

EXECUTION OF DOCUMENTS

Document Control Statement – This Policy is maintained by Governance and Organisational Strategy Department. Any printed copy may not be up to date and you are advised to check the electronic copy on the City website to ensure that you have the current version. Alternatively, you may contact Customer Service on (08) 9186 8555

1. OBJECTIVE

To provide guidance ~~as to~~ all staff as to who can sign various types of documents representing the circumstances whereby the common seal of the City of Karratha (the City), including when to apply the Common Seal 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 <i>Local Government Act 1995</i> ;
Delegated Officer	means an officer of the Council <u>City of Karratha</u> 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 <i>Local Government Act 1995</i> including the CEO and Directors.

2. PRINCIPLES

2.1. Legal Requirements

The Council is required to comply with sections 9.49A (Execution of Documents) and 9.49 (Documents, how authenticated) 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~~ 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)(b) of the Act], whereby Council has authorised the affixing of the ~~common seal~~ Common Seal [s.9.49A(2) of the Act]; or
- **Without affixing the ~~common seal~~ Common Seal**, by the CEO, another employee or agent of the ~~Council~~ local government who has been authorised by resolution of the Council to sign documents on behalf of the ~~Council~~ local government [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~~ four categories, as follows:

- Category 1 Documents ~~– Documents requiring both CEO and Mayor execution~~ Deeds and Agreements;
- Category 2 Documents – Documents requiring CEO only authorisation;
- Category 3 Documents – Documents within Delegated authority; and

- ~~Category 4 Documents – Category 3 Documents~~ Operational in nature.

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~~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~~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~~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 are to be signed by the CEO only. Category 2 documents can be described as documents arising out of a matter that requires Council approval, arising out of delegated authority from Council or are operational in nature and that the CEO should be signing as a representative of the City.~~

Characteristics of this category:

Requires the signature of the CEO only.

~~2.2.2.2.3.~~ Category 32 Documents

Category 32 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 32 documents can be described as documents arising out of a matter that:~~

- requires Council approval;
- ~~or arises~~esing out of delegated authority from Council; or
- is operational in nature and due to its significance should only be signed by a Senior Employee as defined.

Characteristics of this category:

Requires the signature of either the CEO or Director

~~2.2.3.2.2.4.~~ Category 43 Documents

Category 43 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~~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~~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
Previous Policy Number:	CE-12
Resolution Numbers:	152480-May2013; 153109-Apr 2015; 153772-Apr 2017; xxxxxx-Aug 2017
Last Review:	April August 2017
Next Review:	August 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

Consideration must be given to the potential risks exposed to the City when executing a document. This includes the potential financial, service commitments, service interruption, environmental, reputation and compliance implications.

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, or purchase or other commercial dealings relating to <u>property assets</u> 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)	4	X	X			
Any document where Common Seal is requested by other party or legally required	1	X	X			
Adoption or Repeal of Local Laws	1	X	X			
Licences to occupy land or premises	43	X	X	<u>Corporate Only</u>		

		Signatures Required				
Document	Document Category	Mayor	CEO	Director	Manager	Staff
<u>Community Leases / Peppercorns (including extensions, renewals and variations)</u>	<u>3</u>		<u>X</u>	<u>Corporate Only</u>		
<u>Commercial Leases / Peppercorns (including extensions, renewals and variations)</u>	<u>3</u>		<u>X</u>	<u>Corporate Only</u>		
Restrictive Covenants – under s.129BA of the <i>Transfer of Land Act 1893</i> and any discharge or variation of covenants	<u>42</u>	<u>X</u>	X			
Lodgement, modification and withdrawal of caveats	<u>42</u>	<u>X</u>	X			
Lodgement, modification and withdrawal of memorials	<u>42</u>	<u>X</u>	X			
Easements and the surrender or modification of easements	<u>42</u>	<u>X</u>	X			
Subdivision, Survey Strata, Strata Title or Development Approvals or provisions of a Structure Plan, <u>Activity Centre Plan</u> or <u>Local Development Detailed Area Plan</u>	<u>44</u>	<u>X</u>	X	<u>X</u>	<u>X</u>	<u>Where authority exits</u>
Notifications on title and withdrawal or variation of <u>samenotifications</u>	<u>42</u>	<u>X</u>	X			

		Signatures Required				
Document	Document Category	Mayor	CEO	Director	Manager	Staff
Rights of carriageway agreements and withdrawal or variation of rights of carriageway agreements	4 2	✗	X			
Reciprocal access agreements and withdrawal or variation of reciprocal access agreements	4 2	✗	X			
Debenture documents for loans which Council has resolved to raise	4 2	✗	X			
Management statements and withdrawal or variation of management statements	4 2	✗	X			
Agreements relating to funding <u>(within delegation)</u>	2 3		X	X		
<u>Any type of legal agreement / instrument or service agreement binding the organisation to some form of commitment</u>	3		X	X		
<u>General legal and Sservice agreements / Contracts as a result of procurement process (above Director delegation)</u>	2		X	✗		
<u>Deeds of Release</u>	2		✗	✗		
Memoranda of understanding	2 3		X	X✗		

		Signatures Required				
Document	Document Category	Mayor	CEO	Director	Manager	Staff
Employment Contracts (post approval process <u>Directors – Casual contracts only</u>)	<u>23</u>		X	<u>Where authority exists</u> X		
Documents arising out of any matter in which delegated authority has been exercised	<u>34</u>		X	<u>Where authority exists</u> X	<u>Where authority exists</u> X	<u>Where authority exists</u>
<u>Service agreements / Contracts as a result of procurement process (where total consideration is within delegation)</u>	<u>3</u>		<u>X</u>	<u>X</u>		
Residential tenancy <u>leases agreements</u> for employee housing and office accommodation	3		X	<u>Corporate Only</u> X	HR-only	
Documents arising out of instances that require the <u>staff</u> Council Administration to enact a decision of Council	<u>34</u>		X	X	<u>X</u> 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	<u>34</u>		X	X	<u>X</u> All	<u>Where authority exists</u> X
Outgoing general correspondence for a work team.	<u>34</u>		X	X	<u>X</u> All	<u>X</u> All
<u>Other documentation not listed in Appendix</u>	<u>Liaise with your Director or Governance Officer for advice</u>					