



POLICY NO	CP/GOV-3110	
POLICY	Common Seal Policy	
RESPONSIBLE DIRECTORATE	Governance	
RESPONSIBLE OFFICER	Chief Executive Officer	
COUNCIL ADOPTION	Date: 24 July 2018	Resolution No: 115811
REVIEW DUE	Date: 26 July 2020	
LEGISLATION	Local Government Act 1995 – Section 9.49A, Section 2.5(2)	
RELATED POLICIES	Employee Code of Conduct, Meeting Procedures Local Law 2016	
RELATED ORGANISATIONAL DIRECTIVES		

PURPOSE:

To provide greater clarity, consistency and efficiency as to the proper and authorised use of the Shire's Common Seal.

To establish, in accordance with the requirements of section 9.49A of the Local Government Act 1995:

1. Protocols for affixing and administration of the Shire of Wyndham East Kimberley's Common Seal; and
2. Authority for the Chief Executive Officer or another agent of the Local Government to sign (execute) documents on behalf of the Shire of Wyndham East Kimberley.
3. The arrangements for the keeping of the common seal in a secure location and the appointment of a person who is to have custody of the seal.

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 letters and emails, which:

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

POLICY STATEMENTS:

The Chief Executive Officer may by general authority of Council, affix the Shire's Common Seal to the documents as listed from time to time, in the schedule as attached to this Policy. 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.

Chief Executive Officer

The Chief Executive Officer 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.

EXPLANATORY NOTES:

Method of Affixing the Common Seal.

Below are examples of how documents should be executed under the common seal:

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

DATED: _____ 20__

The Common Seal of the Shire of Wyndham East Kimberley is affixed.

[INSERT NAME OF SHIRE PRESIDENT]
SHIRE PRESIDENT



[INSERT NAME OF CEO]
CHIEF EXECUTIVE OFFICER

Example B: Sealing of Documents in accordance with Policy CP/GOV 3110

DATED: _____20__

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

[INSERT NAME OF SHIRE PRESIDENT]
SHIRE PRESIDENT



[INSERT NAME OF CEO]
CHIEF EXECUTIVE OFFICER

RISK:

Risk: Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

Control: Review policies and procedures in accordance with review schedule.

SCHEDULE 1

Documents to Which the Common Seal may be affixed under General Authority of Council:

1. Restrictive Covenants – under s.129BA of the Transfer of Land Act 1893 and any discharge or modifications of covenants;
2. Lodgement, modification and withdrawal of Caveats;
3. Lodgement, modification and withdrawal of Memorials;
4. Leases where Council has previously resolved to enter into including renewals, extensions or modifications of leases;
5. Deeds of Agreement, Development Contribution Deeds and Deeds of Release;
6. Licences;
7. Covenants and any discharge or modification of covenants;
8. Easements and the surrender or modification of easements;
9. Notifications on title and withdrawal or modification of notifications;

10. Rights of Carriageway agreements and withdrawal or modification of Rights of Carriageway agreements;
11. Reciprocal Access agreements and withdrawal or modification of Reciprocal Access agreements;
12. Management Statements and withdrawal or modification of Management Statements;
13. General Legal and Service Agreements;
14. Transfer of land documents where Council has previously resolved to either purchase or dispose of land or land is being transferred to the Shire for a public purpose;
15. Debenture documents for loans which Council has resolved to raise;
16. New Funding or Contracts of Agreement between the Council and State or Commonwealth Governments or Private Organisations for programs to which Council has previously adopted, or additions to existing programs, which in the view of the Chief Executive Officer are in accordance with the original intent of the adopted program;
17. Local Planning Scheme Amendments;
18. Any other documents stating that the Common Seal of the Shire of Wyndham East Kimberley is to be affixed or arising from conditions of subdivision, survey strata, strata title or development approvals or provisions of a Structure Plan or Detailed Area Plan.