

EME010	EXECUTION OF DOCUMENTS AND APPLICATION OF COMMON SEAL		
POLICY OWNER:	Council		
DEPARTMENT:	Office of the CEO		
CREATION DATE:	23/08/2022	REVIEW SCHEDULE:	Annually
RELATED PROCEDURES:	N/A		
RELATED FORMS:	N/A		
RELATED DELEGATIONS:	N/A		
RELATED POLICIES:	N/A		
LEGISLATION:	s2.5(2), 9.49A Local Government Act 1995		
DOCUMENT CONTROL			
DATE REVIEWED:	REVIEWED BY:	CHANGES (IF ANY):	ENDORSED BY COUNCIL:
23/08/2022	Council	Nil	FC 7/8/22
28/03/2023	Council	Nil	FC 5/3/23
26/03/2024	Council	Nil	OCM 07/03/24

EME010 Execution of Documents, and Application of Common Seal

OBJECTIVES

To comply with the provisions of the Local Government Act 1995 and to ensure the Shire of Carnarvon's documents are executed and the Common Seal is used in a consistent and transparent manner.

POLICY STATEMENT/S

Introduction

s9.49A of the Local Government Act 1995 sets out the requirements in relation to the execution of documents and the affixing of the Common Seal to render certain documents official documents of the Shire of Carnarvon.

It is not essential to formally execute all Council documents, but certain documents require to be formally executed in this way. It is the decision of the Council as to which documents should be formally executed.

As a minimum normal practice is to require execution of deeds of agreement, leases, land sales and certain contracts.

This policy specifies which documents are to be formally executed.

Principles

All relevant documents are properly executed according to the requirements of s9.49A Local Government Act 1995.

Provisions

Where legislation, the formal requirements of a Commonwealth or State Department authority or agency, or a Council decision, expressly specify a particular way a document is to be executed, that course of action is to take precedence over this policy.



Category 1 Documents

Category 1 documents require a specific resolution of Council to sell, lease or enter into an agreement, as well as authority to affix the seal.

The following list are Category 1 documents:

- a. Deeds of Agreement and Release in respect of the sale, purchase or other commercial dealing relating to the Shire's assets, including equitable assets,
- b. Local Planning Schemes and Amendments,
- c. Lease documents:
 - variation of lease,
 - assignment of a lease
- d. Local Laws

These documents will be executed by having the Common Seal affixed under the authorisation of Council with the affixing of the seal in the presence of and being attested to by the President and the CEO or pursuant to s9.49A (3) (b) of the Local Government Act, the President and a senior employee authorised by the CEO to do so.

Category 2 Documents

The following list of documents are Category 2 documents:

- a. Agreements relating to grant funding, when the funder requires that the agreement be signed under the seal,
- b. Debenture documents for loans which the Council has resolved to raise,
- c. General and legal service agreements not already listed in this policy,
- d. Extension of lease under original lease clause or provision.

Category 2 documents are those of a general form or category which may be subject to time constraints for execution.

These documents are to be sealed as part of a 'class of documents' authorised to be executed under Common Seal without a specific Council resolution to affix the seal.

Note: the document may not require a Council resolution to affix the seal but the decision to undertake a particular course of action may still require Council approval.

Category 3 Documents

Category 3 documents do not require the Common Seal to be affixed.

Under s9.49A (4) the Council authorises the following to sign documents on behalf of the Shire of Carnarvon.

Description	Authority to Execute
Documents required in the management of land as a landowner	CEO
Documents required to enact a decision of Council or the Development Assessment Panel (i.e., contractual documents resulting from a tender process, transfer of landforms, notification on title as required by a condition of approval, memorandum of understanding etc.).	CEO
Agreements relating to grant funding when the funder does not require the agreement to be signed under seal.	CEO
Documents required to enact a decision under delegated authority or as a condition of approval given under delegated authority	The Manager The employee exercising the delegated authority

Category 4 Documents

Category 4 documents are created in the normal course of business and are consistent with the Shire's policies and procedures. Category 4 documents are to be executed by a Shire employee where the authority has been extended through a policy or procedure.