



1. Introduction

This Code is prepared pursuant to Section 92 of the *Local Government Act 1999 (the Act)*, which requires council to prepare and adopt a Code of Practice relating to the principles, policies and processes for public access to meetings, documents and minutes of council and committee meetings.

This code has also been developed to be read in conjunction with Local Government of Australia's Confidentiality Guidelines which are designed to assist with the application of the provisions in the Act to restrict public access to certain meetings and or documents.

2. Purpose

The Barunga West Council (**the Council**) supports the principle that the procedures to be observed at a meeting of Council or a Council Committee should contribute to open, transparent, informed decision-making, and encourage appropriate community participation in the affairs of Council.

However, Council also recognises that on a limited number of occasions it may be necessary, in the broader community interest, to restrict public access to discussion or documents.

3. Scope

This Code sets out the commitment of the Council to provide public access to Council and Council Committee meetings and documents and outlines the policies and procedures contained within the Act to restrict public access to meetings or documents. The Code also includes:

- information on the relevant provisions in the Act;
- Council's policy on public access and participation;
- the process that will be adopted where public access to a meeting or document is restricted; and
- grievance procedures to be followed if a member of the public believes that the Council has unreasonably restricted public access on a particular matter.

This Code sets out the policy of Council for access to meetings and documents and includes information in relation to:

- access to the agenda for meetings;
- public access to meetings;
- the process to exclude the public from meetings;
- matters for which Council, or a Council Committee, can order that the public be excluded;
- how the Council will approach the use of the confidentiality provisions in the Act;
- public access to documents, including minutes;
- review of confidentiality orders;
- accountability and reporting to the community, and the availability of the Code; and
- grievances about the use of the Code by Council.

4. Definitions

The Act	<i>Local Government Act 1999</i>
<i>Chief Executive Officer (CEO)</i>	Means the appointed Chief Executive Officer under Section 96 of the Act, and includes any person acting or delegated by the CEO under Sections 100 and 101 of the Act.
<i>clear days</i>	The time between the giving of the notice and the day of the meeting, but excluding both the day on which the notice was given and the day of the meeting, eg notice is given on a Friday for a following Tuesday meeting, the clear days being Saturday, Sunday and Monday.
<i>Council Committee</i>	As defined by either sections 41 or 126 of the Act; or sections 83 or 157 of the <i>Planning, Infrastructure and Development Act 2016</i> .
<i>Information or Briefing Sessions</i>	Section 90A provides that the council or the CEO may arrange for the holding of an information or briefing session. To constitute an information or briefing session under the Act more than one (1) member of the council or council committee must be invited to attend or be involved in the session. The session must be convened for the purposes of providing information or a briefing to attendees (s.90A(1)).
<i>Personal Affairs</i>	A person's financial affairs, criminal records, marital or other personal relationships, personal qualities, attributes or health status, or that person's employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person, but does not include the personal affairs of a body corporate.

5. Public Access to the Agenda for Meetings

Public access to Council agendas provides one of the main opportunities for the community to gain information about the business of Council and Committees. Agendas and associated documents for the meetings are publicly available subject to any indication from the CEO under section 83(5) of the Act or to an order of confidentiality under section 90(3) of the Act.

- 5.1 At least 3 clear days before the Council or Council Committee meeting (unless it is a special meeting) the CEO must give written notice of the meeting to all Council/Committee Members setting out the date, time and place of the meeting and must contain or be accompanied by the agenda for the meeting.
- 5.2 The notice of meeting and agenda will be placed on public display at each office of the Council that is open to the public for the general administration of Council business within its area at Port Broughton & Bute Offices and on Council's website www.barungawest.sa.gov.au.
- 5.3 Items listed on the agenda will be described accurately and in reasonable detail.
- 5.4 The notice and agenda will be kept on public display until completion of the relevant Council or Council Committee meeting and continue to be published on the website.



- 5.5 Copies of the agenda documents and non-confidential reports that are to be considered at the meeting will be made available to members of the public in attendance. A reasonable number of copies will also be available for public inspection as soon as practicable after they are supplied to the Members of Council.
- 5.6 Members of the public may obtain a copy of the agenda and any particular reports for a fee to cover the costs of photocopying, in accordance with a Council's schedule of fees and charges.
- 5.7 Where the CEO of the Council (after consultation with the principal member of the Council, or in the case of a Committee - the presiding member), believes a document or report on a particular matter should be considered in confidence with the public to be excluded, the order could be made in accordance with Section 90(3) of the Act and will be specified. [See Sections 83(5) (Council) and 87(10) (Committee) of the Act.]
- 5.8 The CEO (or a person nominated by the CEO) will ensure that any document or report supplied to members of the Council for consideration at a meeting of the Council is available for public inspection by members of the public –

In the case of a document or report supplied to members of the Council before the meeting – on a website determined by the CEO as soon as practicable after the time when the document or report is supplied to members of the Council; or

In the case of a document or report supplied to members of the Council at the meeting – on a website determined by the CEO as soon as practicable after the time when the document or report is supplied to members of the Council.

