

4.5 Execution of Documents

Objective

To authorise the execution of certain documents by the Shire President, Chief Executive Officer (“the CEO”), and/or other officers; and

To authorise the use of, and establish protocols for the affixing of the Common Seal of the Shire of East Pilbara (“the Common Seal”).

Policy Statement

Documents executed by the Shire of East Pilbara (“the Shire”) are properly executed when authorised by the local government by Council resolution or delegated authority and signed in accordance with s.9.49A(1) of the *Local Government Act 1995* (“the Act”), and the provisions set out in this Policy.

This policy applies to all documents requiring execution, including but not limited to those which require the affixing of the Common Seal.

Nothing in this policy authorises the entering of an agreement or signing of a document, which would otherwise require an express decision of Council, or which falls outside the delegated authority of the signatory or signatories. This policy only authorises the execution of such documents.

Documents requiring the affixing of the Common Seal

The following documents may, as required be executed by way of the Shire’s Common Seal:

- Local Laws;
- Planning Schemes;
- Mortgages, loans and debentures;
- Documents requiring the Common Seal pursuant to a statutory procurement;
- Documents where the other party has reasonably requested for the document to be executed by way of the Shire’s Common Seal; and
- Documents for which Council has resolved to execute by way of the Common Seal.

The execution requirements with respect to the documents listed above, apply to the making, varying or discharge of documents pursuant to s.9.49B of the Act.

Authorised signatories for the purposes of affixing the Common Seal

The Shire President and the CEO are authorised to affix the Common Seal in the presence of one another in accordance with ss.9.49A(2) and (3) of the Act. The Deputy President (by virtue of s5.35 of the Act) and a Director, either acting as the CEO or authorised to sign on behalf of the CEO (in accordance with the Shire’s Delegation and Authorisations Register and Appointment of Acting Chief Executive Officer Policy) are authorised to sign documents and affix the Common Seal, in the respective absence of the Shire President and/or the CEO. Section 5.35 of the Act applies in the absence of both the President and the Deputy President.

Common Seal Register

Use of the Common Seal is to be recorded in the Common Seal Register (“the Register”), kept by the CEO and available for inspection. The Register shall record the date for each occasion on which the Common Seal was affixed, the nature of the document, the authority by which the Common Seal was used, and the parties to the document to which the Common Seal was so affixed.

Retrospective Approval to affix the Common Seal

The Common Seal is not to be affixed to any document except as authorised by the Council. (s.9.49A(2) of the Act).

Reporting to Council

The CEO shall report to the Council each month, the details of all transactions where the Common Seal has been affixed for the previous month.

Authority to sign and execute documents that do not require the affixing of the Common Seal

Documents that do not require the affixing of the Common Seal to effect their execution, may be authorised and signed on the local government’s behalf in accordance with the Shire’s Delegations and Authorisations Register.

Where the other party to a document reasonably requests two signatories for the Shire, and there is no requirement or request to affix the Common Seal, the President and the CEO are authorised to be such signatories. The Deputy President (by virtue of s5.35 of the Act) and a Director, either acting as the CEO or authorised to sign on behalf of the CEO (in accordance with the Shire’s Delegation and Authorisations Register and Appointment of Acting Chief Executive Officer Policy) are authorised to sign documents, in the respective absence of the Shire President and/or the CEO. Section 5.35 of the Act applies in the absence of both the President and the Deputy President.

The following table lists the type of document and the person authorised to sign on behalf of the Shire:

Document type	Person authorised to sign
Grants and funding agreements with government agencies and non-government organisations	Chief Executive Officer
Land transaction document including, but not limited to sale, purchase, vesting, leases*, licences, transfers, contributed assets, easements, restrictive covenants, caveats, memorials, notifications, deeds and withdrawal of instruments	Chief Executive Officer * Directors are authorised to sign leases only up to the maximum value of the authorised financial delegation
Memoranda of Understanding	Chief Executive Officer
Australian Citizenship Certificates (notices pursuant to s.37(3)(a) of the <i>Australian Citizenship Act 2007</i>)	President, Councillors or Chief Executive Officer (in accordance with regulation 12(3) of the <i>Australian Citizenship Regulation 2016</i> and subclauses 6(h)(vi), (vii) and (xi) of the <i>Citizenship (LIN 20/084: Class of Persons</i>

	<i>Who May Receive a Pledge of Commitment) Instrument 2020)</i>
All other documents authorised by way of Council decision	Chief Executive Officer
All other documents that are not by way of Council decision and/or part of the ordinary operations of the local government including, but not limited to, casual hire agreements, procurement contracts (not requiring a Council decision), short term leases, sponsorship agreements, enterprise bargaining agreements and employment contracts	Chief Executive Officer and Directors (within the limits of the Shire's Delegations and Authorisations Register)
<p>The following Martumili agreements that are with and/or on behalf of artists:</p> <ul style="list-style-type: none"> • Consignment agreements; • Copyright agreements; • Artist agreements; and • Collaborative agreements. 	Manager Martumili

Method of Affixing Common Seal

Example A – Where the Common Seal is affixed by resolution of Council

Dated: _____

The Common Seal of the Shire of East Pilbara was affixed by authority of a resolution of the Council in the presence of:

Signature of Shire President

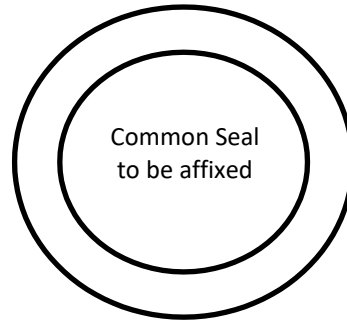
[Name]

SHIRE PRESIDENT

Signature of CEO

[Name]

CHIEF EXECUTIVE OFFICER



Example B – Other documents

Dated: _____

The Common Seal of the Shire of East Pilbara was affixed in the presence of:

Signature of Shire President

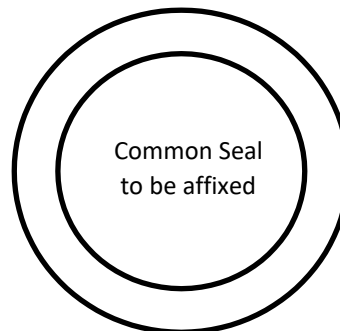
[Name]

SHIRE PRESIDENT

Signature of CEO

[Name]

CHIEF EXECUTIVE OFFICER



Authorisation Details

References:	Sections 2.5(2), 9.49, 9.49A and 9.49B <i>Local Government Act 1995</i>		
Authorised by:	Council		
Date:	27 June 2003	Item No.	9.1.3
Review/Amendment Date	9 December 2016	Item No.	9.2.4
Review/Amendment Date	27 July 2018	Item No.	9.1.2
Review/Amendment Date	28 June 2019	Item No.	10.1.3
Review/Amendment Date	17 December 2021	Item No.	11.1.3
Next Review			
Responsible Directorate	Chief Executive Officer		
Responsible Officer	Manager Governance, Risk and Procurement		
File No.			