

EXECUTION OF DOCUMENTS

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1. OBJECTIVE

To provide guidance as to the circumstances whereby the common seal of the City of Karratha is to be applied and executed on official documentation.

1.1 Definitions

In this policy the following words have the following meanings:

- Act** means the *Local Government Act 1995*;
- Delegated Officer** means an officer of the Council who has the appropriate delegated authority to execute documents on behalf of the Council;
- Senior Employee** means an employee designated as a senior employee by Council under s 5.37 of the *Local Government Act 1995* including the CEO and Directors.

2. PRINCIPLES

2.1. Legal Requirements

The Council is required to comply with section 9.49A of the Act. This details the requirements for documents to be validly executed by a local government.

Under the Act in order for a Council document to be considered validly executed, the document must be signed in one of the following ways:

- **By affixing the common seal** of the Council in the presence of:
 - the Mayor and the CEO; or
 - the Mayor and a Senior Employee authorised by the CEO [s.9.49A(3) of the Act], whereby Council has authorised the affixing of the common seal [s.9.49A(2) of the Act]; or
- **Without affixing the common seal**, by the CEO, employee or agent of the Council who has been authorised by resolution of the Council to sign documents on behalf of the Council [s.9.49A (4) of the Act].

By virtue of s.5.35 of the Act, the Deputy Mayor may perform the functions of the Mayor, if the Mayor is absent or the office is vacant.

2.2. Document Categories

For the purpose of this policy, agreements involving the Council are classified into three categories, as follows:

- Category 1 Documents - Deeds and Agreements;
- Category 2 Documents - Delegated; and
- Category 3 Documents - Operational.

The Appendix to this policy provides a full description of the documents falling within the above categories.

2.2.1. Category 1 Documents

Category 1 documents are to be executed by **either**:

- (a) affixing the common seal of the Council, in the presence of the Mayor and the CEO (or a Senior Employee authorised by the CEO to do so) where it is deemed necessary.

NB. Prior to the common seal being affixed, a specific authorisation by way of a resolution of the Council is required. The authorisation can be made at the same time as the approval of the project or document, for example the resolution could be in two parts, the first to approve the project or document and the second, to authorise the affixing of the common seal to the relevant documents.

or

- (b) signing the document by the Mayor and CEO as authorised representatives of the Council.

Characteristics of this category:

Requires the signatures of both the Mayor and CEO.

2.2.2. Category 2 Documents

Category 2 documents do not require the affixation of the common seal (unless otherwise specified or expressly stated by a Council resolution that the final document is to be signed and sealed) and are to be signed by the CEO or a Director. Category 2 documents can be described as documents arising out of a matter that requires Council approval or arising out of delegated authority from Council.

Characteristics of this category:

Requires the signature of either the CEO or Director

2.2.3. Category 3 Documents

Category 3 documents also do not require the affixation of the common seal. Such documents are to be signed by a Director, Manager or delegated officer. Category 3 documents can be described as documents arising out of the general operation of a directorate, and/or a matter an officer of a directorate has the delegated authority to deal with.

The Appendix to this policy details the signatures required for specific documents in the above categories.

2.3. Common Seal Register

A list of documents to which the Council's common seal has been affixed, shall be reported to Council on a monthly basis by the CEO and included within the Council's Common Seal Register.

2.4. Retrospective Approval to Use the Common Seal

Where there is an **urgent need** to apply the Common Seal to documents of a Category 1 nature, this is to be reported to Council at the next ordinary meeting. Retrospective action is to be exercised sparingly as this commits the Council to an activity that has not received appropriate consideration by the Council.

3. CONSEQUENCES

This policy represents the formal policy and expected standards of the City of Karratha. Appropriate approvals need to be obtained prior to any deviation from the policy. Elected Members and Employees are reminded of their obligations under the Council's Code of Conduct to give full effect to the lawful policies, decisions and practices of the City.

4. ROLES AND RESPONSIBILITIES

The roles and responsibilities of the Mayor, CEO, Directors and Managers with respect to the execution of documents are outlined in the attached Appendix.

It is the responsibility of the executing parties to ensure they fully understand what they are executing on behalf of the Council and any queries are addressed before this process is completed.

On the occasions where a common seal is required of the Council, it is the responsibility of the CEO to ensure that the Register of Common Seals is updated and Council is notified of its application at the next available Council meeting.

5. REFERENCES TO RELATED DOCUMENTS

- Delegations and Authorisations Register
- Common Seal Procedures

Policy Number:	CG-10
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Resolution Numbers:	152480-May2013; 153109-Apr 2015; 153772-Apr 2017
Last Review:	April 2017
Next Review:	April 2019
Responsible Officer:	Manager Governance and Organisational Strategy

This Policy takes effect from the date of adoption by Council and shall remain valid until it is amended or deleted.

6. APPENDIX

Document	Document Category	Signatures Required				
		Mayor	CEO	Director	Manager	Staff
Deeds, including Deeds of Agreement, Development Contribution Deeds, Deeds of Indemnity and Memorandums of Understanding in respect to sale, purchase or other commercial dealings relating to assets including equitable interests.	1	X	X			
Town Planning Scheme and any Town Planning Scheme Amendments	1	X	X			
Leases (including extensions, renewals and variations but with the exception of residential tenancy agreements for employee housing and office accommodation)	1	X	X			
Licences to occupy land or premises	1	X	X			
Restrictive Covenants – under s.129BA of the <i>Transfer of Land Act 1893</i> and any discharge or variation of covenants	1	X	X			
Lodgement, modification and withdrawal of caveats	1	X	X			
Lodgement, modification and withdrawal of memorials	1	X	X			

Document	Document Category	Signatures Required				
		Mayor	CEO	Director	Manager	Staff
Easements and the surrender or modification of easements	1	X	X			
Subdivision, survey strata, strata title or development approvals or provisions of a Structure Plan or Detailed Area Plan	1	X	X			
Notifications on title and withdrawal or variation of notifications	1	X	X			
Rights of carriageway agreements and withdrawal or variation of rights of carriageway agreements	1	X	X			
Reciprocal access agreements and withdrawal or variation of reciprocal access agreements	1	X	X			
Debenture documents for loans which Council has resolved to raise	1	X	X			
Management statements and withdrawal or variation of management statements	1	X	X			
Adoption or Repeal of Local Laws	1	X	X			

Document	Document Category	Signatures Required				
		Mayor	CEO	Director	Manager	Staff
Agreements relating to funding	2		X	X		
General legal and service agreements	2		X	X		
Deeds of Release	2		X	X		
Memorandums of understanding	2		X	X		
Employment Contracts (post approval process)	2		X	X		
Documents arising out of any matter in which delegated authority has been exercised	3		X	X	X	
Residential tenancy agreements for employee housing and office accommodation	3		X	X	HR only	
Documents arising out of instances that require the Council Administration to enact a decision of Council	3		X	X	All	
Documents which arise out of the general operation of a directorate, and/or a matter an officer of a directorate has the authority to deal with	3		X	X	All	Where authority exists
Outgoing general correspondence for a work team.	3		X	X	All	All