execute legal agreements (including making variations) in accordance with Local Planning Policy (LPP) No 2 – Streetscapes.

### Category 2 Documents – No Common Seal

Pursuant to section 9.49A(4) of the *Local Government Act 1995*, Council authorises the Chief Executive Officer and officers to sign Category 2 documents on behalf of the City of Kwinana **without affixing the common seal**.

**Note:** the below list excludes any Category 1 documents.

Description	Authority to Execute
Execute legal agreement (including making variations) in accordance with Local Planning Policy (LPP) No 4 – Administration of development contribution plans	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• Director City Development and Sustainability</li> </ul>
Documents required to enact a decision of Council.	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• Directors</li> </ul>
Documents that enact a decision made under delegated authority or as a condition of approval given under delegated authority.	<ul style="list-style-type: none"> <li>• Chief Executive Officer; or</li> <li>• Directors; or</li> <li>• Officers, exercising delegated authority.</li> </ul>
<p>Documents that are created in the normal course of business and are consistent with City policies and procedures.</p> <p>These documents <b>include but are not limited to</b> the following:</p> <ul style="list-style-type: none"> <li>• Agreements in the normal course of business for the purchase or hire of goods or services identified within the service unit's budget and conforming to the requirements of the City's Purchasing Policy and other relevant policies.</li> <li>• General correspondence.</li> <li>• Contracts for grant funding conducted in accordance with the City's policies and procedures.</li> <li>• Regular hire arrangements.</li> <li>• Agreements associated with conditions of development approval and development contribution plans under the City's Local Planning Scheme.</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• Directors</li> <li>• Officers exercising delegated authority, or where the authority has been extended to that officer through an authorisation, policy, procedure, or a position description</li> </ul>



Variations, assignment, novation or extension of a lease agreement approved by Council.	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• Directors</li> </ul>
Applying for and executing sponsorship and grant agreements where: <ul style="list-style-type: none"> <li>a) the City's contribution component falls within budget; or</li> <li>b) it is consistent with a Council resolution to consider a budget</li> <li>c) allocation in a future budget; or</li> <li>d) it relates to a future project that forms part of a forward works</li> <li>e) program; or</li> <li>f) such grant or sponsorship is opportunistic in nature, not in current</li> <li>g) plans but has a clear benefit to the community; or</li> <li>h) complies with relevant council policies</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• Directors</li> </ul>
Memorandums of Understanding (MOU) if they satisfy the following conditions: <ul style="list-style-type: none"> <li>a) there is no additional financial contribution in excess of existing</li> <li>b) budgets required to give effect to the City's obligations under the MOU.</li> <li>c) formalises an existing working relationship between the City and a government agency or department or another local</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• Directors</li> </ul>
Agreements in relation to, hiring promotional street banners, and illuminated street name signs in accordance with relevant council policies.	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• Directors</li> </ul>
Agreements with successful applicants of a Local Commercial Support Grant, in accordance with the Local Commercial Support Grant Policy.	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• Directors</li> <li>• Manager Economic Development</li> </ul>
The following land transaction documents: <ul style="list-style-type: none"> <li>a) Caveats</li> <li>b) Easements</li> <li>c) Restrictive Covenants</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• Directors</li> </ul>

Note that in the event an Officer assumes a higher position, they may only authorise documents if they have received full delegations and/or authorisation for that role and are acting comprehensively within the scope of the position.

## 2. Common Seal

The Mayor and Chief Executive Officer (or person acting in that position) are authorised to affix the common seal. This seal is for use on documents relating directly to the business of the City.

In accordance with Section 9.49A(3) of the *Local Government Act 1995*, the common seal must be affixed in the presence of the Mayor and Chief Executive Officer.

In the event the Mayor is on a leave of absence, the Deputy Mayor is authorised to affix the common seal in their place.

A register shall be maintained identifying all documents executed with the common seal

affixed.

**OFFICER USE ONLY**

Officers may amend this section without council approval.

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