



CITY OF
MONASH

ADMINISTRATIVE PROCEDURES

(USE OF COMMON SEAL) LOCAL LAW

LOCAL LAW NO. 2

About this Local Law

The Local Government Act 1989 (“the Act”) bestows a number of functions and duties upon a Council.

In order to carry help Council carry out those functions and to carry out those duties, the Act also gives a Council the power to make local laws.

This Local Law is known as the Administrative Procedures (Use of Common Seal) Local Law.

Section 5 of the Act provides that the common seal of a Council must be used in accordance with the local laws of Council. The purpose of this Local Law is to provide how the common seal of Council may be used.

The objectives of this Local Law are set out in Clause 2.

This Local Law supplements other local laws Council has made or will make in relation to other administrative matters, such as meeting procedures.

TABLE OF CONTENTS**PART 1: PRELIMINARY**

TITLE.....	4
OBJECTIVE OF THIS LOCAL LAW	4
AUTHORISING PROVISION	4
COMMENCEMENT AND REVOCATION	5
SUNSET DATE.....	5
APPLICATION OF LOCAL LAW	5

PART 2: INTERPRETATION

MEANING OF WORDS.....	6
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PART 3: USE OF COMMON SEAL

UNAUTHORISED USE OF COMMON SEAL	7
WHEN MAY COMMON SEAL BE USED.....	7
WITNESSING USE OF THE COMMON SEAL.....	7

PART 4: DELEGATION

USE OF COMMON SEAL.....	8
LIMITATIONS ON THE EXERCISE OF DELEGATED POWER.....	8
NO SUB-DELEGATION	9
WITNESSING OF COMMON SEAL	9
FORM OF SEALING CLAUSE	9

PART 5: ENFORCEMENT

OFFENCES	11
GENERAL PENALTY.....	11

Monash City Council

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PART 1: PRELIMINARY

1. TITLE

- 1.1 This Local Law may be cited as the City of Monash Administrative Procedures (Use of Common Seal) Local Law No. 2.

2. PURPOSES OF THIS LOCAL LAW

The purposes of this Local Law are to:-

- 2.1 provide how the common seal of Council may be used;
- 2.2 provide who may authorise the use of the common seal;
- 2.3 delegate the power to authorise the use of the common seal;
- 2.4 prescribe who may witness the affixing of the common seal;
- 2.5 provide for the more efficient transaction of Council business;
- 2.6 provide for the peace, order and good government of the municipal district of Council;
- 2.7 provide for the administration of Council powers and functions; and
- 2.8 repeal the earlier local law of the same name.

3. AUTHORISING PROVISION

- 3.1 This Local Law is made under Section 111 (1) of the Local Government Act 1989.

4. COMMENCEMENT AND REVOCATION

- 4.1 In this clause, 'commencement date' means the day after the making of the local law.
- 4.2 This local law will come into operation on the commencement date.
- 4.3 On the commencement date, the City of Monash Administrative Procedures (Use of the Common Seal) Local Law No. 2, made on 6 June 2006, is revoked.

5. SUNSET DATE

- 5.1 Unless sooner revoked, this Local Law ceases to operate on 26 April 2026

6. APPLICATION OF LOCAL LAW

- 6.1 This Local Law applies to the whole of the municipal district of the Council.

PART 2: INTERPRETATION**7. MEANING OF WORDS**

7.1 Unless the contrary intention appears in this Local Law, the following definitions apply:-

“Act”	means the Local Government Act 1989.
“Chief Executive Officer	means the Chief Executive Officer of the Council and includes any person for the time being acting in the position of Chief Executive Officer.
“clause”	means a clause of this Local Law.
“common seal”	means the common seal of Council.
“Council”	means the Monash City Council, also referred to as City of Monash.
“document”	means an instrument and includes a contract, agreement, deed, licence, lease and transfer of land.
“penalty unit”	has the same meaning as in section 110 of the Sentencing Act 1991.
“senior officer”	has the same meaning as in the Local Government Act 1989.

PART 3: USE OF COMMON SEAL

8. UNAUTHORISED USE OF COMMON SEAL

- 8.1 A person must not use the common seal except in accordance with this Local Law
- 8.2 A person must not use any device resembling the common seal.

9. WHEN THE COMMON SEAL MAY BE USED

9.1 The common seal may be used only:

- 9.1.1 on the authority of Council; and
- 9.1.2 in accordance with this Local Law

10. WITNESSING USE OF THE COMMON SEAL

10.1 Where Council authorises the use of the common seal, the affixing of the common seal to any document must be witnessed by not less than 2 people comprised of:

- 10.1.1 Councillors; or
- 10.1.2 the Chief Executive Officer;
- 10.1.3 a senior officer occupying the position of Chief Financial Officer, Director Corporate Services or Executive Manager Corporate Administration and Customer Service;
- 10.1.4 or any combination of persons referred to in sub-clauses 10.1.1, 10.1.2, or 10.1.3 except that not more than 1 of the persons described in sub-clause 10.1.3 may witness the affixing of the common seal to a document.