6. Public Access to Meetings

Council and Council Committee meetings are open to the public and attendance is encouraged, except where Council (or the Council Committee) believes it is necessary in the broader community interest to exclude the public from the discussion, and if necessary the decision, of a particular matter.

Council or the CEO, may arrange for the holding of a session (not being a formal meeting of a council or council committee) for the purposes of providing information or a briefing to attendees.

Information or briefing sessions will be held in accordance with Section 90A of the Act:

- 6.1 The public will only be excluded when considered proper and necessary i.e. confidentiality outweighs the principle of open decision-making.
- 6.2 Council encourages public attendance at meetings of the Council and Committees (including Information or Briefing Sessions) through public notification of meetings. Details of meeting dates and times are regularly updated on Council's Facebook page.
- 6.3 Section 90 & 90A provides that it is not unlawful for members of Council, a Committee or staff to participate in information / briefing session provided that a matter which would ordinarily form part of the agenda for a formal meeting is not dealt with in such a way as to obtain, or effectively obtain, a decision outside a formally constituted meeting of Council or Committee.



7. Process to Exclude the Public

- 7.1 Before a meeting orders that the public be excluded to enable the receipt, discussion and consideration of a particular matter, the meeting must, in public, formally determine if this is necessary and appropriate, and then pass a resolution to exclude the public while dealing with that particular matter. If this occurs then the public must leave the room. This means that all members of the public (including staff), unless exempted by being named in the resolution as being entitled to remain, are required to leave the room. For the operation of Section 90(2) of the public does not include a member of Council.
- 7.2 For the convenience of the public present at a council or committee meeting, where it is resolved to consider a matter in confidence, this matter should be deferred until all other business has been considered. This avoids asking the public to leave the room and having them wait until the matter is concluded and then allowing them to return with the possibility of the same process being repeated for a subsequent matter.
- 7.3 Once Council, or Committee, has made the order it is an offence for a person, who knowing that an order is in force, enters or remains in a room in which such a meeting is being held. It is lawful for an employee of Council or a member of the police force to use reasonable force to remove the person from the room if s/he fails to leave on request.
- 7.4 Once discussion on that particular matter is concluded, the public are then permitted to re-enter the meeting. If there is a further matter that needs to be considered in confidence, it is necessary to again undertake the same formal determination process and to resolve to exclude the public as above.

8. Matters from Which the Public Can Be Excluded

In accordance with Section 90(3) of the Act, Council, or a Council Committee, may order that the public be excluded in the following circumstances:

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- (b) information the disclosure of which;
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest;
- (c) information the disclosure of which would reveal a trade secret;
- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which;
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
- (e) matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person;
- (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;



- (g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (h) legal advice;
- (i) information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council;
- (j) information the disclosure of which:
 - (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
 - (ii) would, on balance, be contrary to the public interest;
- (k) tenders for the supply of goods, the provision of services or the carrying out of works;
- (m) information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Plan Amendment Report, or a Development Plan Amendment Proposal, relating to the amendment is released for public consultation under that Act;
- (n) information relevant to the review of a determination of a council under the *Freedom of Information Act 1991*; and
- (o) information relating to a proposed award recipient before the presentation of the award.

In considering whether an order should be made under Section 90(2), it is irrelevant that discussion of a matter in public may (Section 90(4)):

- cause embarrassment to the Council or Committee concerned, or to members or employees of the Council; or
- cause a loss of confidence in the Council or Committee.

If a decision to exclude the public is taken, the Council or the Council Committee is required to note in the minutes of the making of the order and the grounds on which it was made. Sufficient detail of the grounds on which the order was made, will be included in the minutes.

9. Public Access to Minutes

Minutes of Council or a Council Committee must be placed on public display on Council's Website or as otherwise determined by the CEO, within 5 days after the meeting and kept on display for a period of 1 month.

10. Use of the Confidentiality Provisions

Any consideration of the use of the confidentiality provisions to exclude the public from the discussion of a particular matter at a meeting will require the identification of one or more of the grounds listed within Section 90(3) of the Act and the factual reasons for the relevance and application of the ground(s) in the circumstances. These are listed in section 9 of this Code.

The policy approach of the Council is that:

- 1) The principle of open and accountable government is strongly supported;
- 2) Information of the grounds on which an order to exclude the public is made will be conveyed to the public at the time of them being ordered to leave the meeting – the

