

Execution of Documents and Application of Common Seal

Policy Objective

To clarify the authority given by Council for the execution of documents and the affixing of the Common Seal when required, by the President and the Chief Executive Officer under Clause 19.1(2) of the Shire of Broome Standing Orders Local Law 2003 (or as amended).

Policy Statement

The Shire of Broome has a Common Seal that is to be affixed to certain documents as proof that the document in question has been attested to by the Shire.

Documents that require the Common Seal are to be presented to Council for consideration within the Reports of Officers section at the appropriate meeting of Council. The report recommendation is to include the following or similar wording *“That Council approves the affixation of the Common Seal of the Shire of Broome to the said document and authorises the Shire President and Chief Executive Officer to sign all documentation as required”*.

The attachment of the Common Seal requires attesting by both the Shire President, or in their absence the Deputy Shire President, and Chief Executive Officer or the person acting in that position.

Clause 19.1(4) of the Shire of Broome Standing Orders Local Law 2003 (or as amended) requires the Chief Executive Officer maintain a register of documents where the Common Seal has been affixed.

Guidelines

The *Local Government Act 1995* (the Act) was amended to clarify the requirements for the valid execution of documents on behalf of a local government. The relevant provisions of the Act are:

9.49A. Execution of documents

- (1) *A document is duly executed by a local government if —*
 - (a) *the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or*
 - (b) *it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.*
- (2) *The common seal of a local government is not to be affixed to any document except as authorised by the local government.*

- (3) *The common seal of the local government is to be affixed to a document in the presence of —*
 - (a) *the mayor or president; and*
 - (b) *the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.*
- (4) *A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.*
- (5) *A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.*

9.49B. Contract formalities

- (1) Insofar as the formalities of making, varying or discharging a contract are concerned, a person acting under the authority of a local government may make, vary or discharge a contract in the name of or on behalf of the local government in the same manner as if that contract was made, varied or discharged by a natural person.
- (2) The making, variation or discharge of a contract in accordance with subsection (1) is effectual in law and binds the local government concerned and other parties to the contract.
- (3) Subsection (1) does not prevent a local government from making, varying or discharging a contract under its common seal.

9.49. Documents, how authenticated

A document, is, unless this Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the CEO or an employee of the local government who purports to be authorised by the CEO to so sign.

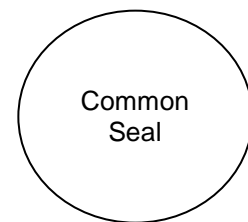
To facilitate the effective utilisation of the Act's provisions, Council at its Ordinary Council Meeting of 7 September 2017 adopted authorisations to the CEO, Directors and a number of Managers for the execution of documents on behalf of the Shire of Broome, without the requirement to affix the seal. Full details of the authorisations are detailed in **CA1 – Execution of Documents on Behalf of the Shire of Broome.**

As a consequence of the adoption of the Authorisations by Council there are less documents that now are required to have the Common Seal of the Shire of Broome affixed. The following documents are required to have the Common Seal affixed (other documents may have the seal affixed at the discretion of the CEO):-

	Document Description		Document Description
1	New or Revised Town Planning Schemes	4	C/Wealth or State Government documents where legislation specifically requires the seal or CEO signature.
2	Amendments to Town Planning Schemes	5	Documents of a Ceremonial Nature – such as Sister City agreements
3	New, Revised or Amendments to Local Laws		

The sealing clause shall be:

The COMMON SEAL of the (SHIRE OF BROOME)
by the authority of a resolution of the Council)
was hereunto affixed in the presence of:)



(Insert Name of Shire President)
Shire President

(Insert Name of CEO)
Chief Executive Officer

It should be noted that some matters that may be dealt with under delegated authority may require the Common Seal to be affixed.

Document Control Box							
Document Responsibilities:							
Owner:	Chief Executive Officer			Owner Business Unit:	Office of the CEO		
Reviewer:	Manager Governance, Strategy & Risk			Decision Maker:	Council		
Compliance Requirements:							
Legislation:							
Industry:							
Organisational:	CA1 Execution of Documents						
Document Management:							
Risk Rating:	Medium	Review Frequency:	Biennial	Next Due:	12/2021	Records Ref:	
Version #	Decision Reference:	Synopsis:					
1.	14 June 2005	OMC Initial Adoption					
2.	12 December 2019	Review and conversion to new policy template					