

# EXECUTION OF DOCUMENTS POLICY



<b>Legislation / local law requirements</b>	Section 9.49A of the <i>Local Government Act 1995</i> Execution of documents
<b>Relevant delegations</b>	<i>2.2.18 Disposing of Property by Leases and Licenses</i> <i>2.2.33 Power to modify documents in the control and management of City</i>
<b>Related policy procedures and documents</b>	Nil

## OBJECTIVE

For the City to execute documents in a consistent and transparent manner, in accordance with the *Local Government Act 1995* (Act).

## PURPOSE

The purpose of this Policy is to ensure that the City's common seal is used, and documents are executed in accordance with the provisions of the Act.

Pursuant to section 9.49A of the Act, a document is duly executed by a local government if:

- (a) the common seal is affixed to it in the presence of:
  - (i) the Mayor; and
  - (ii) the Chief Executive Officer (CEO) or a senior employee authorised by the CEO (Senior Employee),

each of whom must sign the document to attest the common seal was affixed; or

- (b) it is signed on behalf of the local government by a person authorised by the Council to do so (Officer).

A Council resolution or a decision under delegated authority approving a particular course of action is required prior to the execution of any document/s relating to that course of action. For example, until the Council makes a resolution approving the City to enter into a lease on particular terms and conditions with another party, the Mayor and CEO are not authorised to execute the subject lease on behalf of the City.

The following takes precedence over this Policy, in the order listed below:

1. legislation;
2. the formal requirements of a Commonwealth or State department, authority or agency (as described in a City policy or procedure);
3. a Council decision; expressly specifying a particular way in which a document is to be executed.

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## SCOPE

This Policy applies to all City of Vincent officers who have been authorised through the provisions of this policy to execute documents on behalf of Council.

## POLICY

### **Category 1: Common seal & a specific Council resolution**

Category 1 documents require:

- (a) the City’s common seal to be affixed. The Act requires the common seal to be affixed in the presence of the Mayor and CEO or a Senior Employee;
- (b) at least two specific Council resolutions; the approval to:
  - (i) do the act or enter into an agreement; and
  - (ii) execute the document related to the approval in (b)(i) above in accordance with the Policy.

Category 1 documents:

	<b>Description</b>
1	Deeds or contracts in respect to sale, purchase or other commercial dealing relating to City assets including equitable interests.
2	Local Planning Schemes and Amendments to the same.
3	Lease and licence documents, except those lease or licence documents specified in Category 2.
3	Transfer of Land forms.
4	Local Laws.
5	Agreements relating to grant funding or contribution, when the funder requires that the agreement be signed under seal.
6	General legal and service agreements not listed in this Policy.

### **Category 2: No common seal – Officers authorised by Council**

Category 2 documents do not require the City’s common seal to be affixed.

In accordance with s9.49(A)(4) of the Act, the Council authorises the Officers listed in the table below to sign documents on behalf of the City.

Category 2 documents and the corresponding authorised Officers:

<b>Description</b>	<b>Authority to Execute</b>
Documents required in the management of land as a landowner, including a development application, building permit, easement or agreement in respect to City owned or managed land.	CEO; Executive Manager Corporate Strategy and Governance; responsible Executive Director; Director Major Projects and Deputy Director Major Projects.

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Documents required to enact a decision of Council, a Council Committee or the Development Assessment Panel (i.e. contractual documents resulting from a procurement process, Landgate documents as required by a condition of approval, memorandum of understanding etc.).	CEO; responsible Executive Director; Director Major Projects; Deputy Director Major Projects; responsible Executive Manager and the Officer exercising the delegated authority.
Documents required to enact a decision made under delegated authority or as a condition of approval given under delegated authority (i.e. caveats, restrictive covenants, or s 70A Notifications).	CEO; responsible Executive Director; Director Major Projects; Deputy Director Major Projects and the Officer exercising the delegated authority.
Where a condition of approval given under delegated authority has subsequently been met, documents that are required to remove, withdraw or extinguish the earlier document or registration (e.g. modification or removal of an existing encumbrance, right or burden)	CEO; responsible Executive Director; Director Major Projects; Deputy Director Major Projects; Executive Manager Corporate Strategy and Governance; and the Officer exercising the delegated authority.
Debenture documents for loans which Council has resolved to raise.	CEO
Leases, licences, management agreement and other land agreements including: <ul style="list-style-type: none"> <li>• Approved grant of lease, licence or management agreement</li> <li>• Variation, extension, assignment, termination, surrender, special conditions and payment schedules of an approved lease, licence or management agreement of lease, licence or management agreement consistent with delegated authority</li> <li>• Sublease or sublicense</li> </ul>	CEO; responsible Executive Director; Director Major Projects; Deputy Director Major Projects and Executive Manager Corporate Strategy and Governance.
Sponsorship, grant or contribution agreements and related documents (incoming or outgoing) which Council has resolved to receive or grant.	CEO; responsible Executive Director; Director Major Projects; Deputy Director Major Projects and responsible Manager.
Finance leases, contracts, agreements or service legal agreements	CEO; the responsible Executive Director; Director Major Projects; Deputy Director Major Projects and Executive Manager Corporate Strategy and Governance.

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Description	Authority to Execute
Memorandum of Understanding	CEO; responsible Executive Director; Director Major Projects; Deputy Director Major Projects and Executive Manager Corporate Strategy and Governance.

### **Category 3: No common seal – Officers defined in Policy**

Category 3 documents are created in the normal course of business and are consistent with the City’s policies and procedures. Category 3 documents are to be executed by an Executive Director, Director, Executive Manager or an Officer where the authority has been extended to that Officer through a City policy, procedure or position description.

Category 3 documents include but are not limited to the following:

	Description
1	Agreements in the normal course of business for the purchase of goods or services identified within the service unit's budget (other than for tenders) and conforming to the requirements of the City's Purchasing Policy and other relevant policies
2	General correspondence required to discharge the duties of your position
3	Regular hire arrangements.

OFFICE USE ONLY	
Responsible Officer	Executive Manager Corporate Strategy and Governance
Initial Council Adoption	04/11/2003 REF#D20/165439
Reviewed / Amended	DATE: 22/04/2008, 26/02/2013, 07/03/2017, 04/04/2018 DATE: 22/04/2018, 15/09/2020
Next Review Date	MM/YYYY