- public will not be excluded until after a confidentiality motion has been debated and passed and sufficient reasons for the need to exclude the public given;
- 3) Once discussion of the matter is concluded, the meeting will then consider if it is necessary to make an order that a document associated with this agenda item (including minutes) remain confidential. In determining this, the meeting will have regard to the provisions of section 91 and in particular section 91(8) which details when a Council must not order that a document remain confidential;
 - 4) If the meeting determines that it is proper and necessary to keep a document confidential, then a resolution for an order to this effect is required to be resolved by the meeting in accordance with Section 91(7) of the Act;
 - 5) The Council will not consider a number of agenda items "in confidence" together. It will determine each item separately and consider the exemptions relevant to each item;
 - 6) Once discussion of the matter is concluded and the public have returned, the decision of the meeting in relation to this matter will be made publicly known unless the Council has resolved to order that some information remain confidential. Details relating to any order to keep information or a document confidential in accordance with section 91(7) are also to be made known. When making an order the meeting must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed. If the section 91(7) order is to apply for a period exceeding 12 months, then this order must be reviewed every 12 months from the date it was made. This along with the making of the order pursuant to section 90(2) and the grounds pursuant to section 90(3) on which it was made are also to be recorded in the minutes;
 - 7) In all cases the objective is that the information be made publicly available at the earliest possible opportunity and that the community is informed of any Council order and the associated implications; and
 - 8) Where a person provides information to the Council and requests that it be kept confidential, Council is not able to even consider this request unless the matter is one that falls within section 90(3). If this is the case, Council will then be in a position to consider the request on its merits.

11. Public Access to Documents

Various documents are made available for purchase (for a fee) by the public. Council also make's these documents available in electronic form and placed on Council's website for public access.

Council or the Council Committee will only make an order that a document associated with a discussion from which the public are excluded is to remain confidential if it is considered proper and necessary in the broader community interest.

Council or the Council Committee can only resolve to keep minutes and/or documents confidential under Section 91(7) if they were considered in confidence pursuant to Sections 90(2) and 90 (3).

In accordance with Section 91(8), the Council or the Council Committee must not make an order to prevent:

- a. the disclosure of the remuneration or conditions of service of an employee of the council after the remuneration or conditions have been set or determined; or



- b. the disclosure of the identity of a successful tenderer for the supply of goods or the provision of services (including the carrying out of works), or of any reasons adopted by the council as to why a successful tenderer has been selected; or
- c. the disclosure of the amount or amounts payable by the council under a contract for the supply of goods or the provision of services (including the carrying out of works) to, or for the benefit of, the council after the contract has been entered into by all parties to the contract; or
- d. the disclosure of the identity of land that has been acquired or disposed of by the council, or of any reasons adopted by the council as to why land has been acquired or disposed of by the council.

Where keeping a document confidential is considered proper and necessary, a resolution to this effect is required which shall include;

- a. the grounds for confidentiality;
- b. the duration of the order or circumstances in which the order will cease to apply or a period after which the order must be reviewed. If the order has a duration of more than 12 months, the order must be reviewed at least once in every year; and (if applicable); and
- c. whether the power to revoke the order will be delegated to an employee of the Council.

Requests to access Council and Council Committee documents can be made under the Freedom of Information Act 1991. Inquiries in relation to the process for seeking access to documents held by Council should be directed to Council's accredited Freedom of Information Officer at the Council Office on 8635 2107.

12. Example of Confidentiality Provisions

The Council will record in the minutes of any Council and Council Committee meeting of an order in accordance with Section 90(2) and (3) and Section 91(7) as shown in the examples incorporated as Appendix 1 to this document.

13. Review of Confidentiality Orders

A confidentiality order made under Section 91(7) of the Act must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed. In any event, any order that operates for a period exceeding 12 months must be reviewed at least once in every year.

An order will lapse if the time or event specified has been reached or carried out. There is no need for the Council to resolve for the confidential order to be lifted. Once the order has lapsed, the minutes and/or documents automatically become public. At this point in time, it is important that the Council make this information publicly available and also include it on the Council's website.

A review of the reports or documents that were considered under the provision of Section 90(3) and 91(7) of the Act will be conducted every 12 months to ensure that items are released in accordance with the resolution of Council, when the confidential provision no longer applies.

Orders that exceed 12 months must be reviewed annually and the Council must assess whether the grounds for non-disclosure are still relevant and, if so, provide the relevant grounds and reasons for the minutes and/or documents remaining confidential. The conduct of the annual review can be delegated to the CEO and sub-delegated to an employee of the Council if appropriate. If there are any items that require a fresh confidentiality order because the original order is about to expire, then the reviewer will prepare a report to Council making recommendations with respect to each item to be retained in confidence. Each item must then be addressed separately and assessed against Section 90(3) and Section 91(7) of the Act. While a Council may delegate the power to undertake an annual review, the Council cannot delegate the power to apply Sections 90(3) and 91(7) of the Act.

A Council may resolve to exclude the public from a meeting to discuss and undertake consideration of the recommendations arising from the annual review in confidence, subject to the application of the relevant ground under Section 90(3) of the Act. Section 90(3) of the Act must be applied separately to each item.

If there is no longer any need for the confidentiality order then the Council or Council Committee may delegate to an employee of the Council the power to revoke an order made in accordance with Section 91(7) of the Act. The Council or Council Committee may also include in the resolution whether any delegation is given to an employee to revoke the order and if relevant, any conditions associated with the delegation.

14. Recordings of Council and Committee Meetings

Any recordings of Council or Committee Meetings are made are for the explicit use of the Minute Taker.

Recording of Council or Committee meetings constitute official records of Council for the purposes of the *State Records Act 1997* (SA). These records are classified as 'Temporary Records' and will be destroyed once reference use ceases, in accordance with the State Records of South Australia General Disposal Schedule No. 40 (3.6).

