

# Execution of Documents and Application of Common Seal Policy

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

## Purpose

1. The purpose of this policy is to establish:
  - a. Protocols for affixing and administration of the City of Bayswater Common Seal; and
  - b. Authority for the Chief Executive Officer (CEO) and other authorised officers to execute documents on behalf of the City of Bayswater.

## Policy Details

2. In accordance with section 9.49A of the *Local Government Act 1995 (WA)*, a document is duly executed by a local government if;
  - a. the common seal is affixed to it; or
  - b. it is signed by an officer authorised to do so.
3. For the purposes of this policy, document means any paper or electronic document, including communications such as letters and emails, which:
  - a. convey a decision; or
  - b. establish an obligation on the City; or
  - c. is ceremonial
4. 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.
5. Nothing in this policy precludes the use of an electronic or digital signature as a method of execution, as long as there is no legal requirement for the physical witnessing of the document, both parties have agreed to the use, and the signature identifies the signer and indicates their intention to be bound.

## Affixing the Common Seal

6. The Mayor and CEO are authorised to affix and sign all documents to be executed under the common seal.
7. The Common Seal may be applied to documents that:
  - a. Give effect to decisions of Council; or
  - b. As detailed in **Attachment 1** of this Policy.

8. The Common Seal is to be applied in the presence of both:
  - a. The Mayor (or in the Mayor's absence the Deputy Mayor); and
  - b. The CEO (or an Acting CEO or Director as authorised by the CEO).

### **Administration of the Common Seal**

9. The CEO is to:
  - a. Be responsible for the safe custody and proper use of the Common Seal; and
  - b. Maintain a register of each time the Common Seal is used.

### **Authority to Execute Documents on behalf of the City**

10. Where a person has written authority to make a decision that person also has the authority to sign documents which give effect to that decision.
11. Written authorities are:
  - a. Delegated Authority;
  - b. Statutory Authority;
  - c. Operational Authorisation.
12. The CEO and other employees authorised under this Policy may sign the documents identified for that purpose as set out in **Attachment 1**.
13. Directors may only execute documents relevant to matters within the scope of the activity of the Directorate. Documents relevant to the activities of multiple Directorates may only be executed by the Chief Executive Officer.
14. Managers may only execute documents relevant to matters within the scope of activity of the 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.

### **Limitation on Specific Authorities**

15. The specific authorities established in **Attachment 1** are limited by the following conditions:
  - a. **Chief Executive Officer**
    - i. Unlimited \$ value; and/or
    - ii. Commitment period is specifically resolved by Council or in any other case, no greater than a 5-year period; and/or
    - iii. Moderate or lesser financial risk, legal complexity or political sensitivity, unless specifically resolved by Council.
  - b. **Director**
    - i. ≤ the amount specified in the Subdelegate Conditions of Delegation FM-D02 Acceptance of Quotations, Tenders and Expressions of Interest; and/or
    - ii. Commitment is no greater than 3-year period; and/or
    - iii. Moderate or lesser level of financial risk, legal complexity or political sensitivity.

- c. **Manager**
- i. ≤\$100,000p/a; and/or
  - ii. Commitment is no greater than a 3-year period; and/or
  - iii. Minor or lesser level of financial risk, legal complexity or political sensitivity.
16. Where considered appropriate, an authorised person may escalate a document for execution to a higher level of authorised person.
17. The limitation on specific authorities does not limit the authority to sign documents that effect a decision made in accordance with statutory authority or delegated authority.

### Deputising or Signing on Behalf of Another Person

18. 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.
19. Therefore, in the absence of a person authorised by this policy another person may deputise where they have been appointed in writing to act by the authorised person.

### Related Legislation

#### *Local Government Act 1995* (WA)

- Section 2.7 Role of Council
- Section 9.49A Execution of documents
- Section 9.49B Contract formalities
- Section 9.49 Documents, how authenticated

### Document details

<b>Relevant delegations</b>	EFD-02, Execution of Documents		
<b>Risk evaluation</b>	Moderate		
<b>Strategic link</b>	Leadership and Governance		
<b>Council adoption</b>	27 November 2018		
<b>Reviewed/modified</b>	7 April 2020		
<b>Reviewed/modified</b>	31 January 2023	<b>Resolution</b>	10.6.1.2
<b>Reviewed/modified</b>	9 February 2026	<b>Resolution</b>	10.5.1.2.2
<b>Next review due</b>	February 2029		

