



Policy Title	Electronic Signature Policy
Related Documentation	Acceptable use of electronic signatures procedure
Relevant Legislation	<i>Electronic Transactions Act 2000 (NSW)</i> <i>Electronic Transactions Regulation 2017 (NSW)</i> <i>Local Government Act 1993</i>
Responsible Officer	Manager Governance & Risk

**UNCONTROLLED WHEN PRINTED**

**Objective**

The objectives of this Policy are to:

1. Provide information and guide staff in the use of electronic signatures in Council correspondence and documents.
2. Provide circumstances where the use of electronic signatures conforms to laws and regulations in NSW.
3. Ensure confidence in the use of electronic signatures for business transactions.

**Policy Statement**

With the increased reliance on digital communication, it is important to establish processes and procedures that facilitate Council’s day-to-day business via electronic means. With few exceptions, electronic and digital signatures possess the same legal status as a wet ink signature.

This policy provides Campbelltown City Council’s endorsement of the use of electronic signatures as a substitute for wet ink signatures to facilitate Council’s day-to-day business. Such use is accepted wherever the signing of a document is necessary, whether prescribed by an Act or Regulation, another Council policy, or by convention.

**Scope**

This policy applies to all staff and Councillors at Campbelltown City Council and to any member of the public conducting day-to-day business with Council. The policy also applies to anyone or any method prescribed by subsequent regulations, issued from time to time under the *Local Government Act 1993*, *Electronic Transaction Act 2000 (NSW)* or any other Act or Regulation.

**DATA AND DOCUMENT CONTROL – GOVERNANCE USE ONLY**

<b>Directorate:</b> City Governance <b>Section:</b> Governance <b>Record No:</b> CD0-23/53	<b>Adopted Date:</b> 03/08/2021 <b>Revised Date:</b> 14/03/2023 <b>Minute Number:</b> 048 <b>Review Date:</b> 30/03/2028	<b>Page:</b> 1 of 4
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Exceptions – This policy does not apply to circumstances where an external party to a transaction requires the use of wet ink signatures.

The use of electronic signatures is authorised within the scope of Council's Delegations Policy. Electronic signatures are accepted for the use of staff where the exercise of a delegation requires a document to be signed.

## Definitions

Wet ink signature	The method of marking a physical document by applying pen to paper, to indicate agreement to its terms.
Electronic signature (e-signature)	Any electronic communication which satisfies the characteristics of a signature, which is to indicate agreement to the terms being communicated.
Digital signature	A type of electronic signature that integrates a verification element, most often an encrypted digital code which is used to verify that the message/document was sent and has not been altered. To use digital signatures, a specialised platform or software is required. Software based on a Public Key Infrastructure (PKI) system provide a high standard of assurance in relation to authentication.
Public Key Infrastructure (PKI) System	A system for the creation, storage, and distribution of digital certificates which are used to verify that a particular public key belongs to a certain entity.
Soft copy	Digital or electronic version of a document which is not printed on paper but can be viewed on a digital device such as a computer, tablet or smart phone.

## Legislative Context

The *Electronic Transactions Act 2000* (NSW) facilitates the completion of the following actions electronically and recognises the validity of such actions carried out by means of one or more electronic communications.

- Giving information in writing
- Providing a signature
- Producing a document
- Recording information

- Retaining a document.

It is important to recognise that these actions are and can be interrelated in the digital world.

## Principles

The use of electronic signatures is a widely accepted method of information sharing, communicating consent and finalising agreements between parties while preserving legality in a digital environment.

Examples of the use of electronic signatures are (but not limited to):

- Typing a name in electronic format
- Scanning and inserting (pasting) a physical signature into an electronic document
- A name appearing in the 'From' field in an email
- Clicking an 'I Accept' button
- Signing a soft copy of a document with a stylus or finger on a touchscreen.

## Electronic signature

Under the *Electronic Transaction Act 2000* (NSW) many documents may be validly created and signed electronically. In accordance with section 9(1), if the law requires a person's signature, there are broadly three requirements for a valid electronic signature – being identification, reliability and consent:

1. **Identification:** the recipient must be able to identify from the method of execution the person signing, and confirm that the person signing intends to be bound by the information communicated. An example is the inclusion of an electronic signature accompanied by the signatory's name and position.
2. **Reliability:** the method used to sign must be reliable, which is objectively determined by considering all relevant circumstances and the purpose for which the signature is required. It may be sufficiently reliable that a password protected email account is used to send the communication. However where there is a higher level of risk associated with the execution of the document then it may be appropriate to use software which requires a password or authentication before a digital signature is inserted.
3. **Consent:** the counterparty to the document being electronically signed must agree to the document being signed electronically. This can be achieved by the inclusion of a standard agreement statement as part of the document.

A signature may not need to be placed on an electronic communication so long as the above requirements are satisfied and a signature is not specifically required by another Act (section 9(2)).

**Remote witnessing**

Some documents require an authorising signature to be witnessed by another party. Circumstances may arise where it is not possible for a third party to witness an authorising signature in person.

Part 2B of the *Electronic Transactions Act 2000* (NSW) sets out Remote Witnessing provisions. This permits the witnessing and attestation of documents by audio visual link (i.e. MS Teams, Zoom or any platform approved by Council). Where circumstances do not permit in person witnessing of an authorising signature then remote will be permitted. Remote witnessing will be carried out in accordance with the legislated provisions set out in section 14G of the *Electronic Transactions Act 2000* (NSW).

**Responsibility**

An officer or relevant division of Council responsible for the electronic communication or agreement being undertaken holds an obligation to consider this policy, relevant procedures, all relevant legislation, regulations, applicable circumstances and the purpose for which the electronic communication is required.

**END OF POLICY STATEMENT**