

Council Policy

Council Policy Name: Execution of Documents

Responsible Directorate: Finance and Corporate Services

Version: ADOPTED

1. PURPOSE

- 1.1. The purpose of this Policy is to provide guidance as to the execution of City documents in accordance with the provisions of the Act.

2. SCOPE

- 2.1. This Policy is applicable to the execution of documents on behalf of the City of Busselton.
- 2.2. The following take precedent over this Policy:
- a. legislation;
 - b. the formal requirements of a Commonwealth or State department authority or agency (as described in a Policy or procedure); or
 - c. a Council decision that expressly specifies a particular way in which a document is to be executed.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Policy	this City of Busselton Council policy titled "Execution of Documents"

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Theme 4 – Leadership of the City’s Strategic Community Plan 2021 and specifically the Strategic Priority 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

- 5.1. The Council is required to comply with the Act, which detail the requirements for documents to be executed by a local government.
- 5.2. A document is considered to be executed in one of the following ways:
- a. by affixing the Common Seal of the City of Busselton, in the presence of the Mayor and Chief Executive Officer in accordance with s.9.49A(3); or
 - b. without affixing the Common Seal, signed by the Chief Executive Officer, another employee or agent of the City who has been authorised by resolution of Council (through this Policy) to sign documents on behalf of the City, in accordance with s.9.49A(4).
- 5.3. Three document categories have been established to assist in determining the appropriate authority for the execution of documents.

5.4. An employee authorised through this Policy to execute documents is to ensure that they have a full understanding of the document.

Category 1 Documents

- 5.5. Category 1 documents require the affixing of the Common Seal and include :
- a. Local Laws – new or amendments;
 - b. 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 Busselton for the purpose of section 5.43 (d) of the Act;
 - c. Local Planning Schemes – new or amendments;
 - d. Documents required by other party to be duly executed by Common Seal; and
 - e. Documents of a Ceremonial Nature (e.g. Sister City Agreements).

5.6. The decision to affix the Common Seal must be made by Council or by the CEO under delegation.

Category 2 Documents

- 5.7. In accordance with section 9.49A(4) of the Act, the Chief Executive Officer is authorised to sign documents that are necessary or appropriate to enable them to carry out their functions under any written law.
- 5.8. Further, the officers additionally listed in the table below are also authorised to sign relevant Category 2 documents on behalf of the City. Officers may only sign documents relevant to matters within the scope of their areas of responsibility and within their purchasing authority limits.

Description	Authority to Execute	Example of Documents
Offer and Acceptance forms and associated documents required to enact a decision of Council to purchase or sell land.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director 	<ul style="list-style-type: none"> ➤ Standard REIWA terms ➤ Special conditions of offer; ➤ Contracts of sale
Documents required to enact a decision to award a tender	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director 	<ul style="list-style-type: none"> ➤ Contractual documents resulting from a tender process.
General deeds, legal agreements (not otherwise listed)	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director 	<ul style="list-style-type: none"> ➤ Settlements and/or releases ➤ Confidentiality and non-disclosure
Memorandums of Understanding and other statements of intent and terms and conditions.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director 	
Grant Funding and Sponsorship Agreements.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director • Responsible Manager 	

Leases, licences and associated documents.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director • Responsible Manager 	<ul style="list-style-type: none"> ➤ Agreements ➤ Variations
Documents required when the City owns land or manages land under a management order.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director 	<ul style="list-style-type: none"> ➤ Subdivision applications ➤ Development applications ➤ Building applications ➤ Agreement for access and indemnity
Documents prepared for registration at Landgate (other than those specified paragraph 5.5(b) of this Policy)	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director 	<ul style="list-style-type: none"> ➤ Restrictive covenants ➤ Caveats ➤ Memorials ➤ Covenants ➤ Easements ➤ Rights of carriageway ➤ Notification on title as required by a condition of approval, etc
Other documents required to enact a decision of Council	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director 	

Category 3 Documents

5.9. Category 3 documents are documents that are created in the normal course of business to discharge the duties of an officer's position in a manner consistent with City policies and procedures.

5.10. Category 3 documents are to be executed by the CEO, a Director or Manager, or a City officer where the authority and accountability has been extended through an authorisation, policy, procedure, or a position description.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *The Local Government Act 1995*

6.2. City of Busselton Delegation of Authority Register

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	15 March 2023	Resolution #	C2303/025