



(C16) USE OF COMMON SEAL AND EXECUTION OF DOCUMENTS

1. POLICY OBJECTIVE

To ensure that the Shire of Derby/West Kimberley's (the Shire) Common Seal is used, and documents are executed in accordance with the provisions of the *Local Government Act 1995*.

2. POLICY DEFINITIONS

Common Seal: is a device which formally and solemnly records the collective will of Council.

Document: For the purposes of this policy, document means any paper or electronic document, including communications such as letter and emails, which:

- a) convey a decision, or
- b) establish an obligation on the Shire, or
- c) is ceremonial.

3. POLICY STATEMENT

Unless otherwise provided for, all documents requiring the affixing of the Common Seal must be referred to Council for approval.

The President and the Chief Executive Officer (CEO) may by general authority of Council, affix the Shire's Common Seal to the following documents without referral to Council (Appendix 1):

- a) Legal documents that are a renewal or extension of the original document and there is not a significant variation in clauses/conditions in the renewal;
- b) Legal documents required as a condition of a subdivision or development approval previously granted by Council; and
- c) Grant agreements/acquittals requiring the affixing of the Common Seal.

A list of the documents to which the Shire's Common Seal has been affixed by general authority of Council in accordance with this policy shall be reported monthly to Council for information purposes.

The CEO is to:

- a) Have charge of the Common Seal and is responsible for the safe custody and proper use of it, and
- b) Maintain a register detailing for each occasion that the Common Seal is affixed:
 - i. A record number which is also recorded on the document to which the Common Seal is affixed;
 - ii. The date that the Common Seal was affixed;
 - iii. The Council resolution or reference of this policy, which authorised the affixing of the Common Seal;
 - iv. The parties to the document;
 - v. A description of the type of document to which the Common Seal was affixed;
 - vi. The expiry date of the document, if relevant, and
 - vii. The location in the Shire's records where the executed document is evidenced.
- c) The format of the affixing of the Common Seal to a document is set out in the attached Appendix 2.



Shire of Derby / West Kimberley

Policy Details			
Original Adoption Date:	29 August 2024 (Item 12.1, Res. No. 100/24)	Review Frequency:	3 years
		Next Review Due:	August 2027
Policy Implementing Officer or Team:	Executive Services Coordinator	Policy Reviewer:	Deputy Chief Executive Officer
Legislative Head of Power (Act, Regulation, or Local Law):	s.9.49A, S.9.49B, s.9.49 Local Government Act 1995		
Related Documents (other Policies, Operational Procedures, Delegations, etc.):	Common Seal Register		
Version Control Council Meeting Review Details:			
Review #:	Council Meeting Date:	Item/Resolution#:	



DOCUMENT TYPE	COMMON SEAL	EXECUTION BY SIGNATURE ONLY	
		Shire President	CEO or Delegated Officer
Common Seal only to be applied where specified in a document prepared by an external party.			
Local Laws – made and amended	✓	<input type="checkbox"/>	<input type="checkbox"/>
Planning Schemes – adopted and amended	✓	<input type="checkbox"/>	<input type="checkbox"/>
Land Transaction documents, including: <ul style="list-style-type: none"> • sale; • purchase; • vesting; • contributed assets; • notifications of factors affecting land under 70A of the <i>Land Transfer Act 1893</i> – lodge or withdraw; • easements – by land transfer <ul style="list-style-type: none"> ○ rights of carriage way; ○ rights of support to land burdened by buildings; ○ rights to erect a party wall; ○ rights to light and air (Property Law Act 1969); ○ rights to take water from wells or bores; ○ rights to install and operate drains and drainage works; ○ rights to install, maintain and operate oil, gas or other pipelines; ○ rights to install, maintain and operate electric power lines, telephone and other cables and supporting pylons; • restrictive Covenants – by land transfer; and • deeds – land transfer for public purposes 	✓	<input type="checkbox"/>	<input type="checkbox"/>
Land Transaction documents, including: <ul style="list-style-type: none"> • Caveats - registering or removing; • Leases; • Easements – by deed, deposited plan or other legal instrument: 	✓	<input type="checkbox"/>	<input type="checkbox"/>



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		Shire President	CEO or Delegated Officer
<p>Common Seal only to be applied where specified in a document prepared by an external party.</p> <ul style="list-style-type: none"> ○ rights of carriage way; ○ rights of support to land burdened by buildings; ○ rights to erect a party wall; ○ rights to light and air (<i>Property Law Act 1969</i>); ○ rights to take water from wells or bores; ○ rights to install and operate drains and drainage works; ○ rights to install, maintain and operate oil, gas or other pipelines; and ○ rights to install, maintain and operate electric power lines, telephone and other cables and supporting pylons; • Restrictive Covenants – lodge, modify or withdraw (other than by land transfer); • Deeds; and • Legal agreements. 			
Mortgages, Loans and Debentures	✓	<input type="checkbox"/>	<input type="checkbox"/>
Power of Attorney to act for the Shire	✓	<input type="checkbox"/>	<input type="checkbox"/>
State or Commonwealth Government Funding Agreements	<input type="checkbox"/>	<input type="checkbox"/>	✓
Grants and Funding Agreements with private agencies (incoming and outgoing)	<input type="checkbox"/>	<input type="checkbox"/>	✓
Memorandum of Understanding	<input type="checkbox"/>	✓	✓
Contracts and legal instruments, including contract variations, related to: <ul style="list-style-type: none"> • Procurement Contracts • Service Agreements (incoming or outgoing services) • Heritage Agreements • Acquittal of planning conditions • Maintenance of the public realm 	<input type="checkbox"/>	<input type="checkbox"/>	✓
Development, subdivision and strata-title approvals for Shire Land	<input type="checkbox"/>	<input type="checkbox"/>	✓
Memorial <ul style="list-style-type: none"> • <u>Deed Poll Registration</u>: A document lodged under the Registration of <i>Deeds Act 1856</i>, 	<input type="checkbox"/>	<input type="checkbox"/>	✓



