



Use of City of Nedlands Common Seal and Execution of Documents

Status Council

Responsible Division Corporate & Strategy

Objective To establish procedures for:

- a) Affixing the City's common seal; and
- b) Determining whether a document is executed by way of common seal or signed by an authorised employee.

Context

In accordance with s9.49A of the Local Government Act 1995 (WA), a document is duly executed by a local government if the common seal is affixed to it or it is signed by an employee authorised to do so.

The execution requirements, including the making, varying or discharge of documents pursuant to s9.49B of the Local Government Act, shall be as outlined in this Policy.

Definitions

Statement

Documents Requiring the Common Seal

The Common Seal shall be affixed to certain documents in accordance with s9.49A of the Local Government Act 1995 (WA):

- a) Local Laws adopted by Council,
- b) Notifications in accordance with s70A of the Transfer of Land Act 1893,
- c) Lodgement, modification, and withdrawal of caveats,
- d) Town Planning Scheme (including amendments),
- e) The sale of City owned land for which a Council resolution is required expressly stating that the final document is to be signed and sealed,
- f) Leases (including extensions, renewals, and modifications),
- g) Contracts,
- h) Deeds,
- i) Documents relating to land matters including memorials, transfers, licences, covenants, and easements; and
- j) New funding or contracts of agreement between the City and State or Commonwealth Government agencies, where required by the other party.



Procedure for Affixing the Common Seal

The Mayor and Chief Executive Officer are authorised to affix and sign all documents to be executed under the common seal; however, in the absence of the Mayor and/or the Chief Executive Officer, the Deputy Mayor and/or an employee authorised in accordance with the provisions of the Local Government Act 1995 (WA) may do so.

In the event the Mayor is on a Leave of Absence the Deputy Mayor is authorised to affix the common seal.

Procedure for Execution by Authorised Officers

The CEO and Directors are authorised under s9.49A of the Local Government Act 1995 (WA), and in accordance with this Policy may sign documents.

Directors may only execute documents relevant to matters within the scope of the activity of their Directorate/Branch. Documents relevant to the activities of multiple Directorates may only be executed by the Chief Executive Officer.

Limitation on Authorities

The authorities are limited by the following conditions:

1. Chief Executive Officer
 - a) Unlimited \$500,000; and/or
 - b) Commitment period is specifically resolved by Council or in any other case, no greater than a 5-year period; and/or
 - c) Moderate or lesser financial risk, legal complexity, or political sensitivity, unless specifically resolved by Council.
2. Director
 - a) <\$250,000p/a; and/or
 - b) Commitment is no greater than 3-year period; and/or
 - c) Moderate or lesser level of financial risk, legal complexity, or political sensitivity.

Deputising or Signing on Behalf of Another Person

In accordance with section 9.49A(4) of the Local Government Act 1995 (WA), which requires authority for execution of documents to be resolved by Council, a document may only be executed by a person who holds a position authorised by Council's adoption of this Policy.

In the absence of a person authorised by this policy another person may deputise where they have been appointed in writing to act in the authorised person position.



Register of documents executed under Common Seal

The Chief Executive Officer shall maintain a register of all documents executed with the Common Seal.

The register is to record each Common Seal transaction and include an identification number, date, the nature of the document and the parties to the document being executed.

The Common Seal identification number is to be recorded on the document being executed as per the examples below.

Method of Affixing the Common Seal

Below are examples of how documents should be executed under the common seal:

Example A – Where the Common Seal is Affixed by Resolution of Council

DATED: _____ 20__

The Common Seal of the City of Nedlands is affixed.

[INSERT NAME OF MAYOR]
MAYOR

[INSERT NAME OF CEO]
CHIEF EXECUTIVE OFFICER



Example B: Other Documents

DATED: _____ 20__

The Common Seal of the City of Nedlands was affixed in the presence of:

[INSERT NAME OF MAYOR]
MAYOR

[INSERT NAME OF CEO]
CHIEF EXECUTIVE OFFICER





Related documentation

Nil

Related Local Law / Legislation

s9.49A of the Local Government Act 1995 (WA)
Part 19 City of Nedlands Standing Orders Local Law 2016

Related delegation

Nil.

Review History

Adopted by Council 28 September 2021