Please refer to the published Agendas and Minutes for official records of Council meetings.

15. Statements and conduct of attendees at Council Meetings

Attendance and participation at Council meetings does not provide Council members, employees or members of the public with protection from defamation claims in respect of statements made at a Council meeting.

Additionally, a Council member may not be able to rely on Section 39 of the Act as an immunity in respect of a defamation claim as it may not be considered as 'an honest act or omission in the exercise, performance or discharge, or purported exercise, performance or discharge, of the member's or council's powers, functions or duties'



16. Accountability and Reporting to the Community

A report on the use of Sections 90(2) and 91(7) by the Council and Council Committees must be included in the annual report of a Council as required by Schedule 4 of the Act. This supports commitment to the principle of accountability to the community. The reporting should include the following information, separately identified for both Council and Committees:

1. Number of occasions each of the provisions of Sections 90(2) and 90(3) were utilised;
2. Number of occasions each of the provisions of Sections 90(2) and 90(3) and Section 91(7) were utilised, expressed as a percentage of total agenda items considered;
3. An indication of any particular issues that contributed to the use of confidentiality provisions on more than one occasion e.g. a proposal to acquire a parcel of land was considered on 3 separate occasions;
4. Number of occasions that information originally declared confidential has subsequently been made publicly available; and
5. Number of occasions that information declared confidential has not been made publicly available and the reason for this in each case.

17. Availability of the Code

The public can inspect the Code electronically via Council's website, and may obtain a copy (for a fee). The availability of this code will be promoted to the local community from time to time through Council's notice of meetings, as they are published.

18. Grievance

Council is required to establish procedures for the review of decisions under Section 270 of the Act for:

- Council, and its Committees;
- employees of the Council; and
- other persons acting on behalf of the Council.

Any grievances regarding public access to either a meeting or a document should be forwarded in writing addressed to Council for review of that decision under the procedures established by Council. A copy of the procedures is available from the Council offices.

19. Responsibility

The CEO has been delegated authority for ensuring the proper operation of Council's policies. The CEO can assist in providing or obtaining further information on 8635 2107 or PO Box 3, Port Broughton SA 5522.

20. References

Appendix 1 Examples of Confidentiality Provisions Records.

21. Legislation

Local Government Act 1999

Local Government (General) Regulations 2013

Local Government (Proceedings of Meetings) Regulations 2013



Public Interest Disclosure Act 2018
Freedom of information Act 1991

22. Review

This Policy shall be reviewed within 12 months of each general election of the Council, or more frequently if legislation or Council needs changes to the content.

Date	Revision Number	Reason for Amendment
08 May 2007	01	Initial Adoption by Council
June 2008	02	Reviewed
Aug 2011	03	Reviewed
Nov 2015	04	Reviewed
Nov 2019	05	Reviewed
Aug 2020	06	Reviewed – Covid19. Inclusion of meeting and livestreaming guidelines.
Oct 2020	07	Reviewed per Norman Waterhouse advice regarding recording
Dec 2021	08	Amended to change references “Informal Gatherings” to “Information or Briefing Sessions”, and include model procedures for holding of electronic sessions (Per LG Reform).
Feb 2022	09	Reviewed to include for the Live-streaming of Council’s Special Meetings and where appropriate Council Information Sessions.
Jul 2022	10	<u>Removal of PUBLIC HEALTH EMERGENCY: Electronic Participation in Council Meetings.</u> Removal of Notice 5
Mar 2024	11	<u>Removal of Livestreaming</u>

Appendix 1

MODEL CONFIDENTIALITY ORDERS

For the closing of an information or briefing sessions:

Section 90A(4) and 90(3)(##) Order

Pursuant to Section 90A(4) and 90(3)(##)

Pursuant to Section 90A(4) and 90(3)(##) of the *Local Government Act 1999*, the **[Council/CEO]** orders that the information or briefing session to be held on **[insert date]** be closed to the public for item **[insert item description/title]**, and members of the public be excluded from attendance with the exception of required **[council name]** staff and:

- **[insert names/description of other persons who may remain, e.g. consultant/external advisor]**

on the basis that the information to be received, discussed or considered relates to:

- **[insert description and relationship with relevant 90(3) sub-section] [if relevant – i.e. for s.90(3)(b), (d) & (j)]**

and the receipt, consideration or discussion of the information or matter in an information or briefing session open to the public would, on balance, be contrary to the public interest because **[insert reasons]**.

