



City of Adelaide Review of Confidentiality Orders

August 2023 (DRAFT 1.2)

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Introduction

The City of Adelaide (CoA) engaged BRM Advisory to undertake an independent review their policies and practices related to the use of Confidentiality Orders.

Good governance in local government requires accountability and transparency in decision-making. A key element to transparency is that the community have access to Council Meetings, Agendas and Minutes.

CoA commissioned this independent review with the scope and objectives of:

- Assessing council's current policies, procedures, and guidelines in managing Confidentiality Orders in accordance with the Act. This includes the entirety of the order, from the recommendation to Council or Committee and the revocation/release of the order;
- Comparing council's current policies, procedures, and guidelines in managing Confidentiality Orders against industry best practice;
- Assessing council's performance in the management of confidential orders since 2018;
- Identifying any opportunities to improve the way in which Confidentiality Orders are managed; and
- Providing a pro-disclosure model for the Council.

The review methodology included the analysis of information from a number of sources, including:

- The *Local Government Act 1999* and the equivalent Acts governing the use of confidentiality by councils in other jurisdictions;
- Annual Report data published by CoA and other selected South Australian councils and the City of Melbourne;
- The outcomes of an internal audit of CoA's confidential items undertaken by KPMG in 2016;

- Current policies, procedures and practices adopted by CoA and comparison councils;
- Reports published by the Office of the South Australian Ombudsman; and
- Best practice guidelines prepared by State and local governments nationally.

This report summarises the findings and conclusions of the review and provides a series of recommendations for the CoA to improve its practice and performance and further demonstrate its commitment to accountability and transparency.

Summary of Recommendations

Recommendation 1: Adopt a Public Transparency Policy to guide decision making and practice.

Recommendation 2: Improved documentation of the reasons for retaining or extending confidential items.

Recommendation 3: Develop guidelines explaining how 'commercial advantage' and 'commercial information' as grounds for confidentiality are to be applied.

Recommendation 4: Provide further guidance and training to report authors about the presentation of reports and attachments to minimise the information that needs to be considered in confidence.

Recommendation 5: Apply clear and specific triggers for releasing items from confidence.

Recommendation 6: Undertake regular training with report authors to build consistent expectations and practice.

South Australian Legislation

Chapter 6 of the Local Government Act 1999 ('the Act') sets out the arrangements for council and committee meetings, which reflect the principles of participation, openness and accountability.

The Act also provides councils with the flexibility and discretion to exclude the public when it is deemed necessary and appropriate to do so within the limits outlined in the Act.

The objects of the Act speak of 'encouraging the participation of local communities in the affairs of local government' and 'ensuring the accountability of councils to the community'. The principles to be observed by a council include 'providing open, responsive and accountable government' and 'achieving and maintaining standards of good public administration'.

Meetings of councils and committees are to be held in public, except where prescribed circumstances apply, and a council or committee can order that the public be excluded.

There are limited circumstances in which a discussion or document considered in a council or committee meeting can be kept confidential. The council or committee must be satisfied that one or more of the grounds specified in Section 90(3) applies and that it is reasonable and necessary to exclude the public:

- personal affairs
- commercial advantage
- trade secret
- commercial information of a confidential nature
- matters affecting security and safety
- prejudice the maintenance of law
- ensure council does not breach any law
- legal advice
- information relating to litigation
- confidential information of a public authority or official

- tenders
- amendment of a designated instrument under the *Planning, Development and Infrastructure Act 2016*
- review of a determination of a *Freedom of Information Act 1991*
- proposed award recipient

The CEO may, after consultation with the principal member or presiding member, indicate that a document or report, if the council or committee determines, be considered in confidence. The CEO must specify the clear reasons under the Act for such as order to be made.

A council or committee may order that a matter considered in confidence be kept in confidence for a specified duration. Any orders operating for 12 months or more must be reviewed at least once in every year.

There are certain matters that a council or committee cannot order be kept in confidence:

- Remuneration or conditions of service of a council employee (once remuneration or conditions have been set)
- The identity of a successful tenderer and the reasons the successful tenderer was selected
- The amount or amounts payable by council under contract for the supply of goods or provision of services (once the contract has been entered into by all parties)
- The identity of land that has been acquired or disposed of by council and the reasons for its acquisition or disposal.

Interstate Legislation

An analysis of the legislation applying in each Australian State has been undertaken to compare South Australia’s current framework for holding closed meetings and retaining information in confidence.

While each jurisdiction has a presumptive bias towards openness, the ability to close all or part of a meeting to discuss a matter in confidence is common across local government nationally. The circumstances and procedures are nuanced in each State, but in all cases the appropriate grounds for closing a meeting are prescribed and the reasons must be documented in the minutes with varying degrees of detail and specificity. The prescribed grounds are reasonable consistent nationally, with personal affairs, commercial advantage, confidential commercial information / trade secret and legal matters being most prevalent.

Each state also prescribed certain information that must not be retained in confidence, most often relating to tendering, contracts and property transactions.

Most notably, South Australia has the most robust framework in place for recording, reviewing and reporting on matters retained in confidence, and is presently the only State where these are all mandatory practices.

	SA	Vic	NSW	QLD	WA	Tas
Ability to close a meeting to the public	✓	✓	✓	✓	✓	✓
Prescribed grounds for closing a meeting	✓	✓	✓	✓	✓	✓
Ability to make decisions in a closed meeting	✓	✓	1	2	✓	✓
Register of confidential items required	✓	3	✗	✗	✗	✗
Regular review of confidential items required	✓	3	✗	✗	✗	✗
Report on number of confidential items required (Annual Report etc)	✓	4	✗	✗	✗	✗

- 1 Decisions made by NSW councils in a closed meeting must be released as soon as practicable following the meeting.
- 2 QLD councils may only pass procedural motions in a closed meeting. All other decisions must be made in public.
- 3 Victorian councils are not required to maintain a register of or regularly review confidential items. Some councils have adopted this practice under their Public Transparency Policy.
- 4 Victorian councils are required to report annually on the percentage of resolutions made at a closed meeting. South Australian councils report on the total number of matters considered in confidence.

As a Capital City, the City of Adelaide has a unique operating environment in local government in South Australia.

It can be reasonably expected that the different activities and discussions of the CoA Council and Committees may increase the need to use the confidentiality provisions under the Act, compared to other councils.

There are key factors that influence the number and nature of matters that are considered and retained in confidence under the Local Government Act 1999:

- Significant land holdings, leases and licences
- Development projects – deeds, contracts and agreements
- Significant business activities – commercial strategic directions
- Number of subsidiaries
- Litigation arising from complex commercial and contractual matters and planning decisions
- Intergovernmental relationships – Capital City Committee
- Large organisation with an employee headcount of approximately 995*, including labour hire staff

Historical practices relating to Confidentiality Orders have also influenced the number of matters remaining on the CoA confidential items register. Notwithstanding these influencing factors, for the purposes of this review, data from the CoA has been compared to data from South Australia's larger metropolitan councils. Comparisons include the number of matters dealt with in confidence, the grounds that have been relied up on the most under the Act to move into confidence – commercial advantage, commercial information and litigation. Data has been sourced from the published Annual Reports of each council.

Comparisons with interstate councils is difficult as most jurisdictions do not need to report this information, or it is reported using different metrics. For example, Victorian councils report the number of confidential items as a percentage of the total items considered in a reporting period. However, data has been sourced from the City of Melbourne to provide some level of interstate comparison.

*2021-22 City of Adelaide Annual Report

Council Comparison – Confidential Items

Figure 1 shows the total number of confidential items considered by a sample of metropolitan councils in the past three financial years.

