



TITLE: CODE OF PRACTICE (FOR ACCESS TO COUNCIL AND COMMITTEE MEETINGS AND DOCUMENTS)

1. PURPOSE

In fulfilling the role of an effective Council that is responsive to the needs of the community and which operates within the legal framework prescribed by the *Local Government Act 1999*, the Mount Barker District Council is fully committed to the principle of open and accountable government. 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/decision and/or documents.

The Code sets out the commitment of Council to provide public access to Council and Council committee meetings and documents and outlines the policies and procedures contained within the Local Government Act 1999, to restrict public access. The Code includes:

- Information on the relevant provisions of the Act
- Council's policy on public access and participation
- The process that will be adopted where public access to a meeting or a 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 relating to:

- access to the agenda for meetings
- public access to meetings
- the process to exclude the public from meetings
- matters for which the 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.

2. SCOPE

This Policy is applicable to all Council staff and Council Members.

3. DEFINITIONS

Clear days - means that 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, e.g. notice is given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday.

Live Stream – means the transmission of the audio and video of council meetings at the time the meeting is occurring, and excludes any matters considered in confidence, and excludes committee meetings and information or briefing sessions.

Recording – The audio and visual live stream recording

Relevant meeting/s – Ordinary and Special Council meetings as set out in Council's Code of Practice – Meeting Procedures and Council Meeting Templates, are the relevant meetings that will be recorded and made available to the public via the Council's website

4. ROLES & RESPONSIBILITIES

Council:

- To adopt a Code that explains public access to Council and Committee meetings and when and why Council or a Committee will consider a matter in confidence.

Chief Executive Officer

- To ensure staff consider whether a Council or Committee report can be accessed by the public and if not that the reason why is stated in the report;
- To ensure there is an annual review of all confidential reports.

Risk and Governance Officer

- To review confidential Council and Committee reports to ensure there is sufficient reason and explanation to exclude members of the public

All other staff

- As an author of a Council or Committee report to consider whether a report can be accessed by the public and if not to ensure that the reason why is stated in the report.

5. PUBLIC ACCESS TO THE AGENDA FOR MEETINGS

- 5.1 At least three clear days before the Council or Council committee meeting (unless it is a special meeting) the Chief Executive Officer (CEO) must give written notice of the meeting to all Council/Committee members setting out the date, time and place of the meeting. The notice must contain or be accompanied by the agenda for the meeting.

Section 82 of the Local Government Act 1999 allows for the calling of special meetings (that are in addition to ordinary meetings of Council). Special Meetings may be held at any time. The Chief Executive Officer must give each member of the Council 4 hours notice of the meeting before the commencement of the meeting.

- 5.2 The notice of meeting and agenda will be placed on Council's website www.mountbarker.sa.gov.au and a link provided on Council's Facebook page.

- 5.3 Items listed on the agenda (that are not confidential items) will be described accurately and in reasonable detail. Confidential items will be listed with as much detail as practicable.
- 5.4 The Notice and Agenda will continue to be published on the website of the relevant Council or Committee meeting and a link provided on Council's Facebook page.
- 5.5 Two (2) printed 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.
- 5.6 Council minutes and agendas will be retained for 10 years on Council's website. Committee meeting agendas and minutes will be retained until the beginning of the previous year. If not available on Council's website a copy can be requested via council@mountbarker.sa.gov.au. The recording of a Relevant meeting will be available for viewing via Council's website for a rolling period of twelve (12) months.
- 5.7 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 Council's schedule of fees and charges.
- 5.8 Where the CEO of the Council (after consultation with the principal member (Mayor) of the Council, or in the case of a Committee - the presiding member) believes that a document or report on a particular matter should be considered in confidence with the public to be excluded, the basis under which the order could be made in accordance with section 90(3) of the Act will be specified. [see sections 83(5) (Council) and 87(10) (Committee) of the Act.] Refer Item 7 below.

