

Objective

To establish, in accordance with the requirements of section 9.49A of the *Local Government Act 1995* (the Act) authorisations to:

1. affix the City of Mandurah Common Seal;
2. sign documents on behalf of the City of Mandurah; and
3. execute Deeds on behalf of the City of Mandurah.

Statement

The Act provides local governments with the ability to authorise its Chief Executive Officer (CEO) and other employees to execute documents on behalf of the City of Mandurah (the 'City').

Under the Act, a document will be considered duly executed by the City if:

- a) the Common Seal is validly affixed to it; or
- b) it is signed by an employee authorised by Council to do so.

This policy sets out who is authorised for the above purposes.

1. AUTHORISATION TO SIGN DOCUMENTS

1.1 Signing Documents under Delegated or Statutory Authorisation

Subject to clause 2 of this Policy, employees who carry out duties and functions on behalf of the City under delegated authority or statutory authority are authorised to sign any document (including a Deed) required to exercise those duties and functions.

1.2 Signing Documents as an 'Acting Through' Officer

Subject to clause 2 of this Policy, employees who carry out duties and functions on behalf of the City on an 'acting through' basis are authorised to sign documents required to exercise those duties and functions, only in the following circumstances:

- a. Where the document is routine or administrative in nature; or
- b. Where the document is not routine or administrative in nature, only if there is a Council or CEO Policy in force which governs the relevant document, and that Policy is complied with by the employee.

For the avoidance of doubt, documents which are routine or administrative in nature do not include:

- a. documents that involve a discretionary decision being made that may affect individual rights;
- b. documents that may commit the City to a long-term financial commitment;
- c. documents that may commit the City to a long-term operational commitment; or
- d. documents that are politically or financially significant.

1.3 Specific Document Signing

The persons listed in the Appendix of this Policy are authorised to sign the specific documents set out therein.

2. CONDITIONS

2.1 In the case of:

- a) Legislation; or
- b) 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.

2.2 It is the responsibility of any person authorised under this Policy or otherwise to:

- a) fully inform themselves of the matter to which the document they intend to execute on behalf of the City relates;
- b) ensure any necessary legislative requirements are met before the document is executed (for example, approved by council resolution);
- c) ensure that all applicable Council policies, CEO policies and internal procedures have been followed prior to signing the document; and
- d) ensure that sufficient records are kept of the document, and decisions leading to the creation of the document, in accordance with the City's record keeping obligations.

2.3 Persons authorised under this Policy or otherwise may only sign documents relevant to matters within the scope of their position and job instruction guides.

2.4 Where a person would otherwise be authorised to sign a document but identifies that the document may be high risk to the City due to political, economic, legal or any other reasons, the document must be referred to the relevant Director for consideration before signing. If it is appropriate to do so, the Director may refer the document to the CEO or Council for approval.

2.5 Documents of a financial nature must comply with the Annual Budget or Long-Term Financial Plan.

3. VARIATION AND DISCHARGE

A variation under this clause includes a variation by Deed.

Subject to clause 2, where a person is authorised to sign a document under this Policy or otherwise, they are also authorised to vary or discharge the document.

A person nominated to do so under a lawfully executed contract or agreement, may vary or discharge that contract, subject to that person having the appropriate financial authorisation where the variation results in an additional financial commitment by the City. This must be carried out in accordance with the relevant City policy and procedures.

If a person who signed a document is no longer available, the relevant Director is authorised to vary or discharge the document, unless the document was signed by the CEO.

4. SIGNING ON BEHALF OF ANOTHER PERSON

In the absence of a person authorised under this Policy to sign a document, another employee of the City may sign on behalf of that person only if they have been approved to act in the authorised person's position via the formal approval processes of the City.

5. AUTHORITY TO AFFIX THE COMMON SEAL

In order for the Common Seal to be validly affixed to a document, it must be affixed in the presence of, and signed by:

- a) The Mayor; and
- b) The CEO.

