Shire of GNOWANGERUP

BORDEN ◆ GNOWANGERUP ◆ ONGERUP

Heart of the Stirlings

This policy has been recently adopted by Council and is published here for information and transparency purposes. It will be incorporated into the Shire of Gnowangerup Policy Manual as part of the next consolidated update, together with other policies currently under review. Until the updated Policy Manual is issued, this document should be read as an adopted policy of the Shire.

POLICY MANUAL UPDATE NOTICE

10 NOVEMBER 2026

EXECUTION OF DOCUMENTS AND USE OF COMMON SEAL POLICY

Objective

The objective of this Policy is to ensure that the Shire of Gnowangerup executes all documents in accordance with the *Local Government Act 1995*.

1.0 Purpose

The purpose of this Policy is to:

(a) establish categories of documents and, in respect of each category, provide for the appropriate method of execution under section 9.49A of the Act, including when the common seal is to be used; and

(b) create the authorisations provided for in section 9.49A of the Act, for the CEO and other Shire officers to execute documents on behalf of the Shire.

These policy provisions ensure that routine administrative documents can be executed efficiently, without requiring separate Council authorisation on each occasion.

2.0 Definitions

Act means the *Local Government Act 1995* (WA);

CEO means the Chief Executive Officer from time-to-time of the Shire of Gnowangerup;

Council means the Council of the Shire of Gnowangerup;

Document means any paper or electronic document, including communications such as letters and emails, which:

(a) conveys a decision; or

(b) establishes an obligation on the Shire; or

(c) is ceremonial;

3.0 Policy Statement

Statutory context

Section 9.49A(1) of the *Local Government Act 1995* provides that a document is duly executed by a local government if:

(a) the Common Seal of the local government is affixed to it; or

(b) it is signed on behalf of the local government by a person(s) authorised by the Council to do so.

Policy

This policy explains how documents are executed on behalf of the Shire of Gnowangerup (Shire), including when the common seal is used and who may sign documents.

Efficient and consistent document execution supports good governance, timely service delivery and transparency.

This policy supports compliance with section 9.49A of the Act and sets out the Shire's internal authorisations for executing documents.

Scope

This policy applies to the Shire President, CEO and employees of the Shire involved in preparing, approving, signing, witnessing or affixing the common seal to documents.

This policy applies to all documents requiring execution by the Shire, whether under common seal or by signature only, including but not limited to contracts, deeds, leases, licences, statutory instruments and other legally binding documents, and correspondence.

Guidance

Executing a document is an administrative step. A document must only be executed when the Shire has authority to do so.

For example, until the Council passes a resolution approving the Shire to enter into a lease on particular terms with another party, the President and CEO are not authorised to witness the affixing of the Shire's common seal to the subject lease.

There is no legal requirement for the Shire's common seal to be affixed in order for a document to be executed, as execution can legally occur without the common seal being affixed where Council resolves to authorise the CEO or another employee to sign the document (section 9.49A(4) of the Act).

Inconsistency

If there is any inconsistency between this policy and the requirements of the following, then the following will take precedence (to the extent of the inconsistency):

(a) legislation;

(b) the formal requirements of a Commonwealth or State department, authority or agency that are binding on the Shire; or

(c) a decision of the Shire's Council.

Limits of the Policy

The authority to execute a document under this policy does not override, extend or replace an officer's financial authorisation limits as set out in the Shire's purchasing policy.

4.0 Implementation

4.1 Category 1 Documents – Common Seal Required

Category 1 documents

Category 1 documents are those that require the affixing of the Shire's Common Seal.

Typically, such documents require execution by common seal because they are documents which have a public profile or some other high profile, or they are complex or high-risk, or they are of sufficient public importance to warrant the affixing of the common seal.

A non-exhaustive list of Category 1 documents is set out in the table in **Appendix A** to this policy.[1]

Council approval required

Category 1 documents require a resolution of Council, whether specific or general*, to:

(a) give effect to an act; or

(b) enter into an agreement,

that is the subject of the document.

(*A 'general' resolution is a resolution of Council that is not specifically about the matter, but the resolution encompasses or contemplates the matter).

Therefore, the common seal must not be affixed to any document unless Council has first approved the subject matter of that document.

Council authorisation under section 9.49A(2) of the Act for the affixing of the common seal to Category 1 documents

Under section 9.49A(2) of the Act, Council authorises the execution of Category 1 documents on behalf of the Shire by the affixing of the common seal to those documents.

Affixing the common seal

Under section 9.49A(3) of the Act, the common seal must be affixed in the presence of the Shire President (or the Deputy President when acting in accordance with section 5.34 of the Act) and the CEO (or a person duly appointed to act in the capacity of CEO in their absence) and signed by both accordingly.

4.2 Category 2 Documents – No Common Seal Required

Category 2 documents

Category 2 documents can be executed on behalf of the Shire without the Common Seal being affixed.

[1] A document is classified as a 'Category 1' document by the inclusion of the numeral 1 in the 'Category' column of the table in Appendix A, next to the name or description of the document in the first column of that table.

Category 2 documents are typically documents with a low public profile that typically do not require (or will not have been the subject of) an express Council resolution to be executed and to which the common seal should be affixed.

A non-exhaustive list of Category 2 documents is set out in the table in **Appendix A** to this policy.[2]

Nothing in this policy prevents the execution of Category 2 documents by affixing the common seal.

Council authorisation under section 9.49A(4) of the Act for the signing of Category 2 documents

Pursuant to section 9.49A(4) of the Act, Council authorises the CEO to sign:

(a) any document on behalf of the Shire that is necessary or appropriate to carry out the CEO's functions under any written law; and

(b) without limiting paragraph (a), any other Category 2 document, including those Category 2 documents listed in Appendix A where a tick appears in the column headed 'CEO' for that document,

without affixing the common seal.

