



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

Objective

To ensure a consistent and transparent approach to the execution of documents by the Town of Port Hedland (the Town), including the affixing of the Common Seal, in compliance with the *Local Government Act 1995*.

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 deemed duly executed by the Town when authorised by Council resolution or delegated authority and signed in accordance with section 9.49A of the *Local Government Act 1995*.

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 involves significant financial risk, legal complexity, or political sensitivity;
- (b) the document requires the seal by statutory obligation or request by the other party; or
- (c) documents as identified in [Table 1](#) of this Policy.

3. *Procedure for affixing the Common Seal*

3.1 *Authorisation to Affix the Common Seal*

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



In the Mayor's absence, or if the Mayor is unwilling to perform the functions of Mayor, the Deputy Mayor is authorised to affix the Seal, in accordance with section 5.34 of the Act.

The CEO may delegate authority to a designated senior employee, in writing, for affixing the 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.

3.2 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.

3.3 Register of Common Seal

A register of all documents to which the Common Seal is affixed shall be maintained, recording:

- 1) The date of use;
- 2) Nature and parties of the document;
- 3) Council authorisation details;
- 4) Name of signatories.

The register is available for public inspection.

3.4 Documentation Requirements

Documents requiring the Common Seal must:

- 1) Include an approved sealing clause;
- 2) Be accompanied by a completed "[Request to Affix the Town of Port Hedland Common Seal](#)" form, detailing:
 - a. Subject matter and file reference;
 - b. Council resolution number (if applicable);
 - c. Signatures of requesting officers and relevant managers.
 - d. Include affixed "sign here" or "initial here" stickers for required signatures or initials.

3.5 Finalisation, custody and retention

Once executed, documents will be recorded in the Common Seal Register, scanned into the Town's electronic records system, and returned to the initiating officer. Fully executed documents must be returned to Records for retention as official records of the Town.

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.

Documents not requiring the Common Seal may be signed by authorised persons as outlined in [Table 2](#).

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 | CEO |



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| covenants, caveats, memorials, notifications, deeds and withdrawal of instruments. | |
| 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.

“Common Seal” means the official seal of the Town of Port Hedland.



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| Relevant legislation | <i>Local Government Act 1995</i> – Sections 2.5(2), 9.49, 9.49A and 9.49B |
| Delegated authority | Nil |
| Business unit | Governance |
| Directorate | Corporate Services |

| <i>Governance to complete this section</i> | | | |
|--|-------------|----------------|----------------|
| Version Control | Version No. | Resolution No. | Adoption date |
| | V01 | 201213/038 | 25 July 2012 |
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| Review frequency | 3 Yearly | | |

Document Control Statement – *The electronic reference copy of this Policy is maintained by the Governance Team. Any printed copy may not be up to date and you are advised to check the electronic copy at <http://www.porthedland.wa.gov.au/documents/public-documents/policies> to ensure that you have the current version. Alternatively, you may contact the Governance Team.*