PART 4: DELEGATION

11. USE OF COMMON SEAL

- 11.1. Subject to Clause 12, Council delegates to the Chief Executive Officer the power to authorise the use of the common seal on behalf of Council.
- 11.2. Where the Chief Executive Officer authorises the common seal to be affixed to any document, the Chief Executive Officer must:
- 11.2.1. cause the sealed document to be allocated a seal register number; and
 - 11.2.2. ensure that a description of the document sealed is entered into the seal register.
- 11.3. The power delegated under Clause 11.1 may be exercised only in accordance with Clause 11.2 and is subject to the limitations set out in Clause 12.

12. LIMITATIONS ON THE EXERCISE OF DELEGATED POWER

- 12.1. Before authorising the use of the common seal on behalf of Council, the Chief Executive Officer must:
- 12.1.1. consider a report relating to the subject matter of the document proposed to be sealed; and
 - 12.1.2. be satisfied that the member of Council's staff who has the function of approving the subject matter of the document proposed to be sealed, has recommended and approved that the document be executed by or on behalf of Council; and
 - 12.1.3. satisfy himself or herself that any provisions of the Act required to be complied with in relation to the subject matter of the document, have been complied with.
- 12.2. The Chief Executive Officer must not authorise the use of the common seal:
- 12.2.1. in relation to a document which is a contract or agreement:
 - 12.2.1.1. and the amount payable by Council under that contract or agreement is greater than the limit of the Chief Executive Officer's delegation;

12.2.1.2. and the contract or agreement is based on a schedule of rates and the amounts payable by Council is likely to exceed the limit of the Chief Executive Officer's delegation; or

12.2.1.3. which involves expenditure not contained in a budget approved by Council;

or

12.2.2. where the document proposed to be sealed:

12.2.2.1. relates to the employment of the Chief Executive Officer;

12.2.2.2. is of a kind prescribed by a resolution of Council as one which may not be executed except by the express authority of Council.

13. NO SUB-DELEGATION

13.1 The Chief Executive Officer must not delegate or purport to delegate the function conferred by Clause 11.1.

14. WITNESSING USE OF COMMON SEAL

14.1 Where the Chief Executive Officer authorises the use of the common seal, on behalf of Council, the affixing of the common seal to any document must be witnessed by not less than 2 people comprised of:-

14.1.1 Councillors; or

14.1.2 the Chief Executive Officer;

14.1.3 a senior officer occupying the position of:

Chief Financial Officer

Director Corporate Services or

Executive Manager Corporate Administration and Customer Service;

14.1.4 or any combination of persons referred to in sub-clauses 14.1.1, 14.1.2 or 14.1.3 except that not more than 1 of the persons described in sub-clause 14.1.3 may witness the affixing of the common seal to a document.

15. FORM OF SEALING CLAUSE

15.1 Where the common seal is affixed to a document on the authority of the Council the sealing clause must contain the words to the following effect:-

THE COMMON SEAL OF)
MONASH CITY COUNCIL)
was hereunto affixed this)
..... day of)
.....20)
in the presence of:)

.....

.....

15.2 Where the common seal is affixed to a document on the authority of the Chief Executive Officer on behalf of Council, the sealing clause must contain the words to the following effect:-

The COMMON SEAL OF MONASH CITY COUNCIL)
was affixed on behalf of Council by authority of the)
Chief Executive Officer on the)
..... day of 20)
in exercise of the power delegated under the)
Administrative Procedures (Use of Common Seal))
Local Law in the presence of:)

.....

.....

PART 5: ENFORCEMENT

16. OFFENCES

16.1 Where any provision of this Local Law requires that something may not be done at all, any person who does that act is guilty of an offence.

17. GENERAL PENALTY

17.1 Any person who is guilty of an offence against this local law for which a specific penalty is not stated or prescribed is liable to a penalty not exceeding 20 penalty units and in the case of a continuing offence is liable to a further penalty not exceeding 2 penalty units for each day after conviction for an offence during which the contravention continues.

THE COMMON SEAL OF)
MONASH CITY COUNCIL)
were hereunto affixed this)
..... day of)
.....2016)
in the presence of:)

.....

.....

The Resolution for passing this Local Law was agreed to by the City of Monash on 27 January 2016 and confirmed on 26 April 2016