



Report 03.363
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File E/4/1/2

Committee Policy, Finance and Strategy
Author Wayne Hastie Council Secretary

Delegation for authorised signatories

1. Purpose

To advise the committee of changes in the use of the council's common seal and to seek delegated authority to provide authorised signatories for official council documents.

2. Background

Council staff have commenced a review of current delegations in light of the new provisions in the Local Government Act 2002. This review will take some time to complete. In the interim, there are a few changes and additions to delegations that are necessary to ensure the efficient operation of the Council.

Report 03.351 deals with delegations for rating purposes. This report deals with changes that relate to the use of the Council's common seal.

Section 37L (4) of the Local Government Act 1974 states that "Every regional council and every territorial authority shall be a body corporate with perpetual succession and a common seal ...".

Under the Local Government Act 2002 (LGA 2002) this definition is changed to "A local authority is a body corporate with perpetual succession", with no reference to a common seal.

The use of a common seal by companies was abolished when the Companies Act 1993 came into force. In a similar fashion the LGA 2002 recognises that there is no requirement for the use of a common seal generally in respect of contracts or documents. Its use is limited to the issue of warrants for officers authorised to enter private land on behalf of a local authority.

3. Discussion

Council officers have sought legal advice on the use of the Council's common seal under the LGA 2002. The advice can be summarised as follows:

1. *When is it necessary to use the common seal?* When the Council needs an officer or some other person to enter on private land in order to carry out work on behalf of the Council (section 174).
2. *When is it appropriate to use the common seal?* When providing a warrant under section 174(1) of the LGA 2002.
3. *When is it inappropriate to use the common seal?* In any other circumstance.
4. *Any issues relating to delegated powers in relation to the common seal.* There are no specific issues relating to delegated powers in respect of the use of the common seal other than who the signatories should be. This question should be determined by the Council and recorded in the Council's general delegation register.

Given the above advice, under the LGA 2002 it will no longer be appropriate for the common seal to be affixed to documents other than warrants. However, Council officers feel that it remains appropriate for the Council to retain signatories authorised to sign documents on behalf of the Council. Such documents generally relate to contractual matters such as leases and licences. The authorisation does not extend to the approval of actions, merely to acknowledge authority on behalf of the Council. Such authority might derive from specific authorisation by the Council or a Committee, or by a council officer under an existing delegation.

It is recommended that the Council delegate authority to the Chief Executive and the Council Secretary to sign documents on behalf of the Council and to affix the common seal of the Council when it is required to be fixed to warrants issued to staff. A register will be maintained.

Current practice is for documents of a political nature to be signed by the Chairperson on behalf of the Council and it is proposed that this practice continue.

4. Communication

The change proposed in this paper will be communicated to Council officers and other people who prepare documentation to be signed on behalf of the Council.

5. Recommendations

That the Committee recommend to Council:

1. *That it delegates authority to the Chief Executive and the Council Secretary to sign routine documents on behalf of the Council.*
2. *That it delegates authority to the Chief Executive and the Council Secretary to affix the common seal of the Council when it is required to be fixed to warrants in accordance with section 174(1) of the Local Government Act 2002.*

3. *That it revokes all previous delegations relating to the affixing of the common seal of the Council.*

Report prepared by:

Report approved by:

Wayne Hastie
Council Secretary

Greg Schollum
Chief Financial Officer