## Attachment 1

### Specific Authorities in Accordance with Section 9.49A(4) of the *Local Government Act 1995*

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	
Local Laws – made and amended	✓	x	x	x	x	
Planning Schemes – adopted and amended	✓	x	x	x	x	
Land Transaction documents, including <ul style="list-style-type: none"> <li>• Sale;</li> <li>• Purchase;</li> <li>• Vesting;</li> <li>• Contributed assets;</li> <li>• Notifications of factors affecting land under s 70A of the Land Transfer Act 1893 – lodge or withdraw</li> <li>• Easements – by land transfer               <ul style="list-style-type: none"> <li>○ Rights of carriage way;</li> <li>○ Right of support to land burdening by buildings;</li> <li>○ Rights to erect a party wall;</li> <li>○ Rights to light and air (Property Law Act 1969);</li> <li>○ Rights to take water from wells or bores;</li> <li>○ Rights to install, maintain and operate oil, gas or other pipelines</li> <li>○ Rights to install, maintain and operate electric power lines, telephone and other cables and supporting pylons.</li> </ul> </li> <li>• Restrictive Covenants – by land transfer</li> <li>• Deeds – land transfer for public purposes</li> </ul> NOTE: Based on execution clause and requirements of specific documents.	✓	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	
Mortgages, Loans and Debentures	✓	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	
Land Transaction documents, including: <ul style="list-style-type: none"> <li>• Caveats – registering or removing</li> <li>• Leases</li> <li>• Easements – by deed, deposited plan or other legal instrument <ul style="list-style-type: none"> <li>○ Rights of carriageway;</li> <li>○ Rights of support to land burdened by buildings;</li> <li>○ Rights to erect a party wall;</li> <li>○ Rights to light and air (Property Law Act 1969 (WA));</li> <li>○ Rights to take water from wells or bores;</li> <li>○ Rights to install and operate drains and drainage works;</li> <li>○ Rights to install, maintain and operate oil, gas or other pipelines; and</li> <li>○ Rights to install, maintain and operate electric power lines, telephone and other cables and supporting pylons.</li> </ul> </li> <li>• Restrictive covenants – lodge, modify or withdraw (other than by land transfer)</li> <li>• Deeds</li> <li>• Legal agreements</li> </ul>	(✓)	x	✓	x	x	
State or Commonwealth Government Funding Agreements	(✓)	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	
<i>NOTE: Subject to relevant delegated authority, any of the identified authorised officers can execute</i>						
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	
Memorandum of Understanding	(✓)	x	✓	✓	✓	
Contracts and legal instruments, including contract variations, related to: <ul style="list-style-type: none"> <li>• Procurement Contracts</li> <li>• Service Agreements (incoming or outgoing services)</li> <li>• Heritage Agreements</li> <li>• Acquittal of planning conditions</li> <li>• Maintenance of the public realm</li> </ul>	(✓)	x	✓	✓	✓	
Development, subdivision and strata-title approvals for City Land	x	x	✓	✓	x	

<b>Document Type</b> Note: (✓) Common Seal <u>only</u> to be applied where specified in a document prepared by an external party	<b>Common Seal</b>	<b>Mayor</b>	<b>Execution by signature only (authorised employees)</b>			
			<b>CEO</b>	<b>Director</b>	<b>Manager</b>	
Memorial <ul style="list-style-type: none"> <li>• <u>Deed Poll Registration</u>: A document lodged under the Registration of Deeds Act 1856, notifying the change of name of a person</li> <li>• <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.</li> <li>• <u>Prohibiting dealings in land</u>: 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.</li> </ul>	<b>x</b>	<b>x</b>	✓	✓	<b>x</b>	
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.	<b>x</b>	<b>x</b>	✓	✓	✓	
Communications on behalf of the City, with: <ul style="list-style-type: none"> <li>• Commonwealth or State Ministers</li> <li>• Sister City counterpart political or government leaders</li> </ul>	<b>x</b>	✓	✓	<b>x</b>	<b>x</b>	

<b>Document Type</b> Note: (✓) Common Seal <u>only</u> to be applied where specified in a document prepared by an external party	<b>Common Seal</b>	<b>Mayor</b>	<b>Execution by signature only (authorised employees)</b>			
			<b>CEO</b>	<b>Director</b>	<b>Manager</b>	
Communications on behalf of the City, with CEO's of: <ul style="list-style-type: none"> <li>• Commonwealth or State Departments</li> <li>• Industry representative bodies</li> </ul>	<b>x</b>	<b>x</b>	✓	✓	<b>x</b>	
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.	<b>x</b>	<b>x</b>	✓	✓	✓	
Ceremonial Certificates – Common Seal may be affixed at the Mayor's discretion: <ul style="list-style-type: none"> <li>• Honorary Freeman</li> <li>• Honorary Citizenship</li> </ul>	✓	✓	✓	<b>x</b>	<b>x</b>	
Deeds of Settlement – Employee matters	<b>x</b>	<b>x</b>	✓	<b>x</b>	<b>x</b>	
Enterprise Bargaining Agreements	<b>x</b>	<b>x</b>	✓	<b>x</b>	<b>x</b>	