Example

Pursuant to Section 90A(4) and 90(3)(b)(i) and (ii) of the *Local Government Act 1999*, the **CEO** orders that the briefing session held on **11 January 2022** be closed to the public for Item **1 – Waste management service level workshop**, and members of the public be excluded from attendance with the exception of required **ABC Council** staff and:

- **Harry Granger, Waste Management Consultants Pty Ltd**

on the basis that the information to be received, discussed or considered relates to:

- **Proposed service levels and requirements for consideration as part of the proposed waste services contract request for tender, disclosure of which at this time could confer a commercial advantage on persons with whom the council is conducting, or proposing to conduct, business such as a respondent to the request for tender, or to prejudice the commercial position of the council;**

and the receipt, consideration or discussion of the information or matter in an information or briefing session open to the public would, on balance, be contrary to the public interest because **it is in the public interest for frank and open discussions to be held in confidence about potential service levels and requirements to be included in a request for tender without disclosing that information prior to the release of any request for tender document to ensure Council obtains the best possible outcome from the tender process**



Section 90(3) (a) Order

Pursuant to Section 90(3) (a)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public. Note: except **[insert names and job title for staff members present and/or names of any other person i.e. consultant/external advisor]** be excluded from attendance at the meeting for Agenda Item [...] **[Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead), being **[insert name of person]** because **[insert reasons]**.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item [...] **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 1.

Performance Matters of the Chief Executive Officer

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Section 90(3) (a) Order

Pursuant to Section 90(3) (a)

Pursuant to Section 90(2) of the *Local Government Act 1999*, the Council orders that all members of the public, except **Joe blogs, Human Resource Consultant** be excluded from attendance at the meeting for Agenda Item **3 (Performance Matters of the Chief Executive Officer)**.

The Council is satisfied that, pursuant to Section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of the Chief Executive Officer, in that details of her performance review will be discussed.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of details of the Chief Executive Officer's performance may prematurely be disclosed before the details of the review have been discussed with the Chief Executive Officer.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **3 (Performance Matters of the Chief Executive Officer)** in confidence under Section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7)(b) of that Act orders that the **documents and all minutes** be retained in confidence for a period of **3** months or until the Performance Review process has been completed.



Example 2.

Notification to Council of absence of Council Member due to terminal illness of a family member

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Section 90(3) (a) Order

Pursuant to Section 90(3) (a)

Pursuant to Section 90(2) of the Local Government Act 1999, the Council orders that all members of the public, except **Joe Bloggs, CEO ABC Council** be excluded from attendance at the meeting for Agenda Item **5 (Absence of Councilor Citizen)**.

The Council is satisfied that, pursuant to Section 90(3) (a) the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of Councilor Citizen in that details personal to the Member will be disclosed.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances as the matters is personal to Councilor Citizen.

Section 91(7) (b) Order

Pursuant to Section 91(7)

That having considered Agenda Item **5 (Absence of Councilor Citizen)** in confidence under Section 90(2) and (3)(a) of the Local Government Act 1999, the Council, pursuant to Section 91(7)(b) of that Act orders that the **documents and all minutes** be retained in confidence for a period of **5 years**, or until such time as Councilor Citizen's role at the Council comes to an end and that this order be reviewed every 12 months.

Section 90(3) (b) Order

Pursuant to Section 90(3) (b)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item **[...] [Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3) (b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is:

- * **conducting business; or**
- * **proposing to conduct business; or**
- * **would prejudice the commercial position of the Council**

[Select applicable (more than one ground may be applicable)*]

[Insert explanation]

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **[...] [Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration.

Example 3.

Consideration of a the terms for a waste resources contract

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Section 90(3) (b) Order

Pursuant to Section 90(3) (b)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except **Joe Bloggs, CEO of ABC Council and Ivana Citizen, lawyer, XYZ Lawyers**, be excluded from attendance at the meeting for Agenda Item **10.1 (Terms of Waste Resources Contract)**.

The Council is satisfied that, pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is:

- a. proposing to conduct business; and**
- b. the information would prejudice the commercial position of the Council;**

in that the Council is currently engaged in a post tender negotiation with a preferred tenderer to finalise the terms and conditions of engagement for this service – the information to be considered in relation to this Agenda Item include detailed costings for in-house provision of waste resources services and other specific financial information, the disclosure of which would prejudice the Council's commercial position during the current ongoing negotiations.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other contract negotiations.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **10.1 (Terms of Waste Resources Contract)** in confidence under Section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **Tender documents and related Council reports** and all minutes be retained in confidence for a period of **2 years, or until a contract has been finalised and that this order be reviewed every 12 months.**

(Pursuant to section 91(8) (b) of the Act, details of the identity of the successful tenderer must be released once Council has made a selection. Pursuant to Section 91(8) (ba) of the Act,



details of the amount(s) payable by the Council under a contract for the provision of green waste services must be released once this contract has been entered into by all concerned parties.)

Section 90(3) (c) Order

Pursuant to Section 90(3) (c)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item **[...] [Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3)(c) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would reveal a trade secret because **[insert explanation]**.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **[...] [Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(c) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 4.

Consideration of Storm water Retention System

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Section 90(3) (c) Order

Pursuant to Section 90(3) (c)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except **Joe Bloggs, CEO of ABC Council and Janine Human, General Manager City Services ABC Council**, be excluded from attendance at the meeting for Agenda Item **4.2 (Consideration of Storm water Retention System)**.