Also pursuant to section 9.49A(4) of the Act, Council authorises other Shire officers to sign the Category 2 documents listed in Appendix A, where the officer title or description is specified in the column headed 'Other Shire Officer' for that document, without affixing the common seal.

Limitations (etc.) on signing of Category 2 documents by Shire employees

Shire employees may only execute documents that relate to matters within the scope of their work unit or functional responsibility.

This policy does not limit the signing of documents pursuant to any other authorisations, such as:

(a) a delegated authority under the Shire's Delegated Authority Register;

(b) a statutory authority; and

(c) operational authority.

5.0 Common Seal Register

Details of all transactions where the common seal has been affixed shall be recorded in a register kept by the CEO, with such register to record each date on which the common seal was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed. The register is to record each transaction by an identifying

[2] A document is classified as a 'Category 2' document by the inclusion of the numeral 2 in the 'Category' column of the table in Appendix A, next to the name or description of the document in the first column of that table.

sequential number and this number is to be recorded against the common seal as it is affixed (refer to * shown in the below examples).

6.0 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 a Specific Resolution of Council

DATED: _____ 20___

The Common Seal of the Shire of Gnowangerup was affixed by authority of a resolution of the Council in the presence of:

_____
[INSERT NAME OF PRESIDENT]
PRESIDENT

_____
[INSERT NAME OF CEO]
CHIEF EXECUTIVE OFFICER



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Example B – Other Documents

DATED: _____ 20___

The Common Seal of the Shire of Gnowangerup was affixed in the presence of:

_____
[INSERT NAME OF PRESIDENT]
PRESIDENT

_____
[INSERT NAME OF CEO]
CHIEF EXECUTIVE OFFICER



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Appendix A

Document Type	Category	Common Seal *(✓) only if specified in the document	President	CEO
Local Laws – made and amended	1	✓	✗	✗
Planning Schemes – adopted and amended	1	✓	✗	✗
Land Transaction documents, including: • sale; • purchase; • vesting; • contributed (gifted) assets; • Notifications of factors affecting land under 70A of the *Land Transfer Act 1893* – lodge or withdraw • Easements – by land transfer o Rights of carriage way; o Rights of support to land burdened by buildings; o Rights to erect a party wall; o Rights to light and air (*Property Law Act 1969*); o Rights to take water from wells or bores; o Rights to install and operate drains and drainage works; o Rights to install, maintain and operate oil, gas or other pipelines; o Rights to install, maintain and operate electric power lines, telephone and other cables and supporting pylons. • Restrictive Covenants – by land transfer • Deeds – land transfer for public purposes • Legal agreements *NOTE: Based on execution clause and requirements of specific documents*	2	*(✓)	✗	✓
Mortgages, Loans and Debentures	1	✓	✗	✗
Power of Attorney to act for the Shire	2	✗	✓	✓
State or Commonwealth Government Funding Agreements	2	*(✓)	✗	✓
Grants and Funding Agreements with private agencies (incoming and outgoing)	2	*(✓)	✗	✓
Memorandum of Understanding	2	✗	✗	✓
Contracts and legal instruments, including contract variations, related to: • Procurement Contracts • Service Agreements (incoming or outgoing services) • Heritage Agreements • Acquittal of planning conditions	2	*(✓)	✗	✓
Development, subdivision and **strata-title approvals** building and demolition approvals for development of Local Government land	2	✗	✗	✓

Document Type	Category	Common Seal *(✓) only if specified in the document	President	CEO
Memorials and similar • Deed Poll Registration: A document lodged under the *Registration of Deeds Act 1856*, notifying the change of name of a person. • Memorial of Advertisement: A document lodged at the Office of Titles by a Local Authority evidencing that the legal requirements necessary to sell land for the non-payment of rates, have been attended to. • Prohibiting dealings in land: A document lodged at the Office of Titles under one of a number of statutes, which when noted on a Certificate of Title acts as a caveat.	2	✗	✗	✓
Documents that fulfil a **statutory local government duty or power**, for which there is no power of delegation or authorisation and is a matter which constitutes a potential risk to the Shire.	2	✗	✗	✓
Communications on behalf of the Shire, with Commonwealth or State Ministers	2	✗	✓	✓
Communications on behalf of the Shire, with CEOs of: • Commonwealth or State Government Departments • Industry representative bodies	2	✗	✗	✓
Communications on behalf of the Shire, relevant to the day-to-day operations of the Shire and which are subject of a level of political sensitivity or potential risk to the Shire.	2	✗	✓	✓
Ceremonial Certificates: • Honorary Freeman • Honorary Citizenship	1	✓	✗	✗
Deeds of Settlement – Employee matters	2	✗	✗	✓
Enterprise Bargaining Agreements	2	✗	✗	✓

COMPLIANCE REQUIREMENTS

Legislation	• Local Government Act 1995 – Section 2.5(2) • Local Government Act 1995 – Section 9.49A(4)

DOCUMENT CONTROL

STRATEGY AND GOVERNANCE

Category	Strategy and Governance
Policy Number	2.6
Responsible Officer	Senior Executive Assistant & Governance Officer
Initial Council Adoption	22 June 1998
Review Dates	31 May 2019 31 August 2023 (approved by Council 27 September 2023) 31 August 2026 (approved by Council 28 October 2026)
Next Review Due	31 August 2029 This policy will be reviewed every 3 years or more often where circumstances require.

AMENDMENT HISTORY

Date	Council Resolution	Author	Description of Amendment