



## 1/014 Execution of Documents and Affixing of the Common Seal

### Objective

To authorise the:

- (a) execution of documents by the Mayor, Chief Executive Officer, Directors and/or their delegates; and
- (b) affixing of the Common Seal of the Town of Port Hedland (“the Town”).

### Content

#### 1. *Application*

A document is duly executed by the Town when authorised by the local government (by resolution or delegated authority) and signed in accordance with section 9.49A of the *Local Government Act 1995* (“the Act”).

This policy applies to all documents requiring execution (including but not limited to the affixing of the Town’s Common Seal) and other documents including but not limited to agreements, contracts, deeds, Memoranda of Understanding, and other similar matters.

#### 2. *Documents Requiring Affixation of the Common Seal*

The following documents may be executed by way of the Common Seal:

- (a) the document carries a high level of financial risk, legal complexity or political sensitivity;
- (b) the other party to the document has reasonably requested for the document to be executed by way of the Common Seal; or
- (c) documents as identified in Table 1 of this Policy.

#### 3. *Procedure for affixing the Common Seal*

##### (a) *Who can affix the Common Seal*

The Mayor and Chief Executive Officer are authorised to affix the Common Seal, in the presence of each other, in accordance with section 9.49A (2) and (3) of the Act.

In the circumstances where the Mayor is not available or is unable or unwilling to perform the functions of the Mayor, the Deputy Mayor is authorised to affix the Common Seal, in accordance with section 5.34 of the Act.



The Chief Executive Officer may delegate their powers to a designated senior employee to affix the Common Seal, in accordance with sections 5.44 and 9.49A of the Act. The delegation must be in writing, and the delegated employee must affix the Common Seal in line with this Policy.

This Policy shall prevail in relation to any inconsistency between Policy 3/007 'Senior Employees and Appointing Acting Chief Executive Officer' and this Policy.

*(b) Witnessing of Signature*

The Common Seal may only be affixed in the presence of both the Mayor and the Chief Executive Officer (or in accordance with clause 3(a) of this Policy), who must also sign the document to attest that the Common Seal was so affixed.

*(c) Register to be maintained*

Details of each affixing of the Common Seal shall be recorded in a register, which is available for public inspection. The register is to include as a minimum, the:

- date of each use of the Common Seal;
- nature of the document to which the Common Seal was affixed;
- parties to the agreement;
- details of the Council authorisation of the use of the Common Seal; and
- name of the signatories.

*4. Authority to Sign documents on Behalf of the Town*

The Common Seal need not be affixed to a document to effect the execution of that document, where there is no requirement nor request to affix the Common Seal. The Council may resolve to authorise the CEO, another employee or an agent of the Town to sign a document on behalf of the Town.

The Persons identified in Table 2 are authorised to sign documents listed in Table 2 on behalf of the Town

Table 1 – Authorisation of the affixing of the Common Seal

Document Type	Common Seal authorised for Affixing (where required)
Local laws	Yes
Planning Schemes	Yes
Mortgages, Loans and Debentures	Yes
State or Commonwealth Government Funding Agreements	Yes
Any document requiring the Common Seal pursuant to a statutory obligation	Yes
Council has resolved that the document be executed by way of common seal	Yes

The execution requirements in [Table 1](#) apply to the making, varying or discharge of documents pursuant to section 9.49B of the *Local Government Act 1995*.

Table 2 – Authorisation to execute certain documents in accordance with the Town of Port Hedland Delegation Register

Document Type	Person authorised to sign
Power of Attorney to act for the Town	CEO
Grants and Funding Agreements with private agencies	CEO
Land Transaction documents including sale, purchase, vesting, leases, licences, transfers, contributed assets, easements, restrictive covenants, caveats, memorials, notifications, deeds and withdrawal of instruments.	CEO
Memorandum of Understanding	CEO
Ceremonial Certificates, including Australian Citizenship	Mayor unless s5.34 of the Act prevails)
All other documents that were the subject of a Council decision including, but not limited to, procurement contracts, service agreements, non-disclosure agreements, enterprise bargaining agreement and employment contracts.	CEO
All other documents that are not the subject of a Council decision, but are part of the ordinary operations of the local government including, but not limited to, casual hire agreements, procurement contracts (no Council decision), short term lease and sponsorship agreements.	CEO  Directors where the document concerns subject matter wholly within their Directorate



Definitions

*“Document”* means agreements, contracts, deeds, Memoranda of Understand, and other similar matters.

Relevant legislation	Local Government Act 1995 – Sections 2.5(2), 9.49, 9.49A and 9.49B
Delegated authority	Nil
Business unit	Governance
Directorate	Corporate and Performance

<i>Governance to complete this section</i>			
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	V01	201213/038	25 July 2012
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