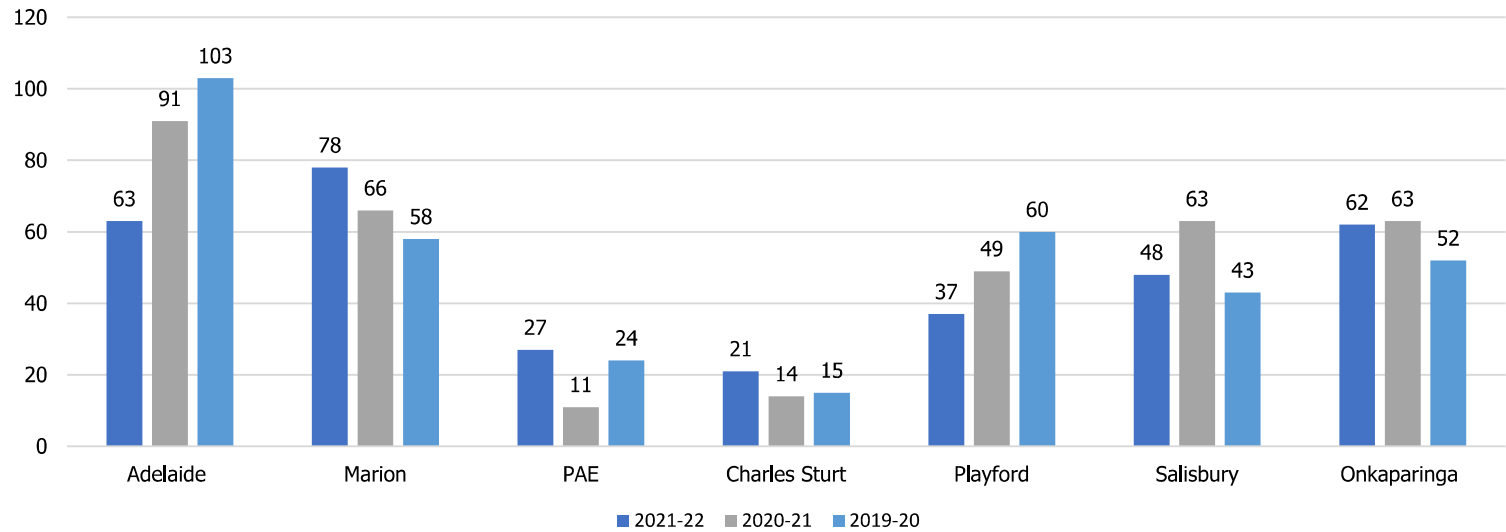
The total number of items considered in confidence by the CoA has decreased by approximately 39 percent across the past three reporting periods.

The 2021-22 figures from CoA are more consistent with the number of confidential items considered by some large metropolitan councils in peak years.

Other larger councils such as Port Adelaide Enfield (PAE) and Charles Sturt have maintained consistently lower numbers of confidential items. This could be a matter of practice, circumstance or both.

There are no consistent trends shown in the data in terms of the total number of confidential items across the three reporting periods. The number is more likely influenced by the nature of the specific matters a council is dealing with in any given year rather than any sector wide trends, regulatory changes or external factors.

Figure 1 - Total Items Considered in Confidence



Council Comparison – Retained in Confidence

Figure 2 compares the total number of Confidentiality Orders that remain in operation at the sample councils across three reporting periods.

While Figure 2 shows the number of items retained in confidence marginally increasing across most comparison councils, the number of operative orders at CoA remains considerably higher.

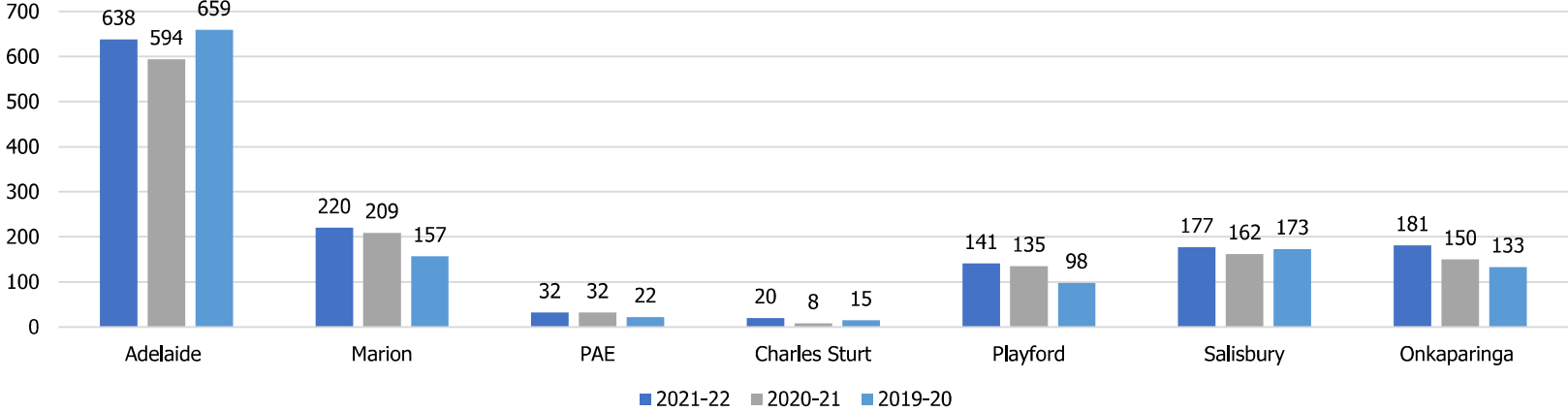
Items of the confidential register date back to 2010-11 and 319 items have been on the register for over 5 years.

BRM Advisory has not reviewed each item remaining on the register to form a view on whether the grounds for confidentiality continue to apply. However, this comparison shows this is a potential area of focus for CoA.

City of Adelaide - Operative Confidential Orders from each year

2010-2011	4 items
2011-2012	15 items
2012-2013	20 items
2013-2014	40 items
2014-2015	37 items
2015-2016	39 items
2016-2017	81 items
2017-2018	83 items
2018-2019	83 items
2019-2020	95 items
2020-2021	80 items
2021-2022	61 items

Figure 2 - Confidentiality Orders Remaining Operative



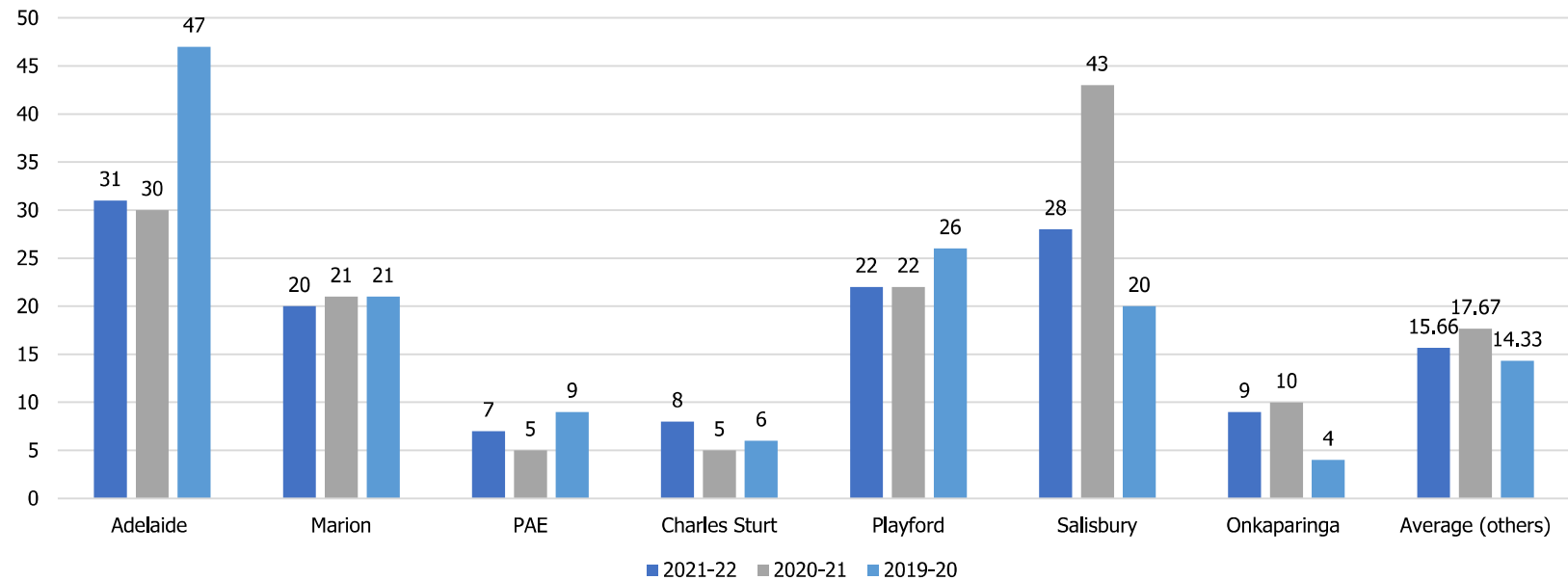
Council Comparison – Commercial Advantage

A matter can be dealt with in confidence if it could be reasonably be expected to confer a commercial advantage on a person with whom the council is conducting businesses and disclosure would be contrary to the public interest.

