

2022 Confidential Orders Review

Tuesday, 13 December 2022

Council

Strategic Alignment - Enabling Priorities

Program Contact:

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Public

Approving Officer:

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EXECUTIVE SUMMARY

A review of the 2022 confidentiality orders has occurred in accordance with Section 91(9) of the *Local Government Act 1999 (SA)* (the Act).

621 confidential orders were reviewed and 34 orders will be released in part or in full during December 2022. There are 85 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 2022, 152 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 now 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 (July 2005 to October 2022) has been unertaken in accordance with Section 91(9) of the *Local Government Act 1999 (SA)*.
 2. Notes that 34 active confidentiality orders will be released in part or full during December 2022.
 3. Approves the extension of 85 confidentiality orders as identified in Attachment A to Item 10.12 on the Agenda for the meeting of the Council held on 13 December 2022.
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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 values 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	Not as a result of this report
Consultation	Not as a result of this report
Resource	Not as a 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 every year.
Opportunities	Not as a result of this report
21/22 Budget Allocation	Not as a result of this report
Proposed 22/23 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report
21/22 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a 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 2022 review of confidentiality orders examined all 621 active orders from July 2005 to October 2022. 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 / position	299
(d) commercial information	343
(e) security	8
(g) breach of law	45
(h) legal advice	56
(i) litigation	83
(j) information provided in confidence	43
(k) tenders	13
(m) development plan	7
Regulation 13 (2) (a) of the <i>Planning, Development and Infrastructure (General) Regulations 2017 (SA)</i>	Times applied for order
(ix) litigation	2

6. The 621 active orders were reviewed in consultation with the relevant Associate Director and/or Manager and final review by Executive. Of the 621 active confidentiality orders:
 - 6.1. 85 orders will expire in