

Bayside Council

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Council Seal Policy

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Council Seal Policy

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Contents

1 Introduction	4
1.1 Background	4
1.2 Definitions	4
1.3 Policy statement.....	4
1.4 Scope of policy.....	4
2 Authenticating documents	4
2.1 The Council seal	4
2.2 Other authentication.....	5
3 Affixing the seal.....	5
4 Policy implementation	6
4.1 Policy responsibilities	6
4.2 Procedures.....	6
4.3 Breaches	6
5 Document control.....	6
5.1 Review	6
5.2 Related documents	7
5.3 Version history	7

1 Introduction

1.1 Background

This policy outlines the requirements for the use of the Council seal.

From the Local Government Act 1993:

- Section 220 states that Council is a body corporate.
- Section 377 allows Council to delegate any of its functions (except those enumerated in the section) to the General Manager or any other person or body.

From the Interpretation Act 1987:

- Because Council is a body corporate, Section 50 of Part 8 of the Interpretation Act requires Council to have a seal. In addition, it requires that the seal be kept by the president, chairperson or other principal officer of the corporation and affixed to a document only in the presence of at least two members of the corporation, and with an attestation by the signatures of those members of the fact of the affixing of the seal.

1.2 Definitions

The definitions of certain terms are:

Council seal

A stamped or embossed insignia affixed to a document as a guarantee of authenticity as a council document. In this policy the word 'seal' is used to describe both the instrument used to stamp the insignia and the insignia once affixed.

1.3 Policy statement

The Council seal is kept in the custody of the General Manager or their nominee. It is affixed to documents in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and this policy.

1.4 Scope of policy

This policy is applicable to all Council officials.

2 Authenticating documents

2.1 The Council seal

In accordance with clause 400 Local Government (General) Regulation 2005:

- (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 other Councillor, or
 - (d) at least 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 purposes 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.

2.2 Other authentication

Not all documents created to implement decisions of Council require the affixing of a seal. In accordance with s683 Local Government Act 1993:

A document requiring authentication by the council may be sufficiently authenticated without the seal of the council if signed by the general manager or public officer.

3 Affixing the seal

In line with its legislative requirements:

- 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.
- Following a decision by Council that a document will be issued under seal, the General Manager, or their nominee, 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, or executing a contract of employment for the General Manager
 - completing agreements or contracts from state or federal government departments where they have requested the agreements or contracts be under seal
 - entering into planning agreements
 - other documents as required by law.
- Council's seal will not be used for documents such as references or certificates of service for Council employees.

- The General Manager will not witness the affixing of Council's seal to the contract of employment for the General Manager.
- Except in the case of emergency (as determined by the Mayor or General Manager) or the contract of employment for the General Manager, the seal shall be affixed only in the presence of the Mayor and the General Manager.

Appropriate wording for a Council resolution to use the Council seal is as follows:

That Council authorises the Mayor (or Administrator as the case may be) and the General Manager to have the Council seal affixed to [insert specific description of document(s)] in their presence.

Appropriate wording for the signature page of documents is as follows, or as recommended by Council's legal services providers:

Council hereby authorises its seal to be affixed to [identify the document/s and the value including GST if a contract] in the presence of two signatories authorised to affix the seal pursuant to clause 400 of the Local Government (General) Regulation 2005 and the Council Seal Policy.

4 Policy implementation

4.1 Policy responsibilities

The General Manager is responsible for this policy.

The Manager Governance is responsible for the implementation of this policy, including the day-to-day coordination of execution of documents that require affixing the seal.

4.2 Procedures

Further procedures that support this policy, may be approved by the General Manager from time to time.

4.3 Breaches

Sanctions for a breach of this policy will be determined in accordance with the provisions applied under the Council's Code of Conduct.

Staff members in breach of this policy will be subject to disciplinary procedures as provided under the Local Government (State) Award.

5 Document control

5.1 Review

This policy should be reviewed each term of Council. Minor edits that do not affect the substance of the policy may be approved by the Manager Governance.

5.2 Related documents

Relevant legislation, Council policies and procedures relevant to the policy:

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Code of Meeting Practice

5.3 Version history

Version	Release Date	Author	Reason for Change
1.0	12/10/2016	Bruce Cooke	New document