Figure 3 compares the use of 'commercial advantage' (s.90(3)(b)(i)(ii)) as a grounds for excluding the public. CoA typically relies of this provision at least twice as often as the average of sample comparison councils.

The number of times this provision has been used by CoA has reduced over the past three years but remains consistently higher than other councils. This is likely due, in large part, to the nature of decisions made by the CoA regarding property development, leases and other commercial undertakings.

Figure 3 - Use of s90(3)(b) (i) and (ii)



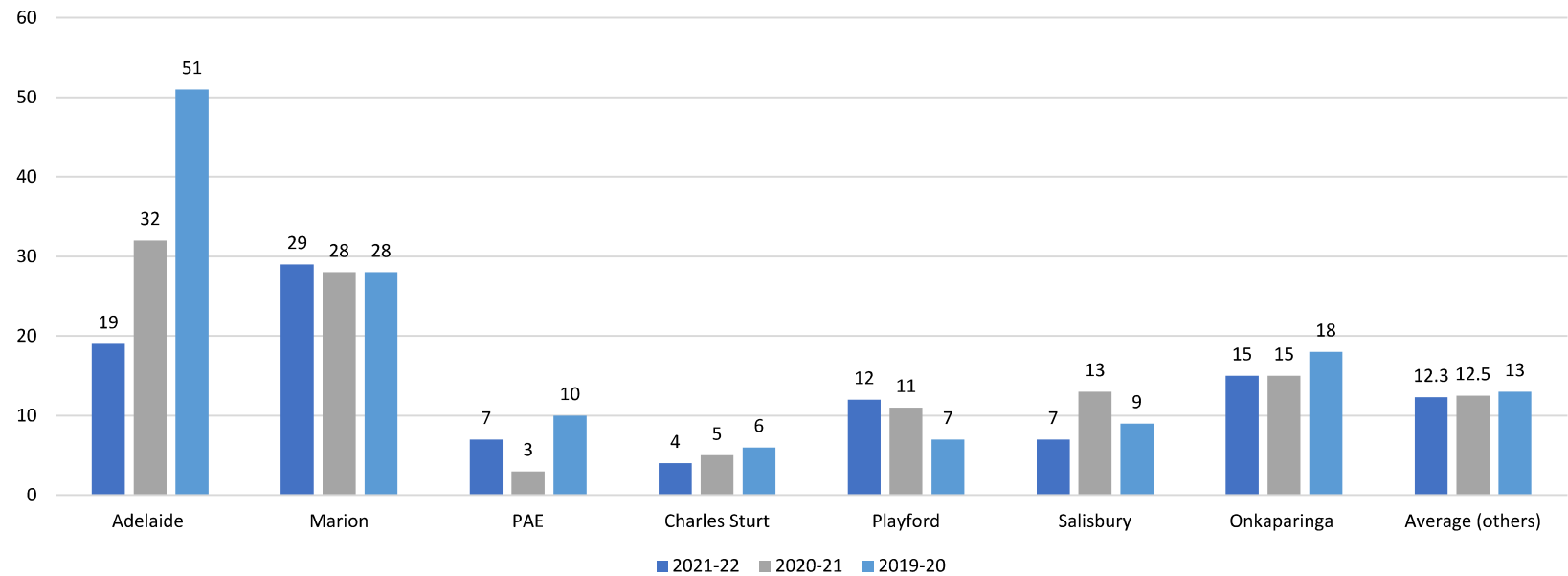
Council Comparison – Commercial Information

A matter can be dealt with in confidence if the disclosure of commercial information 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 the disclosure would be contrary to the public interest.

Figure 4 compares the use of 'commercial information' (s.90(3)(d)(i)(ii)) as a grounds for excluding the public. CoA typically relies of this provision more than most comparison councils, with exceptions in some years.

The number of times this provision has been used by CoA has reduced by approximately 62 percent over the past three years, to a level that is comparable with some other large metropolitan councils. It is unclear whether this is due to a change in practice, or due to a change in the nature of the decisions being considered by council and committees.

Figure 4 - Use of s90(3) (d) (i) and (ii)



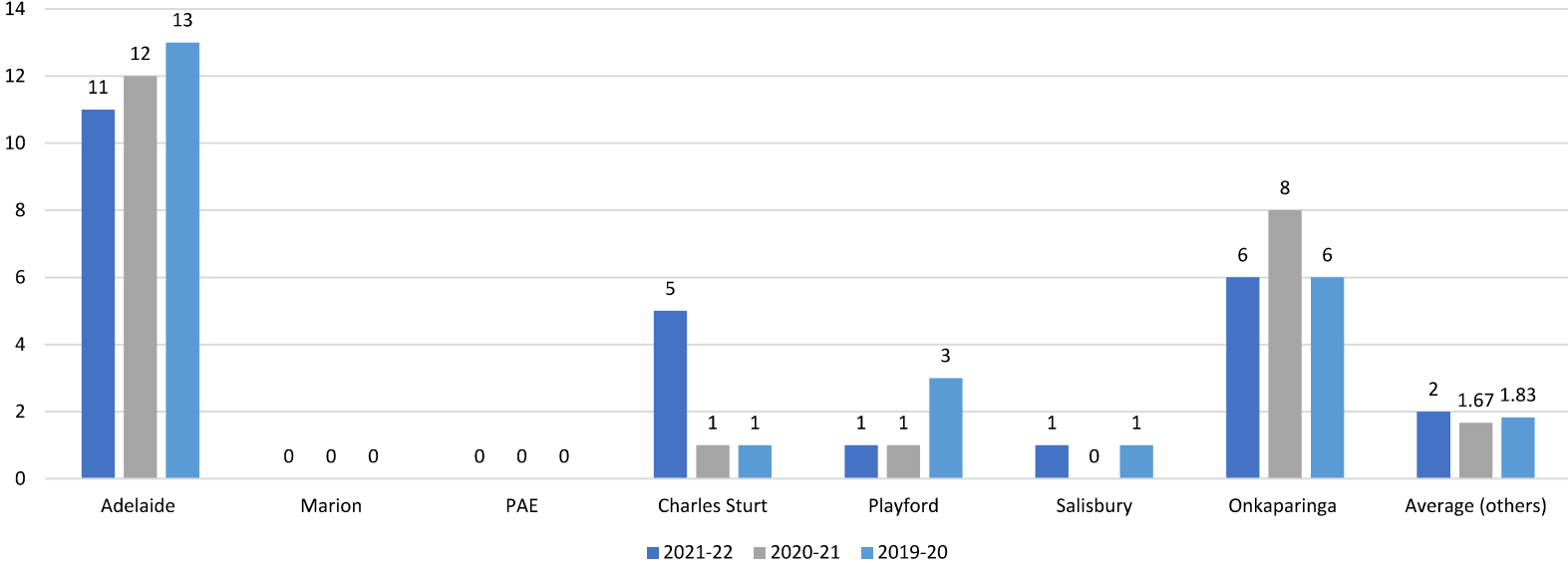
Council Comparison – Litigation

A matter can be dealt with in confidence if the information relates to actual litigation, or litigation that the council or committee believes on reasonable grounds will take place, involving the council or an employee of the council.

Figure 5 compares the use of 'litigation' (s.90(3)(i)) as a grounds for excluding the public. It shows the CoA consistently relies on this provision more than the other sample councils. This could reasonably be expected due to the complex nature of CoA's operations.

The use of this provision by CoA has remained consistent across the past three years. Other councils have experienced spikes where this provision is used more times than the average, indicating that the use of the provision reflects that nature of the decisions being made by councils within a particular year rather than any sector-wide trends.