The Council is satisfied that, pursuant to Section 90(3)(c) of the Act, the disclosure of the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would reveal a trade secret in that the details of the research undertaken and the intellectual property created in the system will be disclosed.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because such disclosure may compromise the Council's ability to complete its research.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **4.2 Consideration of Storm water Retention System** in confidence under Section 90(2) and (3)(c) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the research details, design and experimental analysis details and all minutes be retained in confidence for a period of **2 months**, or until the research project has been completed by Council.



Section 90(3) (d) Order

Pursuant to Section 90(3) (d)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item [...] **[Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3) (d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected

*** to prejudice the commercial position of the person who supplied the information, or**

*** to confer a commercial advantage on a third party.**

[Select applicable (more than one ground may be applicable)*]

[Insert explanation]

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item [...] **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(d) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 5.

Joint Venture Arrangement – Proposed Health and Leisure Centre

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Section 90(3) (d) Order

Pursuant to Section 90(3) (d)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except **Joe Bloggs, CEO ABC Council**, be excluded from attendance at the meeting for Agenda Item **6 (Joint Venture Arrangement – Proposed Health and Leisure Centre)**.

The Council is satisfied that, pursuant to Section 90(3) (d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected:

to prejudice the commercial position of the person who supplied the information

in that the financial capability of the joint venture partner to secure finance, and the developer's capability to undertake the project will be discussed in detail, and that this information may prejudice the commercial position of the joint venture partner as financial details and the resources of the developer will be disclosed.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information may result in a competitor receiving the information to the detriment of the developer.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **6 (Joint Venture Arrangement – Proposed Health and Leisure Centre)** in confidence under Section 90(2) and (3)(d) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the Council report and all minutes be retained in confidence for a period of **2 years or until the project is complete and that this order be reviewed every 12 months.**



Section 90(3)(e) Order

Pursuant to Section 90(3) (e)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item **[...]** **[(Brief Description of Agenda Item)]**.

The Council is satisfied that, pursuant to Section 90(3)(e) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is related to matters affecting the security of

- * **the Council, or**
- * **members, or**
- * **employees of the council, or**
- * **council property, or**
- * **the safety of any person**

[Select applicable (more than one ground may be applicable)*]

[Insert explanation]

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **[...]** **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(e) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 6.

Review of Security Systems

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Section 90(3) (e) Order

Pursuant to Section 90(3) (e)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except **Joe Bloggs, CEO of ABC Council**, be excluded from attendance at the meeting for Agenda Item **10 (Security System Review)**.

The Council is satisfied that, pursuant to Section 90(3)(e) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is related to matters affecting the security of

- a. the Council;**
- b. members and employees of the council; and**
- c. council property,**

in that details of the trigger points, sensors and security codes for the council's security system will be discussed.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because of the safety risk to Council premises and staff if the abovementioned details are disclosed publicly.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **10 (Security System Review)** in confidence under Section 90(2) and (3)(e) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the Security System manuals and review documents and all minutes be retained in confidence for a period of **5 years, or until such time as a new security system is installed, and the current system is made redundant and that this order be reviewed every 12 months.**



Section 90(3) (f) Order

Pursuant to Section 90(3) (f)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item **[...] [Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3)(f) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the:

- * **prevention, or**
- * **detection, or**
- * **investigation of a criminal offence, or**
- * **the right to a fair trial.**

[Select applicable (more than one ground may be applicable)*]

[Insert explanation]

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **[...] [Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(f) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 7.

Corruption Allegations and Investigation of a Council Member

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Section 90(3)(f) Order

Pursuant to Section 90(3) (f)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except **Joe Bloggs, CEO ABC Council and Ivana Citizen, Lawyer, XYZ Lawyers**, be excluded from attendance at the meeting for **Agenda Item 10.2 (Corruption Allegations and Investigation of a Council Member)**.

The Council is satisfied that, pursuant to Section 90(3)(f) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the:

- a. detection; and**
- b. investigation of a criminal offence,**

in that details of a criminal allegation made against a Council Member will be discussed, the details of which may prejudice a related criminal investigation by SAPOL.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the SAPOL investigation is not yet complete, and disclosure of the above information may prejudice this investigation.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **10.2 (Corruption Allegations and Investigation of a Council Member)** in confidence under Section 90(2) and (3)(f) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **Police and Council reports** and all minutes be retained in confidence for a period of **2 years or until such a time as the investigation is resolved** and that this order be reviewed every 12 months.



Section 90(3)(g) Order

Pursuant to Section 90(3) (g)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item [...] **[Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3)(g) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information concerning matters that must be considered in confidence in order to ensure that the Council does not:

- * **breach any law, order or direction of a court or tribunal constituted by law,**
- * **breach any duty of confidence, or**
- * **breach any other legal obligation or duty**

[Select applicable (more than one ground may be applicable)*]

[Insert explanation]

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item [...] **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(g) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 8.

