8.1 OUTCOME OF ADVERTISING AND ADOPTION OF REVISED EXECUTION OF DOCUMENTS POLICY

Attachments:
1. **Execution of Documents Policy**
2. **Amended Delegation 2.2.18**

RECOMMENDATION:

That Council:

1. **Pursuant to Section 2.7(2)(b) of the *Local Government Act 1995* APPROVES the amended Execution of Documents Policy included in Attachment 1; and**

2. **APPROVES BY ABSOLUTE MAJORITY amendments to the local government functions listed in the Council Delegated Authority Register included in Attachment 2, being:**

   - **The amendment of delegation 2.2.18; and**

   - **The deletion of delegation 2.2.30.**

PURPOSE OF REPORT:

For Council to:

- Consider the outcome of community consultation and approve the amended Execution of Documents Policy (Policy, **Attachment 1**).
- Approve administrative amendments to the City's Delegated Authority Register to reflect the amended Policy.

DELEGATION:

Section 2.7 of the *Local Government Act 1995* sets out the role of Council as being to 'determine the local government's policies.'

The *Local Government Act 1995* states the term 'local government' refers to the elected Council.

There is no delegation to Administration to make, amend or revoke policies.

BACKGROUND:

At its meeting on 11 March 2025 Council approved the amended Policy for the purposes of community consultation. The Policy:

- Clarifies existing responsibilities and streamlines the execution process to reduce any potential risk to the City associated with the execution of documents; and
- Ensures the City is complying with the provisions of the *Local Government Act 1995* while promoting consistency, efficiency and transparency.

Resulting from the proposed amendments to the Policy changes were also identified to the City's Delegated Authority Register. These were outlined in the 11 March 2025 Council meeting agenda.

DETAILS:

Community Consultation

In accordance with the City's Community and Stakeholder Engagement Policy, community consultation was undertaken between 9 May 2025 and 30 May 2025. The methods of advertising included:

- A survey hosted on Imagine Vincent for the duration of consultation.
- Notices displayed at the City's Administration Building and Library.
- Notices published on the City website on 9 May 2025 and to the City's social media.
- Inclusion in the fortnightly e-News distributed on 9 May 2025 and 22 May 2025.

At the conclusion of the consultation period no submissions were received.

LEGAL/POLICY:

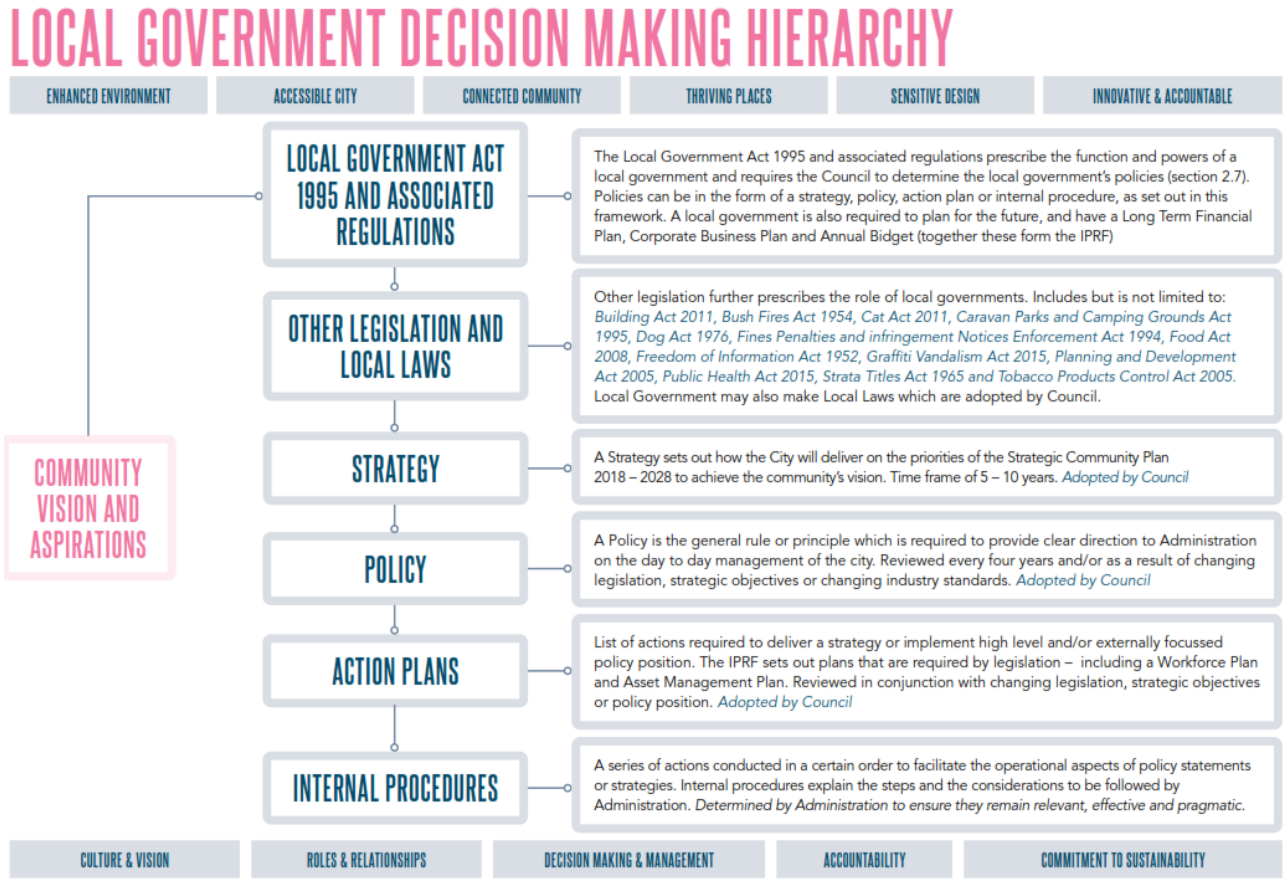
Section 2.7(2)(b) of the *Local Government Act 1995* provides Council with the power to determine policies.

