

2023 Confidential Orders Review

Tuesday, 28 November 2023
Council

Strategic Alignment - Enabling Priorities

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Public

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EXECUTIVE SUMMARY

A review of confidentiality orders has occurred in accordance with Section 91(9) of the *Local Government Act 1999* (SA) (the Act).

Five hundred and eight (580) confidential orders were reviewed, and 39 orders will be released in part or in full during December 2023. There are 43 orders which are recommended for extensions, as the grounds and basis for confidentiality are still relevant.

To increase transparency, the City of Adelaide conducts an additional mid-year confidentiality order review, which is in addition to the annual review required under the Act. During 2023, 46 orders have been released in part or in full.

In accordance with its Strategic Plan 2020 – 2024, Council has committed to transparent decision-making. We continue to work on ways to improve transparency of Council's decision making and minimise the number of matters discussed and held in confidence. All Council items are assessed with the objective of ensuring transparency to ratepayers, while adhering to legislative provisions, such as those outlined in Section 90(3) of the Act.

RECOMMENDATION

THAT COUNCIL

1. Notes that a review of the active confidentiality orders (May 2005 – October 2023) has been undertaken in accordance with Section 91(9) of the *Local Government Act 1999* (SA).
 2. Notes that 39 active confidentiality orders will be released in part or full during December 2023.
 3. Approves the extension of 43 confidentiality orders as identified in Attachment A to Item 14.5 on the Agenda for the meeting of the Council held on 28 November 2023.
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IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Enabling Priorities The role of the City of Adelaide is to uphold the value of integrity and accountability. To ensure that the Council delivers services to the community as a leader, advocate, and facilitator by maintaining a transparent decision-making process.
Policy	Council will be considering the implementation of a Public Transparency Policy at its meeting on 28 November 2023. That Policy proposes that all confidentiality orders be reviewed no less than once every six (6) months to assess whether the grounds for non-disclosure remain appropriate and necessary.
Consultation	Not as result of this report
Resource	Not as result of this report
Risk / Legal / Legislative	Section 91(9) of the <i>Local Government Act 1999 (SA)</i> requires a document or part of a document which is under a confidentiality order for a period exceeding 12 months to be reviewed at least once a year.
Opportunities	Not as result of this report
23/24 Budget Allocation	Not as result of this report
Proposed 24/25 Budget Allocation	Not as result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as result of this report
23/24 Budget Reconsideration (if applicable)	Not as result of this report
Ongoing Costs (eg maintenance cost)	Not as result of this report
Other Funding Sources	Not as result of this report

DISCUSSION

1. Section 90(2) of the Act enables a meeting of the Council or a Committee to determine that the public be excluded from attendance so that Council can receive, discuss or consider in confidence any information or matter as prescribed in Section 90(3) of the Act.
2. On every occasion that the provision to exclude within Section 90(2) of the Act was exercised, details of the order proceedings must be made in the minutes, specifying the grounds on which the order was made.
3. Section 91(9) of the Act specifies the requirements (duration of order, review date and delegation to review/revoke all or part report) that are to be included within the order.
4. Section 91(9) of the Act also specifies that a Council or a Committee order to keep a document, or part of a document, confidential for a period exceeding 12 months must be reviewed at least once every year.
5. The 2023 review of confidentiality orders examined all 580 active orders from May 2005 to October 2023. The orders relate to the following grounds (note: some orders apply to multiple grounds):

Section 90 of the <i>Local Government Act 1999 (SA)</i>	Times applied for order
(a) Personal affairs	46
(b) Commercial advantage / positions	264
(d) Commercial information	297
(e) security	10
(g) breach of law	42
(h) legal advice	54
(i) litigation	90
(j) information provided in confidence	41
(k) tenders	12
(m) development plan	7
(o) proposed award recipient	1
Regulation 13(2)(a) of the <i>Planning, Development and Infrastructure (General) Regulations 2017 SA</i>	Times applied for order
(ix) litigation	5

6. The 580 active orders were reviewed in consultation with the relevant Associate Director and/or Manager and final review by Executive. Of the 580 active confidentiality orders:
 - 6.1. Forty-three (43) orders will expire in December 2023, and require an extension to remain in confidence (**Attachment A**).
 - 6.2. Thirty-nine (39) orders will be released by the Chief Executive Officer, in part or in full, during December 2023.

7. Of the 43 orders that will expire in December 2023, it is recommended that they are extended on the following grounds (note: some orders apply multiple grounds):

Section 90 of the <i>Local Government Act 1999</i> (SA)	Times applied for order
(a) Personal affairs	3
(b) Commercial advantage / positions	14
(d) Commercial information	20
(g) breach of law	10
(h) legal advice	3
(i) Litigation	8
(j) information provided in confidence	3
(k) tenders	2

8. The table below shows the number of orders received, released and extended since 2021.

	2021 review	2022 review	2023 review
Number of orders reviewed	666	621	580
Number of orders extended	52	85	43
Number of orders released in part or in full as part of current annual review	8	34	39
Number of orders released in part or in full during the calendar year as part of the rolling review	25	152	46
Total number of orders released in part or in full	33	186	85

ATTACHMENTS

Attachment A – Confidentiality Orders Extension

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