2.11 EXECUTION OF DOCUMENTS POLICY

Responsible Directorate	Corporate Services
Responsible Service Area	Governance
Adopted	August 2026 C-20-8-2026 September 2023 C6.09.23
Reviewed	August 2026 C-20-8-2026
Procedure Ref	Execution of Documents and Use of Common Seal Procedure

1. PURPOSE

The purpose of this policy is to establish, in accordance with the requirements of the *Local Government Act 1995* the authority for the Chief Executive Officer (CEO) and other authorised officers to sign (execute) documents on behalf of Shire of Mundaring (the Shire), and the protocols for affixing and administration of the Shire's common seal.

This policy provides overarching authorisations to various Shire officers so that Council approval is not required every time a document is signed.

2. SCOPE

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

3. DEFINITIONS

Act	*Local Government Act 1995.*
'acting through'	An individual undertaking a task on behalf of a more senior officer who is responsible for that task.
authorised officer	person, or class of persons, appointed under a head of power (e.g. section 9.10(2) of the Act) for the purposes of performing particular functions.
CEO	the Chief Executive Officer who is the most senior employee in the organisation. The CEO is appointed by and directly accountable to the Council.
'delegated authority' (exercise of)	the exercising of a power or discharging of a duty by a person with the statutory power to do so, and who has been duly appointed

Director	an employee classified as a senior employee under section 5.37 of the Act and directly responsible to the CEO.
document	for the purpose of this policy, document means any paper or electronic document that records, evidences or gives effect to rights, obligations, decisions, approvals, transactions or arrangements involving the Shire and/or third parties.
Line Manager	an employee responsible for organisational and financial management of a service area.
Electronic Signature	a method used to identify a person and indicate that person's intention in respect of the information communicated or document signed by electronic means.

4. POLICY

Section 9.49A(1) of the Act provides that a document is duly executed by a local government if:

- the common seal of the local government is affixed to it in accordance with section 9.49A(2) and section 9.49A(3); or
- it is signed on behalf of the local government by a person or persons authorised by the Council under section 9.49A(4) to do so.

For the purpose of this policy, documents commonly executed by the Shire are grouped into three categories. The way in which a document is to be executed and who has the authority to execute a document is based upon its category as outlined below.

The actions for the implementation of this policy are detailed in the "Execution of Documents Procedure".

The CEO is responsible for the safe custody and proper use of the common seal and for ensuring a register is maintained recording each instance in which the common seal is affixed.

4.1. Categories

If it is unclear what category a document is, then the higher category is to take precedence.

If a document does not fit under any category, the Shire officer is to refer to a Director or the CEO for appropriate category classification.

4.1.1. Category 1 Documents

Category 1 documents require the Shire's common seal to be affixed in accordance with section 9.49A of the Act as follows:

a. Council has specifically authorised by resolution:
   i. the execution of the document by the Shire; and,
   ii. the affixing of the common seal to the document in accordance with section 9.49A(2).
b. The common seal is affixed to the document in the presence of the Shire President and the CEO to attest the common seal was so affixed in accordance with section 9.49A(3). In the absence of the Shire President and/or the CEO, as the case may be, the Deputy Shire President and a Director as authorised in accordance with the provisions of the Act.

4.1.2. Category 2 Documents

Category 2 documents do not require the Shire's common seal to be affixed.

In accordance with section 9.49A(4), Council have authorised officers designated to the positions listed under schedule 1 to sign documents on behalf of the Shire. These authorisations do not undermine any delegated authority which may be in place.

4.1.3. 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, Line Manager, or a Shire officer where the authority and accountability has been extended to that officer 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 directorate and/or service area which is responsible for the document.

Schedule 1 - Document Categories

The below table indicates pre-approved signing rights (marked with an 'X'):

Category 1	Shire President	CEO	Authorised officer	Director	Line Manager
Land transfer forms	x	x	Where authorised		
Loan documentation (relating to loans which Council has resolved to raise)	x	x	Where authorised		
Local Laws (made and amended)	x	x	Where authorised		
Local Planning Scheme (adopted and amended)	x	x	Where authorised		
Mortgage documents	x	x	Where authorised		
Documents which, in the opinion of the CEO, or Director are sufficiently complex, high risk and / or significant in nature to warrant the affixing of the common seal	x	x	Where authorised		
Documents of a ceremonial nature	x	x	Where authorised		

Category 2	Shire President	CEO	Authorised Officer	Director	Line Manager
Offer and Acceptance forms and associated documents required to enact a decision of Council to purchase or sell land. Note: this does not include mortgage documents and land transfer forms which are Landgate forms		x	x		
Documents required to enact a decision of Council which are not Category 1 documents		x	x	x	
General deeds, legal and service agreements		x		x	x
Leases, licences and access agreements, and associated documents		x	x	x	x
Documents required to enact a decision made under a			x		

delegated authority or as a condition of approval given under delegated authority			[refer to delegation]		
Documents required when the Shire owns land		x	x	x	x
Documents required when the Shire manages land under a management order		x	x	x	x
Documents prepared for registration at Landgate. (The above does not extend to Category 1 Mortgage documents and Land transfer forms)		x	x	x	x
Indemnity given by the Shire to a third party		x	x	x	
Memorandums of Understanding and other statements of intent and terms and conditions		x	x	x	x

Category 3	Shire President	CEO	Authorised Officer	Director	Line Manager
Documents which arise out of the general operation of a Directorate, and/or are those which are sent on behalf of the Shire in the ordinary course of business (acting through).		x	x	x	x

4.2. Order of signing

Documents should generally be executed by all other parties prior to being executed by the Shire.

Exceptions may arise with Scheme Amendments and Structure Plan documents which may be certified prior to Western Australian Planning Commission (WAPC) certifying the document or when it is not practicable or appropriate.

4.3. Protocol for Execution by Authorised Officers

Employees authorised under section 9.49(A)(4) of the Act may sign documents identified for that purpose.

Directors may only execute documents relevant to matters within the scope of their directorate. Documents relevant to the activities of multiple directorates may only be executed by the CEO.

Line Managers may only execute documents relevant to matters within the scope of their responsibilities. Documents relevant to the activities of multiple service areas may only be executed by the relevant Director.

If any documents are considered high risk and/or significant in nature having for example a political, historical/customary, controversial or financial impact on the Shire, the CEO or Director can determine how such documents are to be executed.

Nothing in this policy prevents the use of an electronic signature where permitted by law, the relevant counterparty accepts that method, and the method used appropriately identifies the signatory and indicates their intention to be bound. This does not apply where legislation, Landgate requirements, the nature of the document, or a required witnessing process necessitates physical execution.

Where a document is intended to take effect as a deed, it must only be executed as a deed by a person authorised to do so by Council resolution, delegation or other written authority, and in a manner permitted by law.

4.4. Deputising or Signing on Behalf of Another Person

A document may only be executed by a person who holds a position authorised by Council's adoption of this policy, or by a person formally appointed in writing to act in that authorised position. Evidence of the acting appointment or other written authority must be retained with the execution record.

4.5. Order of Precedence

The following takes precedent over this policy, in the order listed below:

a. any legislation;
b. formal requirements of a Commonwealth or State department, authority or agency (as described in a policy or procedure);
c. a Council decision expressly specifying a particular way in which a document is to be executed; and
d. the Shire's Delegation Register.

5. RELATED LEGISLATION

Local Government Act 1995 section 9.49A

6. RELATED DOCUMENTS

Delegations Register

Digital Signatures (OP-45)