Figure 5 -Use of s90(3)(i)



Capital City Comparison

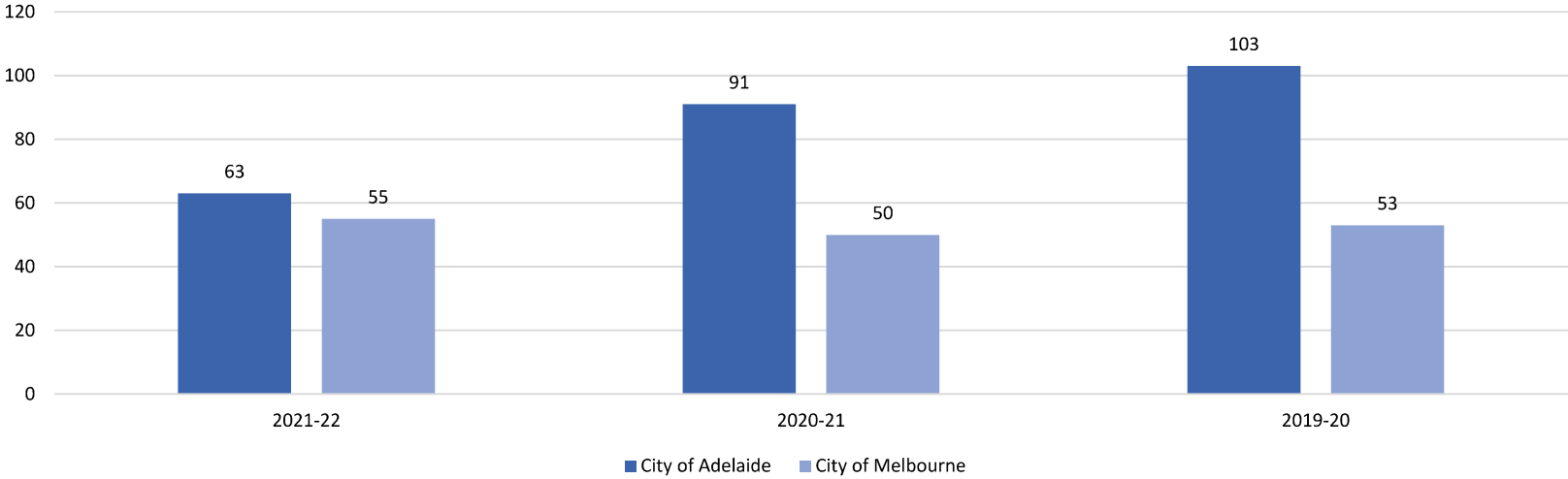
The City of Melbourne is the only other State Capital to publish in its Annual Report the total number of decisions made in closed meetings each financial year.

Figure 6 compares shows the number of decisions made in a closed meetings compared to the City of Melbourne across the past three reporting periods. The number of decisions made in confidence by the City of Melbourne has remained consistent, while CoA has recorded a significant decrease across the same period. Despite the decrease recorded by CoA, the number of decisions made in closed meetings remains higher than the City of Melbourne.

Without detailed analysis of individual decisions, it is difficult to draw any informed conclusions about performance from this comparison. While CoA has made more decisions in closed meetings, it does not necessarily follow that this was not necessary and appropriate in accordance with the Act.

In undertaking this review, we have noted that councils in Victoria and the Northern Territory, and some South Australia council, report the number of confidential decisions as a percentage of the total decisions made in the course of the year. This is considered to be a more meaningful measure as it provides greater context than the number of decisions alone. CoA should consider reporting on this basis in future Annual Reports.

Figure 6 - Number of decisions made in closed meeting



Performance Assessment - KPMG Audit

KPMG completed an internal audit of City of Adelaide Confidentiality Orders in 2016 and made seven 'low rated' findings. A low rated issue 'represents a minor control weakness, with minimal but reportable impact on the ability to achieve process objectives'.

This review has considered the extent to which these findings have been addressed by CoA.

KPMG Finding 1: Inconsistency in the detail of the review comments – not enough detail / commentary to support recommendation to retain / extend etc.

BRM Advisory has considered the information presented to council when an extension of a Confidentiality Order is sought. While justification is provided for each item, the level of detail in the commentary remains limited. Further commentary about the reasons that release would be contrary to the public interest would provide greater transparency and support robust decision making.

CoA has a well-documented procedure in place for undertaking a periodic (six-monthly) internal review of Confidentiality Orders, which requires the relevant Officers to provide reasons why an Order should be retained/revoked/extended etc. Officers could be provided with further guidance on the level of detailed required in their commentary to meet the intent of the Act.

KPMG Finding 2: Orders lack sufficient explanation in their requests for confidentiality.

CoA has adopted an internal Operating Guideline to assist report authors to submit reports and recommendations to Council and Committees, including where a recommendation of confidentiality is required.

The guideline provides 'Plain English and thorough explanations of why the matter needs to be considered/discussed in confidence' as a key principle.

A review of Council Meeting Agenda and Minutes over the past 18 months has shown a reasonable level of detail is provided in the 'Exclusion of the Public' covering report documenting the relevant grounds and specific reasons for a Confidentiality Order to be made. This report also provides an explanation of how the 'public interest' test has been applied on a case-by-case basis.

KPMG Finding 3: Potential over reliance on Section 90(3) (b) and (d) as reasons for confidentiality

Over the past 3 reporting periods s.90(3)(b) or 'commercial advantage' has been used 108 times as grounds to exclude the public and s.90(3)(d) 'commercial information' has been used 102 times. Over 40% of Confidentiality Orders made by CoA are on at least one of these grounds. While it is likely that commercial in confidence is the underlying reason for confidentiality in most cases, there could be a perception that it is being automatically applied to certain items such as leases or other property matters.

Each item should continue to be considered on a case-by-case basis and these grounds should only be used where it can be clearly demonstrated that public release of the information would be contrary to the public interest. There should be an overriding presumption towards openness, which could be supported by guidelines providing examples of when these grounds should and should not be used in principle.

KPMG Finding 4: No indication of orders that contain information that require permission before release.

In their Audit Report, KPMG note that this finding creates a risk that a Confidentiality Order could be revoked without the prior permission of a third party if it is not well documented that the release of the information involves consideration by a third-party.

Documentation provided by CoA demonstrates that this finding has been addressed and consideration of third-party permissions forms part of the periodic review of each Confidentiality Order.

KPMG Finding 5: Inconsistencies in the degree that orders are broken down for revoking – some items being held in their entirety for longer than necessary – more items could be partially released.

Council's internal procedures and guidelines prompt reviewers to consider the partial release of information in circumstances where an item cannot be revoked in its entirety due to ongoing grounds for confidentiality.

A review of the CoA Confidential Items Register confirms that partial release of items, where appropriate, is now an established practice.

KPMG Finding 6: Extended publication dates – not always well indicated why an item needs to be retained for longer than the standard 7-year period.

The KPMG Audit notes that there may be compelling reasons for an item to be retained in confidence for longer than 7-years, but these reasons must be well documented.

As previously noted, the level of detail provided in the commentary when an order is reviewed is quite limited. The process could be enhanced by Officers providing more detailed commentary when an Order is proposed to be retained or extended. The commentary needs to demonstrate in clear terms how the item has been reviewed, the factors that have been considered and the reasons the grounds for confidentiality continue to apply.

KPMG Finding 7: Consider utilising MS Excel instead of MS Word to create the register of confidential items.

This finding was made on the basis that an Excel spreadsheet would have better functionality than a document in MS Word.

The finding has now been addressed and the register of confidential items is now managed internally in an Excel format.

A review of sector best practice has been undertaken to identify opportunities for the City of Adelaide to enhance its practices in using the confidentiality provisions of the Act.

Best Practice 1: Use two reports – one for the public elements of a decision and another for only the confidential elements.

There are instances where a report may be confidential on the basis that it contains one or more figures, clauses or details that provide grounds for the public to be excluded. In these instances, best practice is to ensure the public has as much visibility to the matter being discussed as possible, while still maintaining confidentiality where necessary and appropriate.

Using two reports – one public and one confidential – can ensure that information is not unnecessarily withheld and reduces the risk of information being retained in confidence for longer than needed.

