

SHIRE POLICY 1.14

Execution of Documents and Use of the Common Seal

Responsible Department:	Office of the CEO
Responsible Business Unit:	Governance
Date of Amendment:	18 March 2026
Council Resolution:	210326

1. OBJECTIVE

The objective of this Policy is to establish, in accordance with the requirements of Part 9, Division 3 of the *Local Government Act 1995* (the *Act*), protocols and procedures for the execution of documents and the affixing and administration of the Shire of Chittering's (the Shire) Common Seal.

2. SCOPE

This Policy applies to all officers preparing documents for execution and/or who have been authorised to execute documents on behalf of the Shire.

Documents and correspondence which relate to day to day routine communications or transactions (Category 3 documents) do not require specific authorisation through Council, as they are the subject of s5.41(d) of the *Act*, which provides that it is the CEO's duty to manage the day to day operations of the Shire. Such duties are undertaken by officers "acting through" another person, in accordance with s5.45 of the *Act*.

3. DEFINITIONS

Absolute Majority means the same as defined in the *Local Government Act 1995*.

Authorised Officer means an officer of the Shire who has been delegated authority under the *Local Government Act 1995* or the Register of Delegations and Sub-delegations to execute documents on behalf of the Shire.

Common Seal means the official seal of the Shire of Chittering used to execute documents in accordance with s9.49A of the *Local Government Act 1995*.

Seal Register (Common Seal Register) means the register maintained by the Chief Executive Officer recording all documents executed under the Common Seal.

4. POLICY STATEMENT

This Policy covers four categories of documents as outlined below. The Shire authorises the Shire President and the Chief Executive Officer (CEO) to sign and affix the Common Seal to documents using the execution clauses as exemplified under "Category 1(A) Documents" of this policy.

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4.1. Category 1(A) Documents

Category 1(A) documents require a specific resolution of Council to enter into an agreement as well as an authority to affix the seal. In accordance with s9.49A(2), these documents will be executed by having the common seal affixed under the specific authorisation of Council in the presence of, and attested by, The Shire President and CEO. Pursuant to s9.49A(3)(b) of the *Act*, the Shire President and a senior employee (if authorised by the CEO) can also affix and attest the common seal.

The following is a list of Category 1(A) documents:

1. Deeds of Agreement and Release in respect to sale or purchase relating to Shire land including equitable interests;
2. Town Planning Schemes and Scheme Amendments;
3. Local Laws;
4. Documents of a ceremonial nature;
5. Land transactions, including but not limited to sale, assignments, consent to mortgage, surrenders, transfers and memorials as resolved by Council (this does not include Category 2 land transactions i.e. disposal via leasing or licencing of land or properties and execution of Landgate documents);
6. Licensing contracts where the Shire is the Licensor; and
7. Documents specified by resolution of Council to be executed by the Common Seal.

4.2. Category 1(B) Documents

Category 1(B) documents are those of a general form or category and which may be subject to time constraints for execution. These documents are to be sealed as part of a “class of documents” authorised by Council to be executed under the common seal without a specific Council resolution to affix the seal.

Please note that the document may not require a Council resolution (being a Category 1(B) document) however, the decision to undertake a particular course of action may still require Council approval.

The following list of documents are Category 1(B) documents:

1. Agreements relating to grant funding, when the funder requires that the agreement be signed under seal;
2. Debenture documents for loans which Council has resolved to raise;
3. General Legal and Service Agreements not already listed in this policy; and
4. Any document stating that the Common Seal of the Shire is to be affixed provided it is not a Category 1(A) document.

In accordance with s9.49A(2), the attachment of the Common Seal requires attesting by both the Shire President (or in their absence the Deputy Shire President) and the CEO (or the person acting in that position). s9.49A(3)(b) of the *Act*, provides that the Shire President and a senior employee (if authorised by the CEO) can also affix and attest the common seal.

Execution of Documents and Use of the Common Seal**4.3. Category 2 Documents**

Category 2 documents do not require the Common Seal to be affixed.

Under s9.49A(4), Council authorises the Officers listed in the relevant Authorisation, found in the Shire's Authorisations Register, to sign documents and/or deeds on behalf of the Shire of Chittering. Executive Managers only have authority where the documents are related to their area of responsibility.

The positions of Executive Manager Development Services; Executive Manager Technical Services; and Deputy Chief Executive Officer are restricted to executing documents that are to a value of \$150,000 or less.

The execution of a document must not be inconstant with a Council Policy or resolution.

Documents may only be executed where the funds are available and allocated for the proposed purpose in the approved budget.

