

TENTERFIELD SHIRE COUNCIL

POLICY STATEMENT

HEADING:

Affixing of Council's Seal to Documents

MEETING ADOPTED AND RESOLUTION NO.:

**23 August 2017
168/17**

HISTORY OF DOCUMENT PREVIOUSLY ADOPTED:

20 May 2015 136/15



Legal Framework

Local Government Act 1993 ("The Act")

Section 377 of the Act allows Council to delegate any of its functions (except those enumerated in the section) to the General Manager or any other person or body.

Local Government (General) Regulation 2005 ("The Regulation")

Requirements in relation to Council's Seal are further detailed in clause 400 of the Regulation, and in Council's Code of Meeting Practice (clause 73) which states that:

- (1) The seal of a Council must be kept by the Mayor or the General Manager, as the Council determines.
- (2) the seal of a Council may be affixed to a document only in the presence of:
 - (a) the Mayor and the General Manager, or
 - (b) at least one Councillor (other than the Mayor) and the General Manager, or
 - (c) the Mayor and at least one (1) other Councillor, or
 - (d) at least two (2) Councillors other than the Mayor.
- (3) The affixing of a Council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.
- (4) The seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

Policy Statement No. 1.017

Date of Effect: 23 August 2017

Name of Policy: Affixing of Council's Seal to Documents

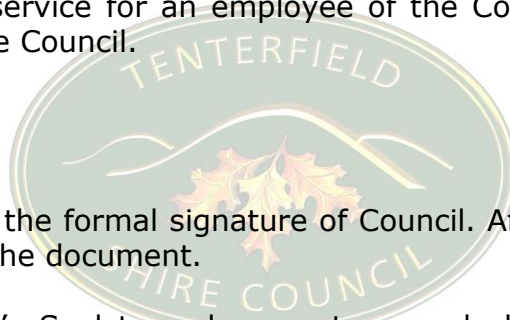
Review Date:

August 2020

Responsible Officer:

Chief Executive

- (5) For the purpose of subclause (4), a document in the nature of a reference or certificate of service for an employee of the Council does not relate to the business of the Council. R400(1)-(5)



Policy

The Council Seal is akin to the formal signature of Council. Affixation of the Seal denotes the approval of Council of the document.

A decision to affix Council's Seal to a document can only be made by a resolution of Council. It is not a matter that can be delegated.

Council's Seal will be held by the General Manager.

Following a decision by Council that a document will be issued under Seal, the General Manager will ensure that the requirements of clause 400 (2) and (3) of the Regulation are met whenever the Council Seal is to be affixed to a document.

Council's Seal will be used only for documents that relate to the business of Council, and without limiting the use of the Seal, will normally only include specifically:

- The exercise by Council of its functions in relation to the purchase, exchange, leasing, disposal of, and otherwise dealing with, real property;
- Completing agreements or contracts from State or Federal Government Departments where they have requested the agreements or contracts be under Seal, and
- Entering into planning agreements under section 93(F) of the *Environmental Planning and Assessment Act 1979*.

Council's Seal will not be used for documents such as references or certificates of service for Council employees.

Procedure

If a document is to have the Seal affixed, the Council resolution that authorises the sealing must refer to the specific document.

Resolutions to use Council's Seal must be in the following form:

"That Council authorises that the [insert specific description of document(s)] be signed under the Seal of Council by the Mayor and the General Manager."

In the case of emergency (as determined by the Mayor or General Manager), the words 'Mayor' and or 'General Manager' may be replaced as required by the Mayor or General Manager, in compliance with sub-clauses 400 (2) and (3) of the Regulation. In that event, the Minutes are to record a description of the emergency, the reasons for the replacement, and who authorised the replacement.

The Officer/Staff Member responsible for the document to be signed and sealed must bring that document to the Executive Assistant with a copy of the associated Council

Resolution for arrangement of the General Manager and the Mayor to execute the sealing of the document.

