



## AFFIXING OF COUNCIL'S SEAL TO DOCUMENTS

### Summary:

The purpose of this policy is to provide clear direction for the use of Council's Seal.

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<b>Department</b>	Office of Chief Executive
<b>Policy Custodian</b>	Chief Executive
<b>Superseded Documents</b>	Affixing of Council's Seal to Documents Policy dated 23 August 2017 (V2.0)
<b>Related Legislation</b>	Local Government Act 1993 – Section 377 Local Government (General) Regulation 2005 – Clause 400
<b>Delegations of Authority</b>	Chief Executive

### 1. Overview

#### **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, 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.*
- (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)*

## **2. Policy Principles**

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 Chief Executive or their delegate.

Following a decision by Council that a document will be issued under Seal, the Chief Executive 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.

### 3. Policy Objectives

Ensure correct usage and application of the Council Seal.

### 4. Policy Statement

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 Chief Executive".*

In the case of emergency (as determined by the Mayor or Chief Executive, the words 'Mayor' and or 'Chief Executive' may be replaced as required by the Mayor or Chief Executive, 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 provide that document to the Executive Assistant with a copy of the associated Council Resolution for arrangement of the Chief Executive and the Mayor to execute the sealing of the document.

### 5. Scope

As outlined in Clause 400 of the Local Government General (Regulation) 2005 above.

### 6. Accountability, Roles & Responsibility

#### General Manager, Executive and Management Teams

- Ensure safe storage of the Council Seal.
- Ensure affixing of the Council Seal as required by the terms of this Policy.

### 7. Definitions

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

### 8. Related Documents, Standards & Guidelines

- Local Government Act 1993 – Section 377
- Local Government (General) Regulation 2005 – Clause 400

### 9. Version Control & Change History

Version	Date	Modified by	Details
V1.0	20/05/15	Council	Adoption of Original Policy (Res No. 135/15)
V2.0	23/08/17	Council	Review/Amended (Res No. 168/17)
V3.0	28/08/20	Council	Review/Amended (Res No. 169/20)