

EXECUTION OF DOCUMENTS POLICY

OBJECTIVE

To provide guidance on the appropriate method of execution of documents and use of the common seal.

POLICY STATEMENT

Documents executed by the Shire of Quairading (Shire) will be executed in accordance with the *Local Government Act 1995* (Act), and the provisions set out in this Policy. Section 9.49A(1) of the Act provides that a document will be considered duly executed by a local government if:

- a. The common seal is validly affixed to it; or
- b. It is signed by an officer authorised by the Council to do so.

SCOPE

This Policy applies to all Shire officers preparing documents for execution and/or who have been authorised through the provisions of this Policy to execute documents on behalf of the Shire. Any legislation, formal requirements of a Commonwealth or State department, authority or agency (as described in a Policy or procedure) or Council decision will take precedent over this Policy in the event of any inconsistency.

The Policy covers three categories of documents as outlined below and is supported by the Execution of Documents Management Procedure, which should be read in conjunction with this Policy.

POLICY

1 Category 1 Documents

Category 1 documents require the Shire's common seal to be affixed. For this to occur in accordance with the Act, the common seal must be affixed in the presence of:

- c. The President; and
- d. The CEO or an Executive Manager.

Category 1 documents require at least two specific resolutions of Council:

- a. The decision to do the act or enter an agreement; and
- b. The approval to execute the document related to the above decision in accordance with this policy.

Following is a list of documents that are Category 1 documents:

- a. Mortgage documents;
- b. Landgate Transfer of Land forms;
- c. Local planning schemes and amendments;
- d. Local laws;
- e. Loan documentation relating to loans which Council has resolved to raise; and
- f. Documents which, in the opinion of the CEO, an Executive Manager and/or legal advice, are sufficiently complex, high risk and/or significant in nature to warrant the affixing of the common seal.

2 Category 2 Documents

Category 2 documents do not require the common seal to be affixed.

Under section 9.49(A)(4) of the Act, Council authorises those officers listed in the table below to sign documents on behalf of the Shire. These authorisations do not undermine any delegations which may be in place.

| | Description | Authority to Execute |
|---|---|-----------------------------|
| 1 | 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 document which are Landgate forms listed as Category 1 documents. | CEO. |
| 2 | Documents required to enact a decision of Council, which are not Category 1 documents. | CEO; any Executive Manager. |
| 3 | General deeds, legal and service agreements | CEO; any Executive Manager |
| 4 | Leases, licenses and access agreements, and associated documents. | CEO; any Executive Manager |
| 5 | Documents required to enact a decision made under delegated authority or as a condition of approval given under delegated authority. | CEO; any Executive Manager |

| | Description | Authority to Execute |
|----|---|----------------------------|
| 6 | Documents required when the Shire owns land. | CEO; any Executive Manager |
| 7 | Documents required when the Shire manages land under a management order | CEO; any Executive Manager |
| 8 | Documents prepared for registration at Landgate. The above authorisation does not extend to: <ul style="list-style-type: none"> • mortgage documents; and • Transfer of Land forms which are category 1 documents. | CEO; any Executive Manager |
| 9 | Indemnity given by the Shire to a third party. | CEO; any Executive Manager |
| 10 | Memorandums of Understanding and other statements of intent and terms and conditions. | CEO; any Executive Manager |

Where a Category 2 document falls into more than one descriptor, the lowest organisational level prescribed is authorised to sign.

3 Category 3 Documents

Category 3 documents are documents that are created in the normal course of business to discharge the duties of an officer's position in a manner consistent with Shire policies and procedures. Category 3 documents are to be executed by the CEO, a Director or Manager, or a Shire officer where the authority and accountability has been extended through an authorisation, policy, procedure, or a position description. It is therefore important to have a good knowledge of the documents that relate to the team which is responsible for the document.

IMPLEMENTATION

The actions for the implementation of this Policy are detailed in the Execution of Documents Management Procedure.

ROLES AND RESPONSIBILITIES

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



RESPONSIBILITY FOR IMPLEMENTATION

CEO

STATUTORY ENVIRONMENT

Local Government Act 1995

| Record of Policy Review | | | | | | |
|-------------------------|--------------|------------------|------------|-------------------|-------------|---------------|
| Version | Author | Council Adoption | Resolution | Reason for Review | Review Date | CEO Signature |
| 01 | Nicole Gibbs | 29/09/2022 | 65 - 22/23 | New Policy | Sept 2024 | |