

COMMON SEAL USAGE POLICY

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1. OBJECTIVE

To establish the circumstances under which the official Council Common Seal may be affixed to documents. The application of this policy is to be by Elected Members and the CEO and any legislative requirements of the *Local Government Act 1995* that may be enforced.

2. PRINCIPLES

2.1 Affixing the Common Seal

Under section 9.49A of the *Local Government Act 1995*-

- (i) the Common Seal cannot be affixed to a document except as authorised by the Council; and
- (ii) the Common Seal must be affixed to a document in the presence of –
 - a) the Shire President (or, if section 5.34 applies, by the Deputy Shire President); and
 - b) the CEO or an employee authorised by the CEO:

each of whom is to sign the document to attest that the Common Seal was affixed.

2.2 Documents requiring the Common Seal to be Affixed

The Common Seal is to be affixed only to documents required by Legislation to be executed using the Common Seal eg., *Transfer of Land Act 1893*.

2.3 Procedures for the use of the Common Seal

The Chief Executive Officer is responsible for the security and proper use of the Common Seal.

2.4 Wording of the Common Seal clause

If the legislation is silent on the wording of the Common Seal clause then the following shall apply:

Example -Where the Common Seal is Affixed by Resolution of Council

DATED: ____ 20__

The Common Seal of the Shire of [name] was affixed by authority of a resolution of the Council in the presence of:

[INSERT NAME OF PRESIDENT]
PRESIDENT

[INSERT NAME OF CEO]
CHIEF EXECUTIVE OFFICER



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2.5 Common Seal Register

Entries in the register are to indicate;

- the document to which the seal was affixed;
- the date the seal was affixed;
- the people who have attested to the seal being affixed to the document;
- the date on which the Council resolved to make the decision or enter into the contract to which the document relates; and the date on which the Council resolved to grant authorisation for the seal to be affixed to the relevant document

2.6 Security of the Common Seal

The CEO is to make appropriate arrangements for -

- keeping the seal in a safe and secure location; and
- the appointment of a person who is to have custody of the seal.

3. STATUTORY ENVIRONMENT

Local Government Act 1995 -

Section 2.5 (2) stipulates that a local government is "a body corporate with perpetual succession and a common seal". There is no stipulated requirement for the use of the common seal in particular circumstances.

Section 9.49 stipulates that "a document is, unless this Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the Chief Executive Officer or employee of the local government who purports to be authorised by the Chief Executive Officer to so sign".

Section 9.49A contains detailed provisions regulating the execution of documents by a local government, including the execution of documents using the Common Seal.

4. REFERENCES TO RELATED DOCUMENTS

SOA 10 Year Community Strategic Plan 2012-2022

Goal 05 - Inspiring Governance

Objective - 03 - Council Leadership

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Previous Policy Number:	N/A
Resolution Numbers:	
Last Reviewed:	November 2017
Next Reviewed:	October 2019
Responsible Officer:	CEO and Shire President

[Signature]
Signed

[Print Name]
Shire President

This Policy takes effect from the date of adoption by Council and shall remain valid until it is amended or deleted.