

POLICY

TITLE:	Common Seal Policy		
DIRECTORATE:	CEO		
ADOPTED BY:	Council Resolution: OM-23/173		
DATE OF ADOPTION:	December 2023	DATE OF REVIEW:	December 2028
POLICY NUMBER:	A&G2		
LEGISLATIVE REF:	Section 38 of the Local Government Act 2019		

1. INTRODUCTION

1.1. Purpose

A common seal is a the 'signature' of Barkly Regional Council that is used in certain circumstances to execute documents such as leases, contracts, land contracts, property transfers, loan documents, mortgages and guarantees. The purpose of this Policy is to regulate the use of Council's Common Seal and prohibit unauthorised use of the Common Seal or any device resembling the Common Seal.

1.2. Scope

This policy applies to elected members and employees of Barkly Regional Council.

1.3. Definitions

Common Seal means the seal which represents the equivalent of a legal authority from Barkly Regional Council to execute documents, and which is stored in a secure place. In its physical manifestation, it is a rubber stamp carrying the words "Common Seal", the words Barkly Regional Council and Council's Australian Business Number (ABN).

1.4. Safe Location of the Common Seal

The Common Seal shall remain in the safe at Barkly Regional Council Head Office, to be removed only by the Chief Executive Officer or their Executive Manager/Delegate for the purpose of signing and sealing Council contractual documents.

1.5. Policy Objectives

- 1) Council is committed to ensuring that the Council's Common seal is only used by authorised people as provided under the Local Government Act 2019; and
- 2) To ensure that Council Common Seal is used after seeking Council's approval via a resolution; and

- 3) To ensure that ratification of the use of Council's Common Seal occurs only on extremely urgent matters that the CEO and the elected member reasonably believes could not wait for calling of Council meeting to seek approval.

2. POLICY STATEMENT

2.1 Affixing the Common Seal

The Council's Common Seal may only be affixed following a resolution of Council. The Chief Executive Officer and the Mayor or one elected member duly appointed to act in the role, as occurs from time to time are designated as signatories about the Common Seal. A permutation of any two persons, one from A & one from B holding the following positions are required as authenticating witnesses to the affixing of the common seal:

- a. Chief Executive Officer (or duly appointed Acting Chief Executive Officer)
- b. one elected member.

To avoid overusing the common seal and having more items on meeting agendas than necessary, Council will affix the common seal in the following types of circumstances:

- a. real estate transactions
- b. where another party requires an agreement to be by formal deed
- c. where a funding agreement requires the common seal
- d. for high value contracts. (Dollar amount considered a higher value contract requiring a common seal must be determined by Council resolution)
- e. where legal advice to Council recommends that a common seal be used.

2.2 Common Seal Register

- a. Council must maintain a register identifying all documents executed with the Common Seal affixed.
- b. Register entry details whereby the common seal has been affixed, shall be recorded in an electronic common seal register. Each entry must record the date on which the common seal was affixed to a document, Council resolution number, the nature of the document, and parties to agreement to which the common seal was affixed.
- c. Where the Council's Seal has been used without Council resolution and requires ratification, the register must include the reason why affixing it without Council resolution was the only reasonable solution.

3. RELEVANT POLICIES

Policies and procedures to be read in conjunction with this policy are:

- 1) BRC Risk Management Policy
- 2) BRC Delegation Manual
- 3) Code of Conduct

4. Review

This policy will be reviewed on or before December 2028

5. Variations and Changes

Barkly Regional Council's reserves the right to revoke and/or amend this policy from time to time as is considered necessary to better manage its business and/or to comply with any legislative requirements.

6. Approval

This policy is approved



21.12.2023

Ian Bodill

Chief Executive Officer

Signature

Dated

END

