

	CODE OF PRACTICE ACCESS TO COUNCIL & COMMITTEE MEETINGS & DOCUMENTS	Version No:	2
		Issued:	Jan 2012
		Next Review:	After next Election 2018

1. ADOPTION

This Code was adopted by the District Council of Tumby Bay on 10 January 2012.

2. STATEMENT OF PRINCIPLE

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 District Council of Tumby Bay 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.

3. INTRODUCTION

This Code sets out the commitment of the District Council of Tumby Bay 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;
- 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.

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4. PUBLIC ACCESS TO THE AGENDA FOR MEETINGS

- 4.1 At least three clear days¹ 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.
- 4.2 **The notice of meeting and agenda will be placed on public display at the Council office and on Council's website www.tumbybay.sa.gov.au**
- 4.3 Items listed on the agenda will be described accurately and in reasonable detail.
- 4.4 **The notice and agenda will be kept on public display and continue to be published on the website until the completion of the relevant Council or Council committee meeting.**
- 4.5 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.
- 4.6 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.
- 4.7 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 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.]

5. PUBLIC ACCESS TO MEETINGS

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.

The public will only be excluded when considered proper and necessary i.e. the need for confidentiality outweighs the principle of open decision-making.

Council encourages public attendance at meetings of the Council and Committees through public notification of meetings by local press, information notice on entrance to Council offices.

In accordance with section 90 of the Act, it is not unlawful for Members of Council, Committee members and staff to participate in **informal gatherings** 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. The Council is not bound to hold an informal gathering open to the public in accordance with section 90(1) of the Act as openness to the public only applies to Council and Council Committee meetings. This means that section 90(2) to exclude the public has no role to play.

The following are examples of informal gatherings or discussions that may be held in accordance with section 90(8):

- planning sessions associated with the development of policies and strategies;
- briefing or training sessions;
- workshops; or
- social gatherings to encourage informal communication between members or between members and staff.

6. PROCESS TO EXCLUDE THE PUBLIC FROM A MEETING

For the convenience of the public present at a meeting, where it is resolved to consider a matter in confidence, this matter may be deferred until all other business has been dealt with rather than ask the public to leave the room and wait for however long it takes until the matter is concluded and then allow the public to return to the meeting room with the possibility of the same process being repeated for a subsequent matter.

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 entitled to remain, are required to leave the room. For the operation of section 90(2) a member of the public does not include a member of Council.

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. 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.

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 formal determination process and to resolve to exclude the public as above.

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 discussed².

7. 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:

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- (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;*
- (l) *information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Plan Amendment Report relating to the amendment is released for public consultation under that Act; or*

- (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.*

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:

- 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. [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.

8. 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.

9. 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 7 of this Code.

The policy approach of the District Council of Tumby Bay 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 i.e. en bloc. 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.

10. PUBLIC ACCESS TO DOCUMENTS

Various documents can be available for inspection and purchase (for a fee) by the public. Council may also make a document available in electronic form and place it on the Internet for public access.

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.

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).

In accordance with section 91(8) the Council or the Council committee must not make an order to prevent:

- 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
- 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

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- 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
- 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:

- the grounds for confidentiality; and
- 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;
- (if applicable) whether the power to revoke the order will be delegated to an employee of the Council. [s.91(9)]

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

11. EXAMPLE CONFIDENTIALITY PROVISIONS

The District Council of Tumby Bay 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), **examples attached to this document.**

12. 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.

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 every 6 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 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

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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 and not en bloc.

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.

13. 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. 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.

14. AVAILABILITY OF THE CODE

The public may inspect a copy of the Code, without charge, at the offices of Council during office hours, and may obtain a copy for a fee fixed by Council. The Code is also available on the Internet at www.tumbybay.sa.gov.au

15. REVIEW OF THE CODE

The next scheduled review is due to occur within 12 months after the next periodic election in 2018.

16. 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.

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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 *Councils website* www.tumbybay.sa.gov.au or at the front office.