Best Practice 2: Careful consideration of how reports and attachments are presented – redact, separate or de-identify.

Confidential reports and attachment should be presented in a manner that most easily allows for information to be released as soon as practicable.

Guidance should be provided to report authors on the best methods of presenting reports and attachments to preserve confidentiality, while allowing for other information to be released without delay.

Councils use a variety of methods to achieve this including redaction of sensitive information, separating attachments or de-identification.

Best Practice 3: Provide clear and specific reasons for applying confidentiality.

In the 2012 Audit Report titled *'In the Public Eye'*, the SA Ombudsman provided the following instruction regarding documenting the reasons for applying confidentiality:

"Councils (and Committees) must, after identifying the relevant paragraph of section 90(3) of the Act, then articulate the reasoning behind the order. Details of the reasons for relying on a particular paragraph in section 90(3) must be provided in order to allow the public to better understand the Council's decision for moving into confidence. This is part of good decision making. Further, articulating reasons will also help the administrative staff and Councillors to think more carefully about why the public should be excluded from the meeting. In the latter case, this may also help add an appropriate measure of caution to weighing up the recommendations for secrecy".

It is important that each item of business is considered on its merits, and no particular class of business or document should be automatically be deemed confidential. It should be clearly demonstrated that the harm or detriment that would flow from release of a document would be real and substantial.

The 'Exclusion of the Public' report, which accompanies the confidential items presented to Council and Committees is aligned to sector best practice in documenting the grounds for applying confidentiality, the reasoning behind it and how the public interest test has been applied.

Best Practice 4: Provide clear and specific triggers for releasing information from in confidence

Periodic review of Confidentiality Orders can be made more difficult when the Order does not clearly specify the clear reasons for the matter to be retained in confidence or the clear triggers for the Order to be revoked. This can result in information being held in confidence for longer than is necessary.

Examples of best practice in providing clear and specific triggers for releasing information include:

- Maintaining confidentiality over documentation for a minimum amount of time before release to the public.
- Using an 'event trigger' with a short time frame, such as 'until nominees have been notified' or 'until all parties have signed the documentation'.
- Where a fixed timeframe has been used, providing a delegation to the CEO to determine if earlier release is appropriate.

We note that the vast majority of items on the COA Register have a fixed timeframe for expiry of the Order rather than an 'event trigger'. Where event triggers have been used, they are sometimes vague such as 'until the matter is finalised' or 'until the person no longer resides in South Australia for a period of at least one year'.

The use of these type of triggers could be contributing to CoA's comparatively high number of items with operative Confidentiality Orders.

Providing more clear and specific triggers for releasing information from in confidence is identified as a potential area for practice improvement for CoA.

Best Practice 5: Use technology to support the period review of Confidentiality Orders

Some councils use document management software that provide Officers with automated reminders that an Order is due for expiry and / or requires review. This is particularly helpful where fixed timeframe triggers have been used in Confidentiality Orders, as once an Order has expired it cannot legally be remade retrospectively. A contemporary document management system can reduce the risk of an Order expiring without prior review of whether the reasons for confidentiality continue to apply.

Best Practice 6: Continuous Improvement and Training

Undertaking regular reviews of processes is an important part of achieving leading practice. While legislation may not change, expectations about how it is interpreted and applied can change and councils may choose to adopt policies, guidelines or procedures that exceed the minimum standards outlined in the Act. As practices evolve, all staff involved in the application or review of Confidentiality Orders should receive regular training.

Performance Assessment – Recommendations

The review of performance has identified six recommendations for improved practice and performance.

Recommendation 1: Adopt a Public Transparency Policy to guide decision making and practice.

A Public Transparency Policy would provide a clear public statement about CoA's commitment to openness and approach to using the confidentiality provisions in the Act. The Policy would set a clear direction for updating guidelines, procedures and practice.

Recommendation 2: Improved documentation of the reasons for retaining or extending confidential items.

Update internal guidelines to provide more guidance on the level of commentary required in recommending that an item of register be retained or extended, including documenting the clear reasons the relevant grounds continue to apply and why the release of the information would be contrary to the public interest.

Recommendation 3: Develop guidelines explaining how 'commercial advantage' and 'commercial information' as grounds for confidentiality are to be applied.

An internal 'Guide to Confidentiality' providing examples of how the grounds specified in the Act will assist report authors to test the merits of each item of business on a case-by-case basis and reduce the risk of confidentiality being applied to certain classes of business by default.

Recommendation 4: Provide further guidance and training to report authors about the presentation of reports and attachments to minimise the information that needs to be considered in confidence.

Applying simple practice changes such as using two reports or separate attachments can ensure that public access is not unnecessarily restricted, while preserving confidentiality where it is necessary and appropriate.

Recommendation 5: Apply clear and specific triggers for releasing items from confidence.

Where possible, use an event-trigger rather than a fixed timeframe for determining when it is appropriate to release an item from confidence. Avoid using vague triggers that are open to different interpretations or misunderstanding. Update internal guidelines to achieve a consistent approach across the organisation.

Recommendation 6: Undertake regular training with report authors to build consistent expectations and practice.

All staff involved in the preparation of Council and Committee reports should receive regular training on how to apply the confidentiality provisions of the Act. Clear expectations set by a Public Transparency Policy should be set out in internal guidelines and procedures.

Public Transparency Policy

The purpose of a Public Transparency Policy is to set out the commitment of the City of Adelaide to provide public access to Council and Committee meetings and associated documents and establish a Policy that will guide why and how the City of Adelaide may use the provisions in the Act to restrict public access where necessary and appropriate.

A draft Public Transparency Policy tailored to CoA has been prepared and is provided as an attachment to this report. This Policy is not required under the Act in South Australia, but key elements have been drawn from Victoria where councils are required to adopt such a Policy.

The draft Policy recognises that the responsible use of confidentiality is an important part of good governance and does not seek to unreasonably limit or fetter the appropriate application of the Act. The intent is to provide clear guidance on how CoA will balance the objectives of openness and transparency and restricting public access where necessary and appropriate.

In preparing the draft Policy, we have had regard to the SA Ombudsman's 2012 *'In the Public Eye'* report, guidance material provided to SA councils by the Local Government Association of South Australia and best practice in the sector.

The following provides a summary of the key elements of the draft Policy.

Public Interest Test

The draft Policy sets out an overriding presumption towards openness, in accordance with the intent of the Act and the CoA direction to adopt a pro-disclose approach. In practice this means that matters where the public interest test is finely balanced, decisions should lean towards disclosure. It also means that the reasons for applying confidentiality should clearly establish that the harm or detriment expected to flow from disclosure would be real and significant, rather than a future theoretical harm or detriment.

Third Party Information

The draft Policy recognises that confidential information provided by or relating to Third Parties can reasonably be expected to be kept in confidence when grounds under the Act can be established. It is important though, that the relevant tests under the Act are applied and that third parties understand CoA's obligations to release decisions and information in circumstances where the grounds for confidentiality under the Act cannot be established. The draft Policy establishes an expectation that CoA will take reasonable steps prior to entering into an agreement or contact to inform a third party of the type of information that will be released and when and how it will be released. Adopting this approach may require consequential amendments to CoA's policies and practices in areas such as procurement and leasing.

Accountability and Reporting

The draft Policy recognises that CoA has obligations to report on the use of confidentiality provisions in its Annual Report. Guidance is provided on the performance metrics that should be adopted, such as reporting on the number of confidential decisions made as a percentage of total decisions. The SA Ombudsman has previously indicated that an appropriate benchmark for use of confidentiality is not more than 3-5% of total items of business.

Proactive Disclosure

The draft Policy provides that CoA may routinely publish information on its website to proactively disclose information that could be or has been subject of a Freedom of Information Request.

Future Options

Working towards a comprehensive pro-disclosure framework can assist the City of Adelaide to achieve its goals of being a sector-leader in openness and transparency.

The draft Public Transparency Policy has been largely framed around the requirements of the Act and achieving best practice in how the Act is applied with respect to confidentiality.

There are policies and practices used by other governments that CoA could consider, which exceed the requirements of the Act and position CoA a proactive leader in local government in South Australia.

