

Execution of Documents

Policy scope

This policy provides guidance on the appropriate method of execution for the City's documents and ensures that the City's common seal is applied and documents executed in accordance with the provisions of the Local Government Act 1995 (the Act).

According to the Act, s9.49A, 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.

Under section 9.49A(3) of the Act, the common seal is to be affixed to a document in the presence of the Mayor and the CEO, each of whom is to sign the document to attest that the common seal was so affixed.

Policy statement

This policy applies to all City of Fremantle officers who have been authorised through the provisions of this policy to execute documents on behalf of Council.

Executing documents through the use of the common seal or by signing a document does not constitute the decision to undertake a particular course of action. A Council resolution or a decision under delegated authority is required prior to executing documents pertaining to those decisions.

In the case of:

1. Legislation;
2. The formal requirements of a Commonwealth or State department, authority or agency (as described in a policy or procedure, etc); or
3. A Council decision;

expressly specifying a particular way in which a document is to be executed, that course of action is to take precedence over this policy.

Should ambiguity arise over what category might apply to a document i.e. two categories may have relevance to a document, then the higher category is to take precedence unless the decision has been made under delegated authority in which case it is a Category 2 document and can be executed by the officer exercising the delegated authority.

Category 1(A) Documents

Category 1A documents **require a specific resolution of Council** to sell, lease or enter into an agreement etc. as well as an authority to affix the seal.

No#	Description
1	Deeds, including but not limited to:- <ul style="list-style-type: none"> Deeds of Agreement; Deeds of Release; and Memorandum of Understanding, in respect to sale, purchase or other commercial dealing relating to City assets including equitable interests.
2	Local Planning Schemes and Amendments.
3	Lease documents. This category includes, but is not limited to:- <ul style="list-style-type: none"> Extension of Lease under original lease and new term not previously provided; Variation of Lease; Assignment of Lease; and Surrender of Lease. except for any of the above that are granted under delegated authority.
4	Licence documents
5	Local Laws
6	Documents prepared for registration at Landgate that are mortgage documents and transfer of land forms where the value of the land exceeds the amount determined by the City of Fremantle for the purpose of section 5.43 (d) of the Act.

Category 1(B) Documents

Category 1(B) documents are those of a general form or category and which may be subject to time constraints for execution. These documents are to be sealed as part of a "class of documents" authorised by Council to be executed under the common seal without a specific Council resolution to affix the seal.

Please note that the document **may not require a Council resolution** (being a Category 1(B) document) however the decision to undertake a particular course of action may still require Council approval

No#	Description
1	Agreements relating to grant funding, when the funder requires that the agreement be signed under seal.
2	Debenture documents for loans which Council has resolved to raise.
3	Extension of Lease under original lease clause or provision.
4	Sub Lease of a portion of the premises by the Lessee.
5	Minor Variation of Lease provided it does not alter the substantive terms of the Lease approved by Council (for example, changes a process within the lease).
6	General Legal and Service Agreements not already listed in this policy.
7	Indemnity given by the City to a third party.

Category 2 Documents	
<p>Category 2 documents do not require the seal to be affixed.</p> <p>Under section 9.49(A)(4) Council hereby authorises those officers listed in the table below to sign documents on behalf of the City of Fremantle.</p>	
Description	Authority to Execute
Documents required in the management of land as a landowner.	Chief Executive Officer The responsible Director
Documents required to enact a decision of Council (i.e. contractual documents resulting from a tender process, transfer of lands forms, notification on title as required by a condition of approval, memorandum of understanding, adoption of a new Structure Plan etc.)	Chief Executive Officer The responsible Director
Documents that enact a decision made under delegated authority or as a condition of approval given under delegated authority.	Chief Executive Officer The responsible Director The Officer exercising the delegated authority
Category 3 Documents	
<p>Category 3 documents are those documents that are created in the normal course of business and are consistent with City policies and procedures. Category 3 documents are to be executed by a Director or Manager, or a City officer where the authority and accountability has been extended through a policy or procedure.</p> <p>These documents include but are not limited to the following</p>	
No#	Description
1	Agreements in the normal course of business for the purchase of goods or services identified within the service unit's budget (other than for tenders awarded by Council) and conforming to the requirements of the City's Purchasing Policy and other relevant policies.
2	Debenture documents for loans which Council has resolved to raise.
3	General correspondence required to discharge the duties of your position.
4	Contracts for grant funding conducted in accordance with the City's policies and procedures.
5	Regular hire arrangements.

Definitions and abbreviations

Nil.

Responsibility and review information	
Responsible officer:	Manager Governance
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