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		Shire President	CEO or Delegated Officer
<p>Common Seal only to be applied where specified in a document prepared by an external party.</p> <p>notifying the change of name of a person.</p> <ul style="list-style-type: none"> • <u>Memorial of Advertisement</u>: A document lodged at the Office of Titles by a Local Authority evidencing that the legal requirements necessary to sell land for the non-payment of rates, have been attended to. • <u>Prohibiting dealings in land</u>: A document lodged at the Office of Titles under one of a number of statutes, which when noted on a Certificate of Title acts as a caveat. 			
Documents that fulfil a statutory local government duty or power, for which there is no power of delegation or authorisation and is a matter which constitutes a potential risk to the Shire.	<input type="checkbox"/>	<input type="checkbox"/>	✓
Communications on behalf of the Shire, with Commonwealth or State Ministers	<input type="checkbox"/>	✓	✓
Communications on behalf of the Shire, with CEOs of: <ul style="list-style-type: none"> • Commonwealth or State Government Departments • Industry representative bodies 	<input type="checkbox"/>	<input type="checkbox"/>	✓
<p>Note: <i>Officers are authorised to sign routine day to day operational communications where the recipient is of a similar organisational level as the Shire Officer.</i></p>			
Communications on behalf of the Shire, relevant to the day-to-day operations of the Shire and which are subject of a level of political sensitivity or potential risk to the Shire.	<input type="checkbox"/>	<input type="checkbox"/>	✓
<p>Ceremonial Certificates:</p> <ul style="list-style-type: none"> • Honorary Freeman • Honorary Citizenship 	✓	<input type="checkbox"/>	<input type="checkbox"/>
Deeds of Settlement – Employee matters	<input type="checkbox"/>	<input type="checkbox"/>	✓
Enterprise Bargaining Agreements	<input type="checkbox"/>	<input type="checkbox"/>	✓
Leases/Licences to External Parties (not registered on title)	<input type="checkbox"/>	<input type="checkbox"/>	✓
Register an Interest in any Native Title Claim affecting Shire Derby/West Kimberley, so as to become a Party to the Native Title Application	<input type="checkbox"/>	<input type="checkbox"/>	✓
<p>Response to Department of Mines Industry and Regulation for proposed:</p> <ul style="list-style-type: none"> • Exploration Licence pursuant to S119 of the Mining Act 1978 and 	<input type="checkbox"/>	<input type="checkbox"/>	✓



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		Shire President	CEO or Delegated Officer
<p>Common Seal only to be applied where specified in a document prepared by an external party.</p> <ul style="list-style-type: none"> • Mining Licence pursuant to S41, S58, S70C and S91 and Reg 64 of the Mining Regulations 1981 			
<p>Response to Department of Planning, Lands and Heritage for proposed:</p> <ul style="list-style-type: none"> • Power to Lease pursuant to S46 of the Land Administration Act 1997 and • Licence pursuant to S91 of the Land Administration Act 1997 	<input type="checkbox"/>	<input type="checkbox"/>	✓
<p>Response to Department of Water and Environmental Regulation for proposed Clearing Permit Applications pursuant to S51E of the Environmental Protection Act 1986</p>	<input type="checkbox"/>	<input type="checkbox"/>	✓
<p>Response to state government requests for local government feedback under the Liquor Control Act 1988 (eg S175 restricted area regulations)</p>	<input type="checkbox"/>	<input type="checkbox"/>	✓



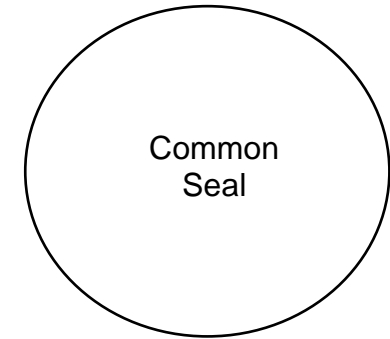
Shire of Derby / West Kimberley

APPENDIX 2

The COMMON SEAL of the Shire of Derby/West Kimberley)
by the authority of a resolution of Council)
as hereunto affixed in the presence of:)

(Insert Name of Shire President)
Shire President

(Insert name of CEO)
Chief Executive Officer



Common
Seal