Freedom of Information Disclosure Log

The South Australian Government adopted a [policy](#) in 2017 requiring agencies to make available on their websites, information and documents that have already been disclosed to an FOI applicant that:

- are not related to the personal affairs of an individual; and
- could not be claimed as exempt documents/material pursuant to Schedule 1 of the FOI Act, when being publicly released; and
- could not be considered defamatory or a breach of confidentiality or reasonably be anticipated to cause harm to a person.

Agencies are required to publish a summary of the FOI application, along with a copy of or links to eligible documents that have been released. The Policy includes appropriate safeguards against disclosure of information that ought to remain confidential and provides the CEO with delegation to determine circumstances in which an exemption to the Policy should be applied.

We note that a similar approach was taken by CoA in August 2022 for documents provided under FOI relating to the Eighty Eight O'Connell project.

Proactive Disclosure of Regularly Requested Information

CoA has already adopted the practice of proactively publishing information online about corporate credit card transactions and travel for business purposes.

This practice could be expanded to align with the proactive disclosure [Policy](#) adopted by the SA Government, which details a wider range of information to be routinely published by Agencies and Ministerial Officers.

CoA could adopt a tailored policy, having regard to information that is regularly requested by constituents and stakeholders and considering whether the resourcing required to collate and publish the information is outweighed by the public benefit of making the information available.

Register of Contracts

It is a well established practice for public sector bodies nationally to publish an online register of contracts to disclose information relating to certain contracts involving government expenditure. The contract disclosure requirements adopted by the South Australian Government are outlined in [Premier and Cabinet Circular PC027](#). Information to be disclosed about eligible contract includes the contract title, contractor details, details of the goods/services to be supplied, relevant dates, contract value and procurement approach.

CoA could look to the approach used in New South Wales, where councils maintain their own online registers of eligible contracts, subject to exemptions and exclusions necessary to protect the confidential commercial information of third parties.

Attachment 1 – Public Transparency Policy

Refer to separate document.

City of Adelaide Logo

Public Transparency Policy

Adopted [insert date]

non-legislative

PURPOSE	The purpose of this policy is to set out the commitment of the City of Adelaide (CoA) to provide public access to Council and Committee meetings and associated documents and establish a Policy that will guide why and how the CoA may use the provisions in the Local Government Act 1999 (Act) to restrict public access where necessary and appropriate.
STATEMENT	<p>Transparent decision making promotes a positive and productive relationship between the Council and the community. It allows the community to have a greater sense of ownership and connection to decisions made by the Council.</p> <p>Transparent decision making in local government supports accountability, encourages high performance and also increases public confidence in councils and their processes and decisions. Individuals will not always agree with Council decisions, but transparency allows them to scrutinise and understand the reasoning in the decision-making process.</p> <p>The following principles will be applied by Council Members and Council Officers in facilitating transparent decision making.</p> <p>Council and Committee Meetings</p> <ol style="list-style-type: none">1. The CoA will conduct all formal Council and Council Committee meetings in public and will provide public access to all documents considered at these meetings except where the strict circumstances outlined in the Act have been considered and it is determined necessary and appropriate for Council or Committee to order that the public be excluded [refer to Appendix 1 and 2].2. Meetings will only be closed to the public in circumstances where the Council or Committee is clearly satisfied that the need for confidentiality outweighs the principles of transparent decision making.3. The provisions of the Act that enable Council and Council Committees to receive, discuss or consider information in confidence are necessary for the maintenance of good governance. These provisions can and should be relied upon in the special circumstances where it is determined to be necessary and appropriate to order that the public be excluded. <p>Public Interest Test</p> <ol style="list-style-type: none">4. In circumstances that require the Council or Committee to determine whether receiving, discussing or considering

information in an open meeting would be, on balance, contrary to the public interest, the following principles will be applied:

- a. there is an overriding presumption towards public access to formal Council and Committee meetings and associated documents;
- b. the public interest considerations against public access are limited only to the grounds for confidentiality set out in Section 90(3) of the Act (Refer to Appendix 1);
- c. it must be clearly established and explained that the harm or detriment that would reasonably be expected to flow from public access is real and substantial;
- d. matters that are not relevant, such as potential for Council or the Committee to experience embarrassment, loss of confidence or adverse criticism as a result of public access, will be disregarded; and
- e. where the factors for and against public access are evenly balanced, public access should be allowed.

Council and Committee Reports

5. Where the Chief Executive Officer, in consultation with the Lord Mayor, believes that a matter should be considered in confidence, the nature of the matter and the reasons why it should be considered in confidence will be clearly stated on the agenda for the meeting which is made available to the public.
6. Reports, recommendations and resolutions will be presented or framed, wherever possible, so that as much information as possible can be made available to the public.

Third Party Information

7. CoA is regularly provided with information from third parties of a commercial or confidential nature. It is reasonable and appropriate to expect that CoA will preserve the confidentiality of this information where permissible in accordance with the provisions of the Act.
8. Prior to entering into a contract or agreement with a third party, CoA will take reasonable steps to inform the third party of the type of information that will be released and when and how it will be released.
9. Use or disclosure of personal information that is not confidential for the purposes of the Act will be in accordance with the CoA Privacy Policy.

Review of Confidentiality Orders

10. All orders made by Council or Committee under Section 91(7) of the Act that all or part of a document be kept confidential will clearly specify either the duration of the order or the specific circumstances in which the order will cease to apply.
11. All confidentiality orders that continue to operate will be reviewed no less than once every six (6) months to assess whether the grounds for non-disclosure remain appropriate and necessary.
12. Information will be released as soon as practicable following the expiry or revocation of a confidentiality order.
13. Where it is determined that it is necessary and appropriate to retain or extend an order made under Section 91(7), the relevant grounds and reasons will be clearly documented.
14. Where the grounds for and against retaining or extending the operation of an order are evenly balanced, the order should be revoked.

Accountability and Reporting

15. The CoA Annual Report will contain the following information about the use of confidentiality provisions:
 - a. The number of occasions each of the confidentiality provisions of the Local Government Act was used, categorised by the section of the Act relied upon.
 - b. A summary of and commentary on the reasons for the use of the confidentiality provisions in that year.
 - c. The total number of agenda items considered in that year and the proportion of items where confidentiality provisions were utilised.
 - d. The number of items that were released from confidentiality, in part or in full, in that year.
 - e. The number of items where a confidentiality order remains operative and the reasons why the order remains necessary and appropriate.

Proactive Disclosure

16. The CoA may routinely publish regularly requested information on its website to make this information available to all members of the public without requiring a Freedom of Information request.

	<p>17. The CoA may establish a disclosure log to enable central access to non-personal information that it has released under the Freedom of Information Act 1991 (the FOI Act). This will help information that may be of interest to the public to be readily identified and accessed by the community at large.</p> <p>Access to Information</p> <p>18. Access to council documents is facilitated in accordance with the CoA Information Statement prepared under the <i>Freedom of Information Act 1991</i>.</p>
<p>OTHER USEFUL DOCUMENTS</p>	<p>Relevant Legislation</p> <ul style="list-style-type: none"> • Local Government Act 1999 • City of Adelaide Act 1998 • Freedom of Information Act 1991 • Privacy Act 1988 <p>Related CoA Documents</p> <ul style="list-style-type: none"> • Acquisition and Disposal of Land and Assets Policy • Elected Members Standing Orders • Privacy Policy • Procurement Policy • Information Statement
<p>GLOSSARY</p>	<p>Act: means the Local Government Act 1999</p> <p>CoA: means the Corporation of the City of Adelaide</p> <p>Chief Executive Officer: means the person appointed to the office of Chief Executive Officer of the City of Adelaide</p> <p>Council Members: means the elected members of the CoA.</p> <p>Council Officers: means any employee, contractor, consultant, temporary member of staff working for, or on behalf of, the CoA.</p> <p>Meeting(s) means a meeting formal meeting of Council or a Committee held in accordance with the Local Government Act 1999</p>
<p>ADMINISTRATIVE</p>	<p>As part of Council’s commitment to deliver the City of Adelaide Strategic Plan, services to the community and the provision of transparent information, all policy documents are reviewed as per legislative requirements or when there is no such provision a risk assessment approach is taken to guide the review timeframe.</p> <p>This Policy document will be reviewed every 3 years unless legislative or operational change occurs beforehand. The next review is required in 2026.</p>

APPENDIX 1

Related Provisions of the Local Government Act 1999

Chapter 6 of the Local Government Act 1999 sets out the arrangements for Council and Council Committee meetings. These meetings are to be held in public except where special circumstances exist as prescribed in the Act and a Council or Committee orders that the public be excluded.