17. COUNCIL CONTACT PERSON

Chief Executive Officer
Mortlock Street, Tumby Bay 5605
Telephone 08 8688 2101
Email dctumby@tumbybay.sa.gov.au

Authority: Adopted by Council: 10/01/2012 {Motion No 23c/012012}
Reviewed by Council: 8/3/16 { Motion 8c/032016}

Attachment

MODEL CONFIDENTIALITY ORDERS

Section 90(3)(a) Order

Pursuant to s.90(3)(a)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB}, 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 s.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].

^{NB} For these purposes a member of the public includes all persons (including staff), but does not include members of Council
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EXAMPLES

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

1. **Performance Matters of the Chief Executive Officer**

Section 90(3)(a) Order

Pursuant to s.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.

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 s.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.

2. **Notification to Council of absence of an Council Member due to terminal illness of a family member**

Section 90(3)(a) Order

Pursuant to s.90(3)(a)

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

Section 91(7)(b) Order

Pursuant to s.91(7)

That having considered Agenda Item **5 (Absence of Councillor 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 Councillor Citizen's role at the Council comes to an end and that this order be reviewed every 12 months.

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Section 90(3)(b) Order

Pursuant to s.90(3)(b)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB}, 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 s.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].

^{NB} For these purposes a member of the public includes all persons (including staff), but does not include members of Council
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EXAMPLES

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

Section 90(3)(b) Order

Pursuant to s.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.

Section 91(7) Order

Pursuant to s.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 s.90(3)(c)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB}, 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 s.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].

^{NB} For these purposes a member of the public includes all persons (including staff), but does not include members of Council
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5. Consideration of Stormwater Retention System

Section 90(3)(c) Order

Pursuant to s.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 Stormwater 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 s.91(7)

That having considered Agenda Item **4.2 Consideration of Stormwater 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 s.90(3)(d)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB}, 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 s.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].

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EXAMPLES

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6. Joint Venture Arrangement – Proposed Health and Leisure Centre

Section 90(3)(d) Order

Pursuant to s.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 s.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 s.90(3)(e)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB}, 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 s.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].

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EXAMPLES

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7. Review of Security Systems

Section 90(3)(e) Order

Pursuant to s.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

**the Council;
members and employees of the Council; and
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 s.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 s.90(3)(f)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB}, 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 s.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].

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EXAMPLES

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8. Corruption Allegations and Investigation of a Council Member

Section 90(3)(f) Order

Pursuant to s.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:

detection; and

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 s.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 s.90(3)(g)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB} 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 s.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].

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EXAMPLES

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10. **Consideration of proposed Supreme Court settlement Orders**

Pursuant to s.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:

**breach any law, order or direction of a court or tribunal constituted by law; and
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 s.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 s.90(3)(h)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB} 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 s.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].

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EXAMPLES

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11. Advice received as to process by which the Council deals with open space and financial contributions

Section 90(3)(h) Order

Pursuant to s.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 Council 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 s.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 s.90(3)(i)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB} 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 s.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].

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EXAMPLES

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12. **Consideration of whether a Supreme Court appeal should be commenced against a decision of the ERD Court**

Pursuant to s.90(3)(i)

Pursuant to s.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:

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 s.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 s.90(3)(j)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB} 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 s.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].

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EXAMPLES

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14. Consideration of Update on State Sports Stadium

Section 90(3)(j) Order

Pursuant to s.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.

Section 91(7) Order

Pursuant to s.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 s.90(3)(k)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB} 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]**.

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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 s.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].

EXAMPLES

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

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

Pursuant to s.90(3)(k)

Pursuant to s.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 s.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 s.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 s.90(3)(m)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB} 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 s.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].

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EXAMPLES

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16. Discussion of unreleased Development Plan Amendment

Pursuant to s.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 s.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 s.90(3)(n)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public^{NB} 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 s.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 s.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].

^{NB} For these purposes a member of the public includes all persons (including staff), but does not include members of Council
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EXAMPLES

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

17. Request for Information by State Ombudsman regarding FOI determination

Pursuant to s.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 s.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*.