5.1 Required Use

In accordance with the *City of Mandurah Standing Orders Local Law 2016*, the Common Seal must be affixed whenever a local law is made by Council. If Council does not authorise a specific person to affix the Common Seal at the time it makes a local law, the CEO is authorised to appoint an employee to do so.

5.2 Optional Use

Council may from time to time authorise, by way of resolution, a person to affix the Common Seal to a particular document.

In addition to this, and subject to clause 2, the CEO is authorised to appoint an employee to affix the Common Seal to any document that the CEO is authorised to sign, if the CEO is satisfied that affixing the Common Seal would be a more appropriate method for executing the document.

Documents for which it may be appropriate to affix the Common Seal include, but are not limited to:

- Local Planning Schemes (and amendments);
- State or Commonwealth Funding Agreements;
- State or Commonwealth Memorandums of Understanding;
- Ceremonial Certificates and Awards (such as Honorary Freeman);
- Significant Land Transactions; and
- Any other document of significance and importance to the City.

Legislative Context

Local Government Act 1995 s 9.49A

Authority to Execute Documents Policy

POL-CPM 06



Related Documents

These documents are mandatory and required to give effect to this policy:

Delegated Authority Register
Council Policy Manual (particularly POL-CPM 02 Procurement)
Procedure PRO-CPM 06 - Authority to Execute Documents

Responsible Directorate:	Business Services
Responsible Department:	Governance, Procurement & Land
Reviewer:	Manager Governance, Procurement & Land
Creation date and reference:	22 May 2018, Minute G.17/5/2018
Last Review:	23 June 2020, Minute G.20/6/20

Amendments			
Version #	Council Approval Date, Reference	Date Document In force	Date Document Ceased
2	Minute G.11/7/18	24/07/2018	23/07/2019
3	Minute G.12/7/19	23/7/2019	23/06/2020
4	Minute G.20/6/20	23/06/2020	-

Authority to Execute Documents Policy

POL-CPM 06



APPENDIX

Under section 9.49A of the *Local Government Act 1995*, Council authorises the persons designated to the positions listed in the table below, to sign certain documents on behalf of the City.

		Position Authorised			
Document Type	Category	CEO	Executive Leadership Team	Manager	
Category 1 – CEO Signature					
1	Memorandum of Understanding of a Strategic Nature , such as: <ul style="list-style-type: none"> • MOUs between the City and State and Federal Governments; and • MOUs that include significant or long term financial and operational commitments 	1	✓		
2	Deeds – High Risk <ul style="list-style-type: none"> • Significant commitment or obligation from the City; or • Financial contribution by the City: up to \$100,000 	1	✓		
3	Any document that the City is required to execute, that does not require a resolution from Council.	1	✓		
Category 2 - CEO, Executive Leadership Team or Manager Signature					
4	Any document that the City is required to execute to give effect to a resolution passed by Council.	2	✓	✓	
5	Documents required to be signed on behalf of the City in relation to civil proceedings (excluding those relating to outstanding rates and charges)	2	✓	✓	
6	Deeds – Moderate Risk <ul style="list-style-type: none"> • Moderate commitment or obligation from the City • Financial contribution by the City: up to \$49,999.99 	2	✓	✓	
7	Land acquisition and management documents, including: <ul style="list-style-type: none"> • Acquisition of land or an interest in land (including easements and restrictive covenants); • Acceptance or consent to Management Orders vesting crown land with the City; • Caveats; • Section 70A Notification Management Statements; and • Contributed assets. 	2	✓	✓	
8	Deeds – Low Risk <ul style="list-style-type: none"> • Minimal commitment or obligation from the City; or • Financial contribution by the City: up to \$19,999.99 	2	✓	✓	✓
9	Memorandum of Understanding of an Operational Nature , such as: <ul style="list-style-type: none"> • MOUs with local organisations; and • MOUs that include low risk or short term financial and operational commitments 	2	✓	✓	✓