

Execution of Documents

Policy Objective

To ensure that the Shire's common seal is used and documents are executed in accordance with the provisions of the *Local Government Act 1995 (Act)*.

Policy Scope

This Policy applies to all Shire of Broome officers who have been authorised through the provisions of this policy to execute documents on behalf of Council and the Shire of Broome.

The following take precedent over this Policy:

1. Legislation;
2. The formal requirements of a Commonwealth or State department, authority or agency (as described in a Policy or procedure); or
3. A Council decision that expressly specifies a particular way in which a document is to be executed.

Policy Statement

The Council is required to comply with sections 9.49A (Execution of Documents) and 9.49 (Documents, how authenticated) of the Act. These sections detail the requirements for documents to be duly executed by a local government.

Under the Act, for a document to be considered duly executed, the document must be executed in one of the following ways:

1. **By affixing the Common Seal** of the Shire in the presence of the Shire President and Chief Executive Officer [s9.49A(3) of the Act]; or
2. **Without affixing the Common Seal**, by the Chief Executive Officer, another employee or agent of the Shire who has been authorised by resolution of Council to sign documents on behalf of the Shire. [s9.49A(4) of the Act]

Three document categories have been established to assist in determining the appropriate signing authority.

Category 1 Documents - Common Seal

The affixing of the Common Seal is authorised for documents that are ceremonial in nature, where there is a statutory requirement or where the other party requires the use of the Common Seal.

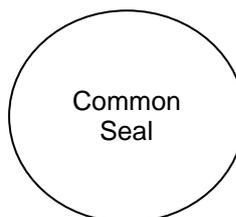
Category 1 documents require a specific resolution of Council to execute the document with the Common Seal.

Category 1 documents are as follows:

1. Local Laws – new or amendments;
2. Local Planning Schemes – new or amendments;
3. Mortgages and loan documents;
4. Landgate Transfer of Land forms;
5. Documents required by other party to be duly executed by Common Seal; and
6. Documents of a Ceremonial Nature (e.g. Sister City Agreements)

The sealing clause shall be:

The Common Seal of the)
 SHIRE OF BROOME was affixed)
 on [__ Month 20__])
 by the authority of the Council)
 in the presence of:)



 (Insert Name of Shire President)
 Shire President

 (Insert Name of CEO)
 Chief Executive Officer

Category 2 Documents – No Common Seal

Under section 9.49A(4) Council authorises the officers listed in the Table below to sign documents on behalf of the Shire of Broome. Only Directors, Managers, and officers with delegated authority from the Chief Executive Officer may sign (execute) documents relevant to matters within the scope of their Directorate and/or Business Unit.

Description	Authority to Execute	Typical documents included, but are not limited to:
Offer and Acceptance forms and associated documents required to enact a decision of Council to purchase or sell land. This does not include Mortgage and Transfer of Land documents which are Landgate forms listed as Category 1 documents.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director 	<ul style="list-style-type: none"> ➤ standard REIWA terms ➤ Special conditions of offer; ➤ Contracts of sale
Documents required to enact a decision of Council, which are not Category 1 documents.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director 	<ul style="list-style-type: none"> ➤ Contractual documents resulting from a tender process. ➤ Notification on title as required by a condition of approval, etc

Category 2 Documents – No Common Seal cont.

Description	Authority to Execute	Typical documents included, but are not limited to:
General deeds, legal and service agreements.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director 	<ul style="list-style-type: none"> ➤ EBA's ➤ Settlements and/or releases ➤ Confidentiality and non-disclosure ➤ Developer contributions ➤ Memorandums of understanding ➤ Other statements of intent and terms and conditions ➤ Funding agreements ➤ Sponsorship
Leases, licences and access agreements, and associated documents.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director • Manager Engineering 	<ul style="list-style-type: none"> ➤ Any notices required to be given under a lease, etc.
Documents required when the Shire owns land or manages land under a management order.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director • Manager Engineering 	<ul style="list-style-type: none"> ➤ Subdivision applications ➤ Development applications ➤ Building applications ➤ Agreement for access and indemnity ➤ Works agreements, etc
Documents prepared for registration at Landgate excluding Mortgage and Transfer of Land forms which are Category 1 documents.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director • Manager Planning & Building Services 	<ul style="list-style-type: none"> ➤ Restrictive covenants ➤ Caveats ➤ Memorials ➤ Covenants ➤ Easements ➤ Rights of carriageway
Documents required to enact a decision made under delegated authority or as a condition of approval given under delegated authority.	<ul style="list-style-type: none"> • Chief Executive Officer • Responsible Director • The Shire Officer exercising the delegated authority 	<ul style="list-style-type: none"> ➤ Planning approvals ➤ Building approvals

Category 3 Documents

Category 3 documents are created in the normal course of business and are consistent with the Shire's policies and procedures. Category 3 documents are to be executed by the Chief Executive Officer, Director or Manager, or an officer where the authority has been extended to that officer through an authorisation, policy, procedure, or a position description.

These documents include, but are not limited, to the following:

1. Letters, correspondence, and other documents that reflect an operational or procedural action required in the ordinary course of business;
2. Agreements for the purchase of goods and services identified within the directorates budget (other than tenders) and conforming to the requirements of the Shire's Purchasing Policy and other relevant policies;
3. Contracts for grant funding with private agencies (incoming and outgoing);
4. Regular hire agreements for Shire facilities.

Roles and Responsibilities

The common seal is in the custody of the Office of the Chief Executive Officer which is responsible for arranging the affixing of the common seal on documents. A record of its use is kept in the Shire's Common Seal Register.

The responsible officer is to ensure that they fully understand what is being executed on behalf of Council. If it is unclear what category a document is, then the higher category is to take precedence.

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:	Local Government Act 1995 - s9.49A Execution of documents Local Government Act 1995 - s9.49 Documents, how authenticated				
Industry:					
Organisational:					
Document Management:					
Risk Rating:	Low	Review Frequency:	Every 4 years	Next Due:	April 2026
Version #	Decision Reference:	Synopsis:			
1.	26 May 2022	Replaces Execution of Documents and Application of Common Seal Policy Council Resolution: <i>Minute No. C/0522/038</i>			
2.	29 June 2022	Administrative amendment to policy page 3			
3.	30 October 2023	Desktop review – no amends			