Consideration of proposed Supreme Court settlement Orders

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Pursuant to Section 90(3) (g)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **Joe Bloggs, CEO ABC Council and Ivana Citizen, Lawyer, XYZ Lawyers**, be excluded from attendance at the meeting for Agenda Item **13 (proposed Supreme Court settlement Orders from recent litigation involving the Council and Mr Harris)**

The Council is satisfied that, pursuant to Section 90(3)(g) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information concerning matters that must be considered in confidence in order to ensure that the Council does not:

- a. breach any law, order or direction of a court or tribunal constituted by law; and**
- b. breach any other legal obligation or duty,**

in that the draft orders proposed by Mr Harris in relation to the potential settlement of this litigation in the Supreme Court will be discussed, and a possible counter-offer may be formulated. These draft orders must be kept confidential by direction of the Supreme Court.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information would be acting contrary to an order of the Court and could prejudice the Council's position in relation to settlement discussions.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **13 (Supreme Court Orders from recent litigation involving the Council)** in confidence under Section 90(2) and (3)(g) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the relevant legal advice and all minutes be retained in confidence for a period of **2 years, or until such a time as this litigation is finalised** and that this order be reviewed every 12 months.

Please note that in this instance Section 90(3)(h) of the Act could also be relied on if legal advice was provided to the Council.

Section 90(3) (h) Order

Pursuant to Section 90(3) (h)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item [...] **[Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3) (h) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is legal advice **[insert explanation]**.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item [...] **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(h) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 9.

Advice received as to processes which Council handles open space and financial contributions

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Section 90(3) (h) Order

Pursuant to Section 90(3) (h)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except **Joe Bloggs, CEO ABC Council and Ivana Citizen, Lawyer, XYZ Lawyers**, be excluded from attendance at the meeting for Agenda Item **4 (Legal Advice Concerning Open Space and Financial Contributions)**.

The Council is satisfied that, pursuant to Section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is legal advice, in that it has been provided by XYZ Lawyers on instructions from the Council and Ms Citizen from XYZ Lawyers will be explaining this advice in detail to the elected members of Council.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because a Council decision has not yet been made in relation to the advice and its subject matter.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **4 (Legal Advice Concerning Open Space and Financial Contributions)** in confidence under Section 90(2) and (3)(h) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that legal advice from **XYZ Lawyers** and all minutes be retained in confidence for a period of **2 years** and that this order be reviewed every 12 months.

Section 90(3) (i) Order

Pursuant to Section 90(3) (i)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item [...] **[Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3)(i) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information relating to:

* **actual litigation, or**

* **litigation that the council or council committee believes on reasonable grounds will take place**

involving the Council or an employee of the Council **[insert explanation]**. [Select applicable (more than one ground may be applicable)*]

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item [...] **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(i) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].

Example 10.

Consideration of whether a Supreme Court appeal should commence against a decision of the ERD Court

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Pursuant to Section 90(3) (i)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **Joe Bloggs, CEO ABC Council, Susanne Mackey, Manager Environmental Services ABC Council and Ivana Citizen, Lawyer, XYZ Lawyers**, be excluded from attendance at the meeting for Agenda Item **15 (Consideration of possible Supreme Court Appeal – 15 Boronia Way, Boronia Park)**.

The Council is satisfied that, pursuant to Section 90(3)(i) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information relating to:

a. actual litigation

involving the Council or an employee of the Council in that legal advice as to the chances of success of an appeal to the Supreme Court against the decision of the ERD Court handed down recently for a development proposal at 15 Boronia Way, Boronia Park will be discussed, and this information ought not be made available to the public as it could detrimentally affect the Council's position if such an appeal is commenced.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because disclosure of this information may compromise the Council's position if an appeal is commenced.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **15 (Consideration of possible Supreme Court Appeal)** in confidence under Section 90(2) and (3)(i) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **legal advice relating to this Item** and all minutes be retained in confidence for a period of **2 years, or until such a time as an appeal in relation to this matter has been finalised, and that this order be reviewed every 12 months.**

Section 90(3)(j) Order

Pursuant to Section 90(3) (j)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item [...] **[(Brief Description of Agenda Item)]**.

The Council is satisfied that, pursuant to Section 90(3) (j) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would divulge information provided on a confidential basis by or to:

* **a Minister of the Crown, or**

* **[Insert Name of other Public Authority or official if applicable]** (not being an employee of the Council, or a person engaged by the Council.

[Select applicable (more than one ground may be applicable)*]

[Insert explanation]

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item [...] **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(j) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 11.

Consideration of Update on State Sports Stadium

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Section 90(3)(j) Order

Pursuant to Section 90(3) (j)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **Joe Bloggs, CEO ABC Council**, be excluded from attendance at the meeting for Agenda Item **10 (Update on State Sports Stadium)**.

The Council is satisfied that, pursuant to Section 90(3) (j) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would divulge information provided on a confidential basis by or to:

- a. **The Recreation and Sport Minister** in that information between the Council, Minister and relevant parties relating to the Sports Stadium is requested by the Minister to remain confidential until all contracts are signed.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the update provided will include discussion and consideration of material relevant to the project that the Minister has requested remain confidential.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **10 (Update on State Sports Stadium)** in confidence under Section 90(2) and (3)(j) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that all minutes and correspondence be retained in confidence for a period of **6 months**, or until such a time as all relevant contracts have been signed.