6. PUBLIC ACCESS TO MEETINGS

- 6.1 Council and Council Committee meetings are open to the public and attendance is encouraged, except where the Council (or the Council committee) believes it is necessary in the broader community interest to exclude the public from the discussion (and, if necessary, decision) of a particular matter.
- 6.2 The audio and video of Council meetings (excludes committee meetings and information or briefing sessions) will be live streamed at the time the meeting is occurring, except where the Council determines it is necessary in the broader community interest to exclude the public from the discussion of a particular matter. Whilst the Chief Executive Officer or their nominee will take all reasonable steps to ensure the Live Stream and Recording of council meetings, in the event that the Live Stream and Recording is disconnected, the council meeting will continue uninterrupted. Meetings held outside of the Council Chamber on Dutton Road, Mount Barker may not be able to be livestreamed and this is subject to technical capability at the venue.

The recording of a Relevant meeting will be available for viewing via Council's website within seven (7) days after the publication of the draft minutes of the Relevant meeting and remain for a rolling period of twelve (12) months.

- 6.3 The public will only be excluded when considered proper and necessary i.e. the need for confidentiality outweighs the principle of open decision-making.
- 6.4 Council encourages public attendance at meetings of the Council and Committees through public notification of meetings and by the sign on the Local Government Centre building.
- 6.5 In addition Council provides the Gallery in attendance an opportunity to ask any question at the beginning of the meeting for a maximum period of 15 minutes. It also provides the opportunity for questions for the Gallery in attendance regarding items discussed at the meeting.
- 6.6 In accordance with section 90 of the Act, it is not unlawful for Members of Council, Committee members and staff to participate in information or briefing sessions or discussion 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 of a formally constituted meeting of Council or Committee.
- 6.7 Section 90A(7)(b) requires the following information to be published on a website determined by the CEO as soon as practicable **after** the holding of an information or briefing session:
- a. the place, date and time of the session
 - b. the matter discussed at the session; and
 - c. whether or not the session was open to the public

however, Council will publish on Council's website **in advance** details required by Section 90A(7)(b) for information or briefing sessions.

7. PROCESS TO EXCLUDE THE PUBLIC FROM A MEETING

- 7.1 The practice of the Mount Barker District Council is as follows:
- other than if the matter is an adjourned matter – confidential items will be considered as the last item on the agenda for the convenience of the public
 - should an adjourned matter be a confidential matter it will be considered as the first report as required under the Local Government (Procedures at Meetings) Regulations 2013.
- 7.2 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 and the Live Stream and Recording will cease. This means that all members of the public (including staff), unless exempted by being named in the resolution as entitled to remain, are required to leave the room and the Live Stream and Recording will cease. For the operation of section 90(2) a member of the public does not include a member of Council.
- 7.3 Once Council, or a Council 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. Although it is lawful for an employee of Council or a member of the police to use reasonable force to remove the person from the room if

he or she fails to leave on request, it will be the practice of Council staff to call the police to undertake this action.

7.4 Once discussion on that particular matter is concluded, the public are then permitted to re-enter the meeting or access the Live Stream and Recording. If there is a further matter that needs to be considered in confidence it is necessary to again undertake the formal determination process and to resolve to exclude the public as above in which case the Live Stream and Recording will cease.

7.5 Please note that the Council, or the Council committee, can by inclusion within the resolution permit a particular person or persons to remain in the meeting. An example would be allowing a ratepayer who is suffering personal hardship to remain in the meeting when their circumstances concerning the payment of rates is being discussed (refer attachment A for examples).

8. MATTERS FROM WHICH THE PUBLIC CAN BE EXCLUDED

In accordance with the requirements of 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 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.*
- (o) *information relating to a proposed award recipient before the presentation of the award.*

The Act provides for a definition of “personal affairs”, being 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.

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

- (d) cause embarrassment to the Council or Committee concerned, or to members or employees of the Council; or
- (e) cause a loss of confidence in the Council or Committee. [s.90(4)]

If a decision to exclude the public is taken, the Council or the Council committee is required to make a 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 a meeting of Council or a Council committee will be publicly available, including on the internet, within 5 days after the meeting.

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 paragraph 8 of this Code.

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 matters 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. 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.
6. 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
7. 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

- 11.1 Various documents can be available for inspection and purchase (for a fee) by the public. Council will, as far as is reasonably practicable, also make a document available in electronic form and place it on the Internet within a reasonable time after they are available at the principle office of the Council for public access.
- 11.2 The Council or the Council committee will only 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.

11.3 The 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).

11.4 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
- (ba) 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
- (c) 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.