The City's Corporate Document Development Policy sets out the process for the development and review of the City's policy documents.

In accordance with section 2.3 of the Corporate Document Development Policy:

The purpose of a policy is to provide a general rule or principle to guide Administration and the community on the City's decision making and advocacy.

The purpose of the Policy is to ensure that the City is executing documents in a consistent and transparent manner in accordance with the requirements of the *Local Government Act 1995*.



RISK MANAGEMENT IMPLICATIONS

Risk Category	Risk Appetite/ Tolerance Statement	Descriptor/clarification
Less than better practice for Governance, Due diligence, Accountability and Sustainability	The City has a ***low risk tolerance*** for less that better practice decision making for governance, due diligence, accountability, and sustainability, as measured by accepted industry standards and practices.	The City's Governance Framework (Framework) supports this tolerance level by defining the systems, policies, processes, and a methodology for ensuring accountability and openness in the conduct of City business. The Framework describes the principles and key roles that guide Council in its decision-making and demonstrates to the community the processes which the City uses to achieve its strategic priorities and undertake its service delivery.
A breach in Delegated Authority	The City has a ***very low risk tolerance*** for breach in delegated authority.	

Low: It is low risk for Council to adopt the Policy as it more appropriately captures administrative decisions that would require the execution of documents. This review aligns with Council's Adopted Appetite and Tolerance Statements.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2022-2032*:

Innovative and Accountable

Our decision-making process is consistent and transparent, and decisions are aligned to our strategic direction.

SUSTAINABILITY IMPLICATIONS:

This does not contribute to any environmental sustainability outcomes.

PUBLIC HEALTH IMPLICATIONS:

This does not contribute to any public health outcomes in the *City's Public Health Plan 2020-2025.*

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The Policy has been reviewed in line with the City's Corporate Document Development Policy and did not receive any submissions during consultation.

It is recommended that the Policy and consequential amendments to the City's Delegated Authority Register be approved with no further changes required:

- Execution of Documents Policy – Section 9.49A of the *Local Government Act 1995* outlines how local governments can execute documents, both with and without their common seal. It also allows local governments to delegate the authority to sign documents to specific individuals, including the Chief Executive Officer or other authorised persons.

  The Policy provides a necessary documented position to set out how these functions are required to be exercised and who has authority for signing various documents.

- Amendments to Delegated Authority Register – As a result of the Policy there are administrative updates required to the Delegated Authority Register. These are necessary for consistency and accuracy with the Policy and to ensure that the execution of documents by the City occurs consistent with the *Local Government Act 1995* requirements.

EXECUTION OF DOCUMENTS POLICY

CITY OF VINCENT

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

EXECUTION OF DOCUMENTS POLICY

CITY OF VINCENT

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:

	Description
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:

Description	Authority to Execute
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.

EXECUTION OF DOCUMENTS POLICY

CITY OF VINCENT

Description	Authority to Execute
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: • Approved grant of lease, licence or management agreement • 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 • Sublease or sublicence	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.

EXECUTION OF DOCUMENTS POLICY

CITY OF VINCENT

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

CITY OF VINCENT

Delegation of authority

Delegation	**2.2.18 - Disposing of Property by Leases and Licenses**
Head of power	02 Delegations made under the Local Government Act 1995
Delegator	Local Government
Express power to delegate	*Local Government Act 1995:* s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	*Local Government Act 1995:* s.3.58 Disposing of Property
Function	1. Authority to approve variation, extension, assignment, termination, surrenders, special conditions or payment schedules of an approved lease, license or management agreement for Category One (1) – Small Community Group, or Category Two (2) Sporting Clubs and Community Groups and Organisations; and 2. Authority to approve any minor variations (being non-material and does not alter the substantive terms of a lease or licence), extension, assignment (including consent to a deemed assignment), termination, surrender, subletting, special conditions or payment schedules of an approved lease or licence for Category Three (3) – Commercial Entities, State and National clubs, Associations and Community Organisations; and Category (4) – Government Agencies. Additional function Authority to provide consent to any assignment, sublease or sublicence where there is a request by a lessee or licensee under a land arrangement.
Delegates	CEO
Conditions	1. Requests from community or sporting groups not currently occupying a City building in Category One (1) or Category Two (2), will require a specific resolution of Council. 2. The delegation does not extend to Category Three (3) or Four (4) of the Property Management Framework. Any leases or licences in accordance with Category Three (3) or Four (4) will require a specific resolution of Council.
Express power to subdelegate	*Local Government Act 1995:* s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Deputy Director Major Projects Director of Major Projects Executive Director Community and Business Services Executive Director Infrastructure and Environment Executive Director Strategy and Development Executive Manager Corporate Strategy and Governance
Statutory framework	*Local Government Act 1995 –s.3.58* Disposal of Property *Local Government (Functions and General) Regulations 1995 –r.30* Dispositions of property excluded from Act.

CITY OF VINCENT

Delegation of authority

Date adopted	20 June 2023
Adoption references	20/06/2023 - Item 12.1

Last reviewed	21 May 2024