Section 90(3)(k) Order

Pursuant to Section 90(3) (k)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item [...] **[Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item are tenders for the:

- * **supply of goods, or**
- * **the provision of services, or**
- * **the carrying out of works.**

[Select applicable (more than one ground may be applicable)*]

[Insert explanation]

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item [...] **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(k) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 12.

Consideration of tender for the supply of cleaning services to the Council

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Pursuant to Section 90(3) (k)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **Joe Bloggs CEO ABC Council**, be excluded from attendance at the meeting for Agenda Item **13 (Cleaning Services Tender)**.

The Council is satisfied that, pursuant to Section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item are tenders for the

- **provision of services** in that they are for the provision of cleaning services for the Council's buildings.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the information to be disclosed and discussed has the potential to impact adversely on each of the tenderers as competitive commercial information will be disclosed.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **13 (Cleaning Services Tender)** in confidence under Section 90(2) and (3)(k) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **tender documents** and all minutes be retained in confidence for a period of **6 months** or until the tender process has been finalised.

This order is subject to Section 91(8) (b) of the Act which provides that details of the identity of the successful tenderer must be released once Council has made a selection. In addition, Section 91(8) (ba) of the Act requires details of the amount(s) payable by the Council under a contract for the provision of cleaning services must be released once the contract has been entered into by all concerned parties.



Section 90(3) (m) Order

Pursuant to Section 90(3) (m)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item [...] **[Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3)(m) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information relating to an amendment under the *Development Act 1993* before a Development Plan Amendment report relating to the amendment is released for public consultation under that Act **[insert brief explanation]**.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item [...] **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(m) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 13.

Discussion of unreleased Development Plan Amendment

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Pursuant to Section 90(3) (m)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **Joe Bloggs CEO ABC Council**, be excluded from attendance at the meeting for Agenda Item **12, (Historical Development Plan Amendment)**.

The Council is satisfied that, pursuant to Section 90(3)(m) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information relating to an amendment under the *Development Act 1993* before a Development Plan Amendment report relating to the amendment is released for public consultation under that Act, in that a draft report prepared by DD Planners as part of Council's recent Historical Development Plan review will be considered.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances as the Development Plan Amendment has not yet been finalised which could result in the public becoming inadvertently misinformed of the proposed changes.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **12, (Historical Development Plan Amendment)** in confidence under Section 90(2) and (3)(m) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **draft Development Plan Amendment report** and all minutes be retained in confidence for a period of **6 months** or until the Development Plan Amendment report has been finalised and adopted by Council.

Section 90(3) (n) Order

Pursuant to Section 90(3) (n)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **[insert names and job title for staff members present and/or names of any other person]**, be excluded from attendance at the meeting for Agenda Item [...] **[Brief Description of Agenda Item]**.

The Council is satisfied that, pursuant to Section 90(3)(n) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information relevant to the review of a determination of the Council under the *Freedom of Information Act 1991* **[insert explanation]**.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because **[insert reasons]**.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item [...] **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(n) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].



Example 14.

Request for Information by State Ombudsman regarding FOI determination

These examples are not exhaustive, and are given merely to illustrate some situations where confidentiality orders could be made.

Pursuant to Section 90(3) (n)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, **Joe Bloggs CEO ABC Council**, be excluded from attendance at the meeting for Agenda Item **12, (Request for Information by State Ombudsman regarding FOI determination)**.

The Council is satisfied that, pursuant to Section 90(3)(n) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information relevant to the review of a determination of the Council under the *Freedom of Information Act 1991* in that correspondence from the Ombudsman's Office concerning the review and requesting documents will be considered.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because of the nature of the documents subject to the FOI request, in that they relate to a Code of Conduct investigation.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item **12, (Request for Information by State Ombudsman regarding FOI determination)** in confidence under Section 90(2) and (3)(n) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **determination and review documents** and all minutes be retained in confidence for a period of **6 months** subject to any requirement to release documents in accordance with the *Freedom of Information Act 1991*.

Section 90(3) (o) Order

Pursuant to Section 90(3) (o)

Pursuant to Sections 90(2) and 90(3)(o) of the Local Government Act 1999, the Council orders that the public be excluded from attendance at that part of this meeting relating to agenda item **[insert item number and title]**, except the following persons:

- **[insert names and job title for specific staff members who may remain]**
- **[insert names/description of other persons who may remain, e.g. consultant/external advisor]**

to enable the Council to consider item **[insert item number]** in confidence on the basis the Council considers it necessary and appropriate to act in a meeting closed to the public (excepting those persons listed above) in order to receive, discuss or consider in confidence the following information or matter relating to item **[insert item number]**:

- information relating to a proposed award recipient before the presentation of the award.

Accordingly, on this basis, the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential.

Section 91(7) Order

Pursuant to Section 91(7)

That having considered Agenda Item [...] **[Brief Description of Agenda Item]** in confidence under Section 90(2) and (3)(o) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the **[identify the documents and/or minutes relevant to Agenda Item X]** be retained in confidence **[for a period of (insert period of time i.e. 6 months, 18 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)]** and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].