The following are examples of Category 2 documents:

1. Documents and/or deeds required in the management of land as a landowner or where land is a Reserved vested to the Shire;
2. Documents required to enact a decision of Council or the Development Assessment Panel (e.g. contractual documents resulting from a tender process or a memoranda of understanding);
3. Documents required to enact a decision made under delegated authority or as a condition or approval given under delegated authority;
4. Legally binding contracts (other than tenders) that are required to engage services or purchase products when these documents are not inconsistent with the Shire's purchasing and procurement terms and conditions;
5. Contracts for incoming grant funding
6. Other legally binding contracts outside of the normal course of business (e.g. confidentiality, indemnity, licensing, novation and sponsorship agreements); and
7. Documents and/or deeds related to leases and licences of Shire land and properties. This category includes any arrangements relating to the disposal of property via a lease or licence (but not sale), and includes but is not limited to:
 - i. Agreement to lease or licence;
 - ii. Variation of lease or licence;
 - iii. Assignment of lease or licence;
 - iv. Subleases; and
 - v. Surrender of lease or licence.
8. The following Landgate documents and/or deeds including lodgement, removal, withdrawal, surrender/cancel modification:
 - i. Notifications in accordance with s70A of the *Transfer of Land Act 1893*; Covenants, easements and caveats under the *Transfer of Land Act 1893*
 - ii. Reciprocal easements and/or parking agreements
 - iii. Rights of carriageway agreements

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- iv. Amalgamations
- v. Easements or deeds of easement under the *Land Administration Act 1997* and/or *Strata Titles Act 1985*

4.4. 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 that is responsible for the document.

These documents include but are not limited to the following:

1. Agreements in the normal course of business for the purchase of goods or services identified within the business unit's budget (other than for tenders) and conforming to the requirements of the Shire's Purchasing Policy and other relevant policies (e.g. Contracts for outgoing grant funding);
2. General correspondence required to discharge the duties of your position;
3. Grant applications;
4. Documents to authorise funding allocations for community groups; and
5. Regular hire arrangements

4.5. Common Seal Register

1. The Chief Executive Officer shall maintain a register of all documents executed with the Common Seal;
2. The register is to record each Common Seal transaction and include an identification number, date, the nature of the document and the parties to the document being executed; and
3. The correct execution clauses for Shire of Chittering documents are below. Officers must ensure the document being executed contains the correct execution clause.

5. ROLES AND RESPONSIBILITIES

Nil

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6. COMPLIANCE

Legislation	<i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i> <i>Local Government (Financial Management) Regulations 1996</i> <i>State Records Act 2000</i> <i>Transfer of Land Act 1893</i> <i>Land Administration Act 1997</i>
Industry	Landgate Practice Requirements
Organisational Documents	Delegations Register Policy 1.5 – Record Keeping
Strategic Alignment	Connected Communities

7. ADMINISTRATION

Review Cycle	Every 3 years	Next Review Due	September 2028
Policy Owner	Chief Executive Officer		
Version	Decision Ref	Date	Change
1.0	160620	17/06/2020	Initial adoption
2.0	130722	20/07/2022	Amendment
3.0	170623	21/06/2023	Amendment
4.0	210326	18/03/2026	



SHIRE POLICY 1.14 Execution of Documents and Use of the Common Seal

EXECUTION CLAUSES

CATEGORY 1(A) DOCUMENTS

THE COMMON SEAL of SHIRE OF)
CHITTERING)
(ABN 48 445 751 800))
Was hereunto affixed by a resolution of)
Council and in accordance with the)
provisions of the *Local Government Act 1995*)
(WA) in the presence of)

Date

By:

Signature of President

Print name of President

Signature of Chief Executive Officer

Print name of Chief Executive Officer



SHIRE POLICY 1.14 Execution of Documents and Use of the Common Seal

CATEGORY 1(B) DOCUMENTS

THE COMMON SEAL of SHIRE OF)
CHITTERING)
(ABN 48 445 751 800))
Was hereunto affixed in accordance with the)
provisions of the *Local Government Act 1995*)
(WA) in the presence of)
)

Date

By:

Signature of President

Print name of President

Signature of Chief Executive Officer

Print name of Chief Executive Officer



SHIRE POLICY 1.14 Execution of Documents and Use of the Common Seal

CATEGORY 2 DOCUMENTS – DEEDS

EXECUTED as a DEED by the SHIRE OF)
CHITTERING)
(ABN 48 445 751 800))
In accordance with s9.49A of the *Local*)
Government Act 1995 (WA) by its authorized)
officers: -)
)

Date

By:

Signature of Chief Executive Officer / Deputy
Chief Executive Officer / Executive Manager
Development Services / Executive Manager
Technical Services

Print name of Chief Executive Officer /
Deputy Chief Executive Officer / Executive
Manager Development Services / Executive
Manager Technical Services

Signature of Witness

Print name of Witness



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CATEGORY 2 DOCUMENTS – OTHER DOCUMENTS

EXECUTED by the SHIRE OF CHITTERING)
(ABN 48 445 751 800))
In accordance with s9.49A of the Local)
Government Act 1995 (WA) by its authorized)
officers: -)
)
)

Date
By:

Signature of Chief Executive Officer / Deputy
Chief Executive Officer / Executive Manager
Development Services / Executive Manager
Technical Services

Print name of Chief Executive Officer /
Deputy Chief Executive Officer / Executive
Manager Development Services / Executive
Manager Technical Services

Signature of Witness

Print name of Witness