

<b>Policy number</b>	Policy 009
<b>Policy title</b>	Execution of Documents
<b>Strategic outcomes supported</b>	CL3 Accountability and good governance

## Policy objective:

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

- authority for the Chief Executive Officer (CEO) and other nominated officers to sign (execute) documents on behalf of the Town of Victoria Park (Town); and
- protocols for affixing and administration of the Town's Common Seal.

## Policy scope:

This policy applies to all Town officers preparing documents for execution and/or who have been authorised through the provisions of this policy to execute documents on behalf of the Town.

## Policy definitions:

**Document** - for the purposes of this policy, document means any paper or electronic document, which establishes legal obligations on the part of the Town and/or third parties.

## Policy statement:

1. Documents executed by the Town will be executed in accordance with the Act and the provisions set out in this policy. Section 9.49A(1) of the Act provides that a document is considered duly executed by a local government if:
  - a) the common seal is validly affixed to it in accordance with section 9.49A(2) and 9.49A(3) of the Act; or
  - b) it is signed by an officer authorised by the council to do so in accordance with section 9.49A(4) of the Act.
2. Pursuant to section 9.49A(4) of the Act, a local government may, by resolution, authorise the Chief Executive Officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.

### Affixing the Common Seal

3. The Common Seal may be applied to documents that give effect to decisions of council.
4. The Common Seal is to be applied in the presence of both the Mayor (or in the Mayor's absence the Deputy Mayor) and the CEO (or an Acting CEO) each of whom are to sign the document to attest that the Common Seal was affixed.
5. For most documents, there is no statutory requirement for the Common Seal to be affixed if council has resolved to authorise a person to sign the document [s. 9.49A(1)(b); s.9.49A(4)]. Some exceptions include local laws and resolutions relating to the preparation, adoption or amendment of a Local Planning Scheme.

## Administration of the Common Seal

6. The CEO is to:
- a) be responsible for the safe custody and proper use of the Common Seal; and
  - b) maintain a record of each time the Common Seal is used in the Document Execution Register.

## Categories of documents and authorised signing authorities

7. For the purposes of this policy, documents commonly executed by the Town are grouped into three categories. The way in which a document is to be executed and who has the authority to execute a document is based upon its category. This policy defines those categories and the Town officers who are authorised to execute listed documents.

### Category 1 Documents

8. Category 1 documents require the Town's Common Seal to be validly affixed in accordance with section 9.49A(2)-(3) of the Act and requires that:
- a) Council has specifically authorised by resolution:
    - (i) the execution of the document by the Town; and
    - (ii) the affixing of the Common Seal to the document in accordance with section 9.49A(2).
  - b) The Common Seal is affixed to the document in the presence of the Mayor and CEO each of whom is to sign the document to attest the Common Seal was so affixed in accordance with section 9.49A(3).
  - c) Documents are to be recorded in the Register referred to in section 6(b) of this policy.
9. Documents classed as Category 1 are defined as:

I.	Local Laws (made and amended)
II.	Local Planning Schemes (preparation, adoption, repeal or amendment)
III.	Any documents for a new, lost or replacement title over land, or to take possession of land
IV.	Enabling the Town to take possession of land for the purpose of public works
V.	Mortgages (that encumber Town assets)
VI.	Loans and debentures
VII.	Power of Attorney to act for the Town

## Category 2 Documents

10. In respect of Category 2 documents:

- a) Council authorises, by this policy, the CEO, other employees and agents to sign Category 2 documents on behalf of the Town in accordance with section 9.49A(4) of the Act.
- b) A council resolution authorising execution of the document, or a decision made under delegated authority, or a legislative provision is required prior to the execution of any document(s) listed under Category 2 by an authorised signatory.
- c) This policy does not prevent the execution of any Category 2 document by affixing of the Common Seal in accordance with section 9.49A(1)(a) of the Act.
- d) The execution of all Category 2 documents shall be recorded in the Document Execution Register referred to in section 6(b) of this policy.

11. Documents classed as Category 2 and the person(s) authorised to execute the documents are defined as follows:

Document	Authority to execute
I. Lease or licence of real property (land and/or buildings), including but not limited to: <ol style="list-style-type: none"> <li>a) Grant of Lease or licence by Town to a third party</li> <li>b) Town acquiring Lease or licence from another party</li> <li>c) Variation of Lease or licence</li> <li>d) Assignment of Lease or licence</li> <li>e) Surrender of Lease or licence</li> <li>f) Extension of existing lease or licence, where the extension option is included in the lease document.</li> <li>g) Sublease or sublicense</li> <li>h) Transfer of lease or licence</li> </ol>	CEO
II. Contract documents resulting from a procurement process	CEO for a tender CEO, Chief Financial Officer, Chief Operations Officer and Chief Community Planner for a procurement process that is not a tender.
III. Transfer of land Landgate forms	CEO
IV. Landgate documents (including but not limited to s. 70A notifications, restrictive covenants, easements, lodgement or withdrawal of caveats) or other documents required by, or to satisfy, a condition of subdivision or development approval	CEO
V. The signing of subdivision application, development application and building application forms for development on land owned or managed by the Town.	CEO
VI. Deeds or contracts in respect to sale, purchase or other commercial dealing relating to real property (land and buildings) comprising Town assets including grant of easements or other interests in real property.	CEO

Document		Authority to execute
VII.	Memorandum of Understanding	CEO
VIII.	Grants and Funding Agreements (incoming and outgoing)	CEO
IX.	State or Commonwealth Government Funding Agreement	CEO
X.	Community Services Projects; Service Agreements (incoming or outgoing services), Licenses & Related Documents	CEO Chief Community Planner
XI.	Prosecution Notices and Court documents	CEO
XII.	Deeds of Settlement – employee matters	CEO
XIII.	Documents that enable compliance with a local government statutory obligation which, if not signed, constitutes a possible risk to the Town.	CEO
XIV.	Other documents required to effect a decision of council	CEO
XV.	Other documents required in the management of local government property	CEO

### Category 3 Documents

12. 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 Town policies and procedures.
13. Category 3 Documents and correspondence that are created in the normal course of business to discharge the duties of an officer's position, in a manner consistent with section 5.41(d) of the Act, do not require specific authorisation through this policy. Such duties may be undertaken by employees where the authority and accountability has been extended through an authorisation, delegation, policy, CEO Instruction, position description or 'acting through'.

### Interpretation

14. In the event of any inconsistency the following take precedence over this policy, in the order listed below:
- Any legislative provision;
  - a council decision expressly specifying a particular way in which a document is to be executed;
  - this Policy; and
  - the Town's Register of Delegated Authority (including the Register of Delegations and Sub-delegations).
15. In the event of ambiguity over what category might apply to a document i.e. two categories may have relevance to a document, then the higher category is to take precedence unless the decision has been made under delegated authority in which case it is a Category 2 document and can be executed by the officer exercising the delegated authority.

## Related documents

[Local Government Act 1995 - Sect 9.49a](#)

[Register of delegations and sub-delegations](#)

<b>Responsible officers</b>	Manager Governance and Strategy
<b>Policy manager</b>	Chief Executive Officer
<b>Approval authority</b>	Council
<b>Next evaluation date</b>	December 2024

## Revision history

Version	Action	Date	Authority	Resolution number	Report number
1	Adopted	13/12/2022	Council	265/2022	Item 15.4
2	Administratively amended	24/08/2023	Delegation		