Policy G1 – Execution of Documents

1. Policy Intention

To ensure that the Shire's common seal is used and documents are executed in accordance with the provisions of the *Local Government Act 1995* (Act).

2. Application

This Policy applies to all Shire of Murray officers who have been authorised through the provisions of this policy to execute documents on behalf of Council and the Chief Executive Officer.

The following take precedent over this Policy:

1. legislation;
2. the formal requirements of a Commonwealth or State department, authority or agency (as described in a Policy or procedure); or
3. a Council decision that expressly specifies a particular way in which a document is to be executed.

3. Policy

Council is required to comply with sections 9.49A (Execution of Documents) and 9.49 (Documents, how authenticated) of the Act. These sections detail the requirements for documents to be duly executed by a local government.

Under the Act, for a document to be considered duly executed, the document must be executed in one of the following ways:

1. by affixing the Common Seal of the Shire in the presence of the Shire President and Chief Executive Officer [s9.49A(3) of the Act; or
2. without affixing the Common Seal, by the Chief Executive Officer, another employee or agent of the Shire who has been authorised by resolution of Council to sign documents on behalf of the Shire. [s9.49A(4) of the Act.

Three document categories have been established to assist in determining the appropriate signing authority.

Category 1 Documents - Common Seal

The affixing of the Common Seal is authorised for documents that are ceremonial in nature, where there is a statutory requirement or where the other party requires the use of the Common Seal.

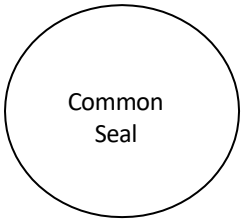
Category 1 documents require a specific resolution of Council to execute the document with the Common Seal. Category 1 documents are as follows:

1. Local Laws – new or amendments;
2. Local Planning Schemes – new or amendments;
3. Mortgages and loan documents (Outside of the WA Treasury Corporation (WATC) Master Lending Agreement);
4. Landgate Transfer of Land forms;

5. Documents required by other party to be duly executed by Common Seal; and
6. Documents of a Ceremonial Nature (e.g. Sister City Agreements)

The sealing clause shall be:

The Common Seal of the **SHIRE**)
OF MURRAY was affixed on)
[_ _ Month 20 _ _] by the authority)
of the Council in the presence of:)



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(Insert Name of Shire President) (Insert Name of CEO)

Shire President Chief Executive Officer

Category 2 Documents – No Common Seal

Under section 9.49A(4) Council authorises the officers listed in the Table below to sign documents on behalf of the Shire. Only Directors, Managers, and other officers with delegated authority from the Chief Executive Officer may sign (execute) documents relevant to matters within the scope of their Directorate and/or Business Unit.

Description	Authority to Execute	Typical documents included, but are not limited to:
Offer and Acceptance forms and associated documents required to enact a decision of Council to purchase or sell land. This does not include Mortgage and Transfer of Land documents which are Landgate forms listed as Category 1 documents.	• Chief Executive Officer; • Responsible Director	➢ standard REIWA terms ➢ Special conditions of offer; ➢ Contracts of sale
Documents required to enact a decision of Council, which are not Category 1 documents.	• Chief Executive Officer; • Responsible Director; • Shire Solicitors, as directed by the Chief Executive Officer.	➢ Mortgages and loan documents under the WATC Master Lending Agreement; ➢ Contractual documents resulting from a tender process. ➢ Notification on title as required by a condition of approval, etc

Category 2 Documents – No Common Seal, Continued….

Description	Authority to Execute	Typical documents included, but are not limited to:
General deeds, legal and service agreements.	• Chief Executive Officer; • Shire Solicitors, as directed by the Chief Executive Officer; • Responsible Director.	➢ EBA's ➢ Settlements and/or releases ➢ Confidentiality and non- disclosure ➢ Developer contributions ➢ Memorandums of understanding ➢ Other statements of intent and terms and conditions ➢ Funding agreements ➢ Sponsorship ➢ Contractual documents related to procurement.
Leases, licences and access agreements, management agreements and similar documents.	• Chief Executive Officer; • Responsible Director; • Responsible Officer.	➢ Any notices required to be given under a lease, etc. ➢ Leases where the entry into leases is not from a Council decision and under delegated authority (CEO only).
Documents prepared for registration at Landgate excluding Mortgage and Transfer of Land forms, which are Category 1 documents.	• Chief Executive Officer; • Responsible Director; • Shire Solicitors, as directed by the Chief Executive Officer; • Manager's Planning Building or Engineering Services.	➢ Restrictive covenants ➢ Caveats ➢ Memorials ➢ Covenants ➢ Easements ➢ Rights of carriageway
Documents required to enact a decision made under delegated authority or as a condition of approval given under delegated authority.	• Chief Executive Officer; • Responsible Director; • The Shire officer/ responsible officer exercising delegated authority.	➢ Planning approvals ➢ Building approvals ➢ Permits ➢ Other approvals
Planning or Building forms where the Shire needs to sign it as an owner of the land.	• Chief Executive Officer	➢ Development applications where the Shire owns the land ➢ Building applications where the Shire owns the land.

The signing clause for Category 2 documents shall be:

Signed for and on behalf of the Shire of Murray under section 9.49A(4) of the *Local Government Act 1995* by its authorised officer.

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Name of Authorised Officer
Title of Authorised Officer

Category 3 Documents

Category 3 documents are created in the normal course of business and are consistent with the Shire's policies and procedures. Category 3 documents are to be executed by the Chief Executive Officer, Director or Manager, or a Shire officer where the authority has been extended to that officer through an authorisation, policy, procedure, protocol or a function in a position description.

These documents include, but are not limited to the following:

1. General letters and other correspondence, documents that reflect operational or procedural actions required in the ordinary course of business;
2. Agreements for the purchase of goods and services identified within the directorates budget (other than tenders) and conforming to the requirements of the Shire's Purchasing Policy and other relevant policies;
3. Contracts for grant funding with private agencies (incoming and outgoing);
4. Regular hire agreements for Shire facilities;
5. Notices under section 3.25 of the Act;
6. Prosecution and Court Hearing Notices;

Roles and Responsibilities

The common seal is in the custody of the Office of the Chief Executive Officer which is responsible for arranging the affixing of the common seal on documents. A record of its use is kept in the Shire's Common Seal Register (D12/39052).

The responsible officer is to ensure that they fully understand what is being executed on behalf of Council. If it is unclear what category a document is, then the higher category is to take precedence.

Policy Detail		
Responsible Directorate	Corporate Services	
Responsible Department	Governance	
Responsible Officer	Manager Governance	
Next Policy Review / Schedule	2027 (3-yearly)	
Council Adoption	**Date / Resolution**	24 November 2022 (OCM22/150)
Amendment Record	**Date / Resolution**	19 December 2024 (OCM24/159)