In accordance with section 91 (9) 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; and
- (b) 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 order has a duration of more than 12 months, the order must be reviewed at least once in every year;
- (c) (if applicable) whether the power to revoke the order will be delegated to an employee of the Council. [s.91(9)]
- (d) in the case of an order specified duration, the duration of the order cannot be extended after the order has ceased to apply (as a result of the expiry of the period for which the order was specified to apply)

11.5 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 on 8391 7200.

12. EXAMPLE CONFIDENTIALITY PROVISIONS

The Mount Barker District Council will record in the minutes of any Council and Council committee meetings the making of an order in accordance with sections 90(2) and (3) and section 91(7) – refer to Attachment A for some examples.

13. REVIEW OF CONFIDENTIALITY ORDERS

- 13.1 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.
- 13.2 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.
- 13.3 A review of the reports or documents that were considered under the provision of sections 90(3) and 91(7) of the Act will be conducted at least every 12 months at the first meeting in October to ensure that items are released in accordance with the resolution of Council, when the confidential provision no longer applies
- 13.4 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 Chief Executive office 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.
- 13.5 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 and not en bloc.
- 13.6 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. 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 Council committees:

1. Total number of orders made under section (90(2) and 91(7)
2. The date and subject of each order within the ambit of section (90(2) and 91(7)

3. Number of occasions each of the provisions of sections 90(2) and 90(3) were utilised;
4. Number of occasions that information originally declared confidential has subsequently been made publicly available; and
5. The number of orders that remained operative (not including any before 15 November 2010).

15. GRIEVANCE

Council has established 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.

Should a person be aggrieved about public access to either a meeting or a document then they can lodge an application for review of that decision under the procedures established by Council. The Procedures are available from Council's website: www.mountbarker.sa.gov.au.

16. REVIEW

This Code will be reviewed within 12 months after the conclusion of each periodic election or earlier in the event of changes to legislation or related Policies and Procedures or if deemed necessary by the Risk and Governance Officer.

17. ACCESS TO THE CODE

The Code is available for public inspection on the Council's website www.mountbarker.sa.gov.au and a copy may be obtained for a fee fixed by Council.

18. FURTHER INFORMATION

For further information on this Code, please contact:

Title: Risk and Governance Officer
Address: PO Box 54, Mount Barker
South Australia, SA, 5251
Telephone: 8391 7200
Email: council@mountbarker.sa.gov.au

REFERENCE NUMBER:	DOC/23/73709
RESPONSIBLE OFFICER/ DEPARTMENT:	Risk and Governance Officer
APPLICABLE LEGISLATION:	Local Government Act 1999 Local Government Act (Procedures and Meetings) Regulations 2013 Statutes Amendment (Local Government Review) Bill 2021
COMMUNITY PLAN 2020-2035	Leadership and Good Governance LGG Strategy 1.3 : Provide opportunities for the community to access and participate in decision-making processes and fully integrate community engagement practices into Council activities LGG Strategy 1.5 : Demonstrate accountability through clear, relevant and easily accessible policies, corporate reporting and legislative compliance.
RELATED POLICIES:	Code of Practice for Meeting Procedures and Council Meeting Templates
SUPPORTING PROCEDURES:	Code of Practice for Meeting Procedures and Council Meeting Templates
PREVIOUS REVIEW DATES:	2 December 2019, 6 April 2020, 2 May 2022
ENDORSED BY COUNCIL:	4 September 2023
MINUTE RESOLUTION NUMBER:	OM20230904.09
NEXT REVIEW DATE:	October 2027

ATTACHMENT A

Some examples of confidentiality orders

1. Performance Matters of the Chief Executive Officer

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, 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, which are sensitive and are details only known to those who have participated in the review process.

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 until the Performance Review process has been completed by the provision of a final report to Council.

2. Consideration of a the terms for a waste resources contract

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:

- proposing to conduct business; and
- 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.

(confidential recommendation here)

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.

3. Joint Venture Arrangement – Proposed Health and Leisure Centre

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.

(Confidential recommendation here)

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 such lesser period as may be determined by the Chief Executive Officer and that this be reviewed every 12 months.

4. Consideration of Update on State Sports Stadium

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 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.

(Confidential recommendation here)

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.