

Governance & Compliance

Use of the Shire of Koorda Common Seal/Executing of Legal Documents

Objective

To satisfy the legal requirements regarding the execution and validation of documents and Contracts in accordance with section (s.) 9.49A and 9.49B of the *Local Government Act 1995*.

Policy

The Shire President (**President**) and Chief Executive Officer (**CEO**) are authorised to sign and/or affix the common seal to the following documents, where such documents result from the following transactions:

- Where land is disposed of pursuant to s. 3.58 of the Local Government Act 1995 (as amended);
- Where land is acquired pursuant to s. 3.55 and s. 3.59 of the Local Government Act 1995 (as amended);
- In respect of leases of land and licence to occupy municipal property where approved by Council;
- In respect of leases for the purchase of plant and equipment approved by Council;
- In respect of borrowings approved by Council;
- In respect of easements and legal agreements over land for the purpose of drainage or conditions arising from subdivision of land and planning approvals;
- In respect of withdrawal of caveats and surrender of easements where the CEO considers that Council's interests have been satisfied;
- In respect of contracts of employment approved by Council;
- In respect of documents of a ceremonial nature, where the affixing of the common seal is for prosperity and not a legal requirement;
- In respect of agreements required for funding of Council works and services considered with the resolution of Council or requiring renewal of the agreement for funding currently provided;
- In respect of the adoption of local laws; and
- Any document stating that the common seal of the Shire is to be affixed.

In relation to the above, in the absence of the President and/or CEO, as the case may be, the Deputy President and the Acting or Deputy CEO are authorised to affix the common seal.

The procedure to be adopted for the use of the common seal is as follows:

- The CEO is responsible for the security and proper use of the common seal.
- The common seal is not to be affixed to any documents except as authorised by Council.
- The common seal is to be affixed to a document in the presence of:
 - The Shire President, or in his/her absence, the Deputy President; and
 - The CEO or Acting/Deputy CEO, as the case may be;
- Each of whom is to sign the document to attest that the common seal was so affixed.
- Details of all transactions where the common seal has been affixed must be recorded in a register kept by the CEO.
- The register is to record:
 - The date on which the common seal was affixed;
 - The nature of the document; and
 - The parties to any agreement to which the common seal was affixed.

The wording to accompany the application of the common seal to be as follows:

- "The common seal of the Shire of Koorda was hereto affixed by the Authority of Council."; or
- "The common seal of the Shire of Koorda was affixed by authority of a resolution of Council in the presence of the Shire President and the Chief Executive Officer."

Authority is provided to the CEO or the person acting in the position of CEO to sign contracts, deeds and other documents that do not require the affixing of the common seal.

Related Documents (Legislation/Local Law/Policy/Procedure/Delegation)
Local Government Act 1995, s9.49A and s9.49B

Review History
Review Due: March 2024

Date	Council Resolution	Description of review/amendment
28/06/2023	RES: 120623	V1.0. Re-branded with major policy review and update.
22/06/2021	RES: 020621	Adoption of Policy