There are very strict circumstances in which a discussion or document considered in a Council or Committee meeting can be kept confidential. These provisions are covered in the following sections of the Act:

- 83(5) Council and 87(10) Committee – the Chief Executive may, after consultation with the principal member of Council, or in the case of a Committee the presiding member, indicate on a document or report provided to the members of the Council or the Committee that the matter may, if the Council or Committee so determines, be considered in confidence. The Chief Executive is required to specify at the same time the basis on which such an order can be made.
- 90(2) and (3) - circumstances where Council may order that the public can be excluded from attendance at a meeting, or part of it, to enable a matter to be considered in confidence. [Refer Appendix 2 for the for an exhaustive list of the special circumstances)
- 91(7) – circumstances where a document considered in confidence can be ordered to remain confidential.
- 91(8) – circumstances where a Council must not order that a document remain confidential.
- 91(9) – the Council or Committee 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 will be reviewed. The power to revoke an order can also be delegated to an employee of Council.
- 92 – requires the Council to prepare and adopt a Code of Practice relating to access to meetings and documents. Prior to adoption, alteration or substitution the proposed Code (or changes) must be available for inspection and purchase. Council is also required to follow the relevant steps set out in its public consultation policy. Council must, at least once in every financial year, review the Code.
- 94 – provides that the Ombudsman may, on receipt of a complaint, investigate the use of these provisions.

APPENDIX 2

Section 90(3) of the Local Government Act outlines the grounds on which it may be necessary and appropriate for a meeting of Council or a committee to be closed to the public. These grounds are exhaustive and no other reasons may be considered when determining whether the receive, discuss or consider information in confidence.

Section 90 Reference	Description
90(3)(a)	Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
90(3)(b) (i) and (ii)	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;
90(3)(c)	information the disclosure of which would reveal a trade secret
90(3)(d) (i) and (ii)	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;
90(3)(e)	matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person;
90(3)(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;
90(3)(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
90(3)(h)	legal advice
90(3)(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
90(3)(j) (i) and (ii)	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;

Section 90 Reference	Description
90(3)(k)	tenders for the supply of goods, the provision of services or the carrying out of works
90(3)(m)	information relating to a proposal to prepare or amend a designated instrument under Part 5 Division 2 of the Planning, Development and Infrastructure Act 2016 before the draft instrument or amendment is released for public consultation under that Act
90(3)(n)	information relevant to the review of a determination of a council under the Freedom of Information Act 1991;
90(3)(o)	information relating to a proposed award recipient before the presentation of the award

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REVIEW OF CONFIDENTIALITY ORDERS

1. SUMMARY OF FINDINGS

Ref # 1 Adopt a Public Transparency Policy to guide decision making practices		Rating: Moderate
Description of finding		Management Comments
Identification: A Public Transparency Policy would provide a clear public statement about CoA's commitment to openness and approach to using the confidentiality provisions in the Act. The Policy would set a clear direction for updating guidelines, procedures and practice.		A Public Transparency Policy will be developed to demonstrate CoA's commitment to openness and the approach to using the confidentiality provisions in the Act.
Position Responsible:	Manager Governance	
Target Date:	March 2024	

Ref # 2 Improved documentation of the reasons for retaining or extending confidential items		Rating: Moderate
Description of finding		Management Comments
<p>Identification:</p> <p>Update internal guidelines to provide a more guidance on the level of commentary required in recommending that an item of register be retained or extended, including documenting the clear reasons the relevant grounds continue to apply and why the release of the information would be contrary to the public interest.</p>		<p>1. Internal guidelines will be developed to assist report authors and management in developing reports in confidence, this will also take into consideration the requirements for the 6 monthly reviews and detailed commentary on whether the report is retained, revoked or extended.</p> <p>2. The Confidentiality Orders Register will be updated to ensure detailed commentary is recorded when an item is retained, extended or revoked.</p>
Position Responsible:	Manager Governance	
Target Date:	February 2024	



Ref # 3 Develop guidelines explain how 'commercial advantage' and 'commercial information' as ground for confidentiality are to be applied		Rating: Moderate
Description of finding		Management Comments
<p>Identification:</p> <p>An internal 'Guide to Confidentiality' providing examples of how the grounds specified in the Act will assist report authors to test the merits of each item of business on a case-by-case basis and reduce the risk of confidentiality being applied to certain classes of business by default.</p>		<p>Internal guidelines will be developed to assist report authors and management in developing reports in confidence, including examples of when a clause can be used and to test the merits of each item. This will be a 'how to guide' accessible to all report authors.</p>
Position Responsible:	Manager Governance	
Target Date:	February 2024	

Ref # 4 Provide further guidance and training to report authors about the presentation of reports and attachments to minimise the information that needs to be considered in confidence		Rating: Low
Description of finding		Management Comments
<p>Identification:</p> <p>Applying simple practice changes such as using two reports or separate attachments can ensure that public access is not necessarily restricted, while preserving confidentiality where it is necessary and appropriate.</p>		<p>Internal guidelines will be developed to assist report authors and management in developing reports in confidence, including consideration to presenting reports in public and attachments in confidence (when required).</p>
Position Responsible:	Manager Governance	
Target Date:	February 2024	



Ref # 5 Apply clear and specific triggers for releasing items from confidence		Rating: Moderate
Description of finding		Management Comments
<p>Identification:</p> <p>Where possible, use an even trigger rather than a fixed timeframe for determining when it is appropriate to release an item from confidence. Avoid using vague triggers that are open to different interpretations or misunderstanding. Update internal guidelines to achieve a consistent approach across the organisation.</p>		<p>1. Internal guidelines will be developed to assist report authors and management in developing reports in confidence, including in identifying appropriate confidential timelines (i.e. not using the default of 7 years).</p> <p>2. Processes to be created to ensure that once a document has been presented to Council/Committee in confidence, the appropriate release timeframe has been notified to the Corporate Governance team to ensure that the report is made public. These processes will be documented in Council's process mapping tool, Process Manager (formally known as Promapp).</p>
Position Responsible:	Manager Governance	
Target Date:	February 2024	

Ref # 6 Undertake regular training with report authors to build consistent expectations and practice		Rating: Moderate
Description of finding		Management Comments
<p>Identification:</p> <p>All staff involved in the preparation of Council and Committee reports should receive regular training on how to apply the confidentiality provisions of the Act. Clear expectations set by a Public Transparency Policy should be set out in internal guidelines and procedures.</p>		<ol style="list-style-type: none"> 1. Training session will be developed by Council and Corporate Governance to be targeted to report authors. 2. Regular training sessions to be set up during the course of year through the Learning and Development team.
Position Responsible:	Manager Governance	
Target Date:	March 2024	



Ref # 7 Use two reports – one for the public elements of a decision and another for only the confidential elements		Rating: Improvement Opportunity
Description of finding		Management Comments
<p>Identification:</p> <p>There are instances where a report may be confidential on the basis that it contains one or more figures, clauses or details that provide grounds for the public to be excluded. In these instances, best practice is to ensure the public has as much visibility to the matter being discussed as possible, while still maintaining confidentiality where necessary and appropriate.</p> <p>Using two reports – one public and one confidential – can ensure that information is not unnecessarily withheld and reduces the risk of information being retained in confidence for longer than needed.</p>		<p>Seek to include an attachment in the report for public release.</p>
Position Responsible:	Manager Governance	
Target Date:	October 2024	

Ref # 8 Careful consideration of how reports and attachments are presented – redact, separate or de-identify.		Rating: Improvement Opportunity
Description of finding		Management Comments
<p>Identification:</p> <p>Confidential reports and attachment should be presented in a manner that most easily allows for information to be released as soon as practicable.</p> <p>Guidance should be provided to report authors on the best methods of presenting reports and attachments to preserve confidentiality, while allowing for other information to be released without delay.</p> <p>Councils use a variety of methods to achieve this including redaction of sensitive information, separating attachments or de-identification.</p>		<p>Internal guidelines will be developed to assist report authors and management when developing reports in confidence. This will include clear guidance when presenting the reports and associated documents in confidence.</p>
Position Responsible:	Manager Governance	
Target Date:	February 2024	



Ref # 9 Provide clear and specific reasons for applying confidentiality.	Rating: Improvement Opportunity
Description of finding	Management Comments
<p>Identification:</p> <p>In the 2012 Audit Report titled 'In the Public Eye', the SA Ombudsman provided the following instruction regarding documenting the reasons for applying confidentiality.</p> <p><i>'Councils (and Committees) must, after identifying the relevant paragraph of section 90(3) of the Act, then articulate the reasoning behind the order. Details of the reasons for relying on a particular paragraph in section 90(3) must be provided in order to allow the public to better understand the Council's decision for moving into confidence. This is part of good decision making. Further, articulating reasons will also help the administrative staff and Councillors to think more carefully about why the public should be excluded from the meeting. In the latter case, this may also help add an appropriate measure of caution to weighing up the recommendations for secrecy.'</i></p> <p>It is important that each item of business is considered on its merits, and no particular class of business or document should automatically be deemed confidential. It should be clearly demonstrated that the harm or detriment that would flow from release of a document would be real and substantial.</p> <p>The 'Exclusion of the Public' report, which accompanies the confidential items presented to Council and Committees is aligned to sector best practice in documenting the grounds for applying confidentiality, the reasoning behind it and how the public interest test has been applied.</p>	<p>Internal guidelines will be developed to assist report authors and management when developing reports in confidence. This will include clear and specific reasons for applying confidentiality with examples.</p>
Position Responsible:	Manager Governance
Target Date:	February 2024

Ref # 10 Provide clear and specific triggers for releasing information from in confidence.	Rating: Improvement Opportunity
Description of finding	Management Comments
<p>Identification:</p> <p>Periodic review of Confidentiality Orders can be made more difficult when the Order does not clearly specify the clear reasons for the matter to be retained in confidence or the clear triggers for the Order to be revoked. This can result in information being held in confidence for longer than is necessary.</p> <p>Examples of best practice in providing clear and specific triggers for releasing information include:</p> <ul style="list-style-type: none"> • Maintaining confidentiality over documentation for a minimum amount of time before release to the public • Using an ‘event trigger’ with a short time frame, such as ‘until nominees have been notified’ or ‘until all parties have signed the documentation’. • Where a fixed timeframe has been used, providing a delegation to the CEO to determine if earlier release is appropriate. <p>We note that the vast majority of items on the CoA Register have a fixed timeframe for expiry of the Order rather than an ‘even trigger’. Where event triggers have been used, they are sometimes vague such as ‘until the matter is finalised’ or ‘until the person no longer resides in South Australia for a period of at least one year’.</p> <p>The use of these types of triggers could be contributing to CoA’s comparatively high number of items with operative Confidentiality Orders.</p> <p>Providing more clear and specific triggers for releasing information from in confidence is identified as a potential area for practice improvement for CoA.</p>	<p>Internal guidelines will be developed to assist report authors and management when developing reports in confidence. This will include clear and specific triggers for releasing information from confidence.</p>
Position Responsible:	Manager Governance
Target Date:	February 2024

Ref # 11 Use technology to support the period review of Confidentiality Orders.		Rating: Improvement Opportunity
Description of finding		Management Comments
<p>Identification:</p> <p>Some councils use document management software that provide Officers with automated reminders that an Order is due for expiry and/or requires review. This is particularly helpful where fixed timeframe triggers have been used in Confidentiality Orders, as once an Order has expired it cannot legally be remade retrospectively. A contemporary document management system can reduce the risk of an Order expiring without prior review of whether the reasons for confidentiality continue to apply.</p>		<p>Most Orders will expire in December of each year. If an order is to expire during the year, this is recorded by the Risk & Audit Analyst, who manages the review process however this process can be improved.</p> <p>Investigate the opportunity to use a document management software that will provide automated reminders for Orders that will expire and assist in the review cycles.</p>
Position Responsible:	Manager Governance	
Target Date:	March 2024	

Ref # 12 Continuous Improvement and Training.		Rating: Improvement Opportunity
Description of finding		Management Comments
<p>Identification:</p> <p>Undertaking regular review of processes in an important part of achieving leading practice. While legislation may not change, expectations about how it is interpreted and applied can change and councils may choose to adopt policies, guidelines or procedures that exceed the minimum standards outlined in the Act. As practices evolve, all staff involved in the application or review of Confidentiality Order should receive regular training.</p>		<p>The mid-year review is the extensive confidentiality orders review by management and report authors. The end of year review is to ensure all items have been reviewed prior to requesting an extension through a Council report.</p> <p>Annual training to be set up prior to the mid-year to be held either as a collective, or by program based (i.e. attend team meetings). This will assist in the review process and any questions that people may have. This will be included in a documented process map.</p>
Position Responsible:	Manager Governance	
Target Date:	June 2024	

APPENDIX 1: RISK MATRIX OF INTERNAL AUDIT FINDINGS

The following framework for the internal audit ratings is consistent with the CoA Risk Management Operating Guidelines and the Risk Management International Standard ISO31000:2018. The descriptions have been tailored to illustrate risk to the business operations.

1.1 CoA Risk Matrix

CoA Risk Matrix		CONSEQUENCE				
		Insignificant	Minor	Moderate	Major	Catastrophic
LIKELIHOOD	Almost Certain	Moderate	High	Extreme	Extreme	Extreme
	Likely	Moderate	High	High	Extreme	Extreme
	Possible	Low	Moderate	High	High	Extreme
	Unlikely	Low	Low	Moderate	Moderate	High
	Rare	Low	Low	Low	Moderate	Moderate

8.3 Risk & Finding Descriptions

Rating	Definition	Action	Indicative Timeframe (variations to be agreed by SRIA)
Extreme	<p>The finding represents a control weakness which could have or is having an extreme adverse impact on the business and the ability to meet objectives.</p> <ul style="list-style-type: none"> • Extreme decline in quality and customer service leading to a decrease in community's confidence in Council • Extreme breakdown in process that leads to illegal activity • Breach of legislation or contractual non-compliance that will result in litigation, prosecution and/or penalty 	<p>Finding reported to Director immediately and response plan developed with appropriate Associate Director. Implementation updates and status reporting managed through Promapp.</p>	<p>Actions managed in Promapp with a timeframe of no more than 3 months for completion.</p>
High	<p>The finding represents a control weakness which could have or is having a high adverse impact on the business and the ability to meet objectives.</p> <ul style="list-style-type: none"> • Major decline in quality and customer services leading to a decrease in community's confidence in Council • Serious breakdown in process that may lead to increased and unacceptable risk • Breach of legislation or contractual non-compliance that will result in litigation, prosecution and/or penalty 	<p>Finding reported to the appropriate Associate Director immediately and response plan developed with appropriate Manager. Managed through Promapp.</p>	<p>Actions managed in Promapp with a timeframe of no more than 6 months for completion.</p>
Medium	<p>The finding represents a control weakness which could have or is having a medium adverse impact on the business and the ability to meet objectives.</p> <ul style="list-style-type: none"> • Medium decline in quality and customer services leading to a decrease in community's confidence in Council • Medium operational breakdown in process that may lead to increased and unacceptable risk • Minor breach of legislation or contractual non-compliance that will not likely result in litigation, prosecution and/or penalty 	<p>Finding reported to appropriate Manager through Internal Audit Report and managed through Promapp.</p>	<p>Actions managed in Promapp with a timeframe of no more than 9 months for completion.</p>
Low	<p>The finding represents a minor control weakness which could have or is having a low/ minimal but reportable adverse impact on the business and the ability to meet process objectives.</p> <ul style="list-style-type: none"> • Minimal decline in quality and customer services • Minor breakdown in process that is not likely to affect risk • Minor breach of legislation or contractual non-compliance that will not likely result in litigation, prosecution and/or penalty 	<p>Finding reported to appropriate Manager through Internal Audit Report and managed through Promapp.</p>	<p>Actions managed in Promapp with a timeframe of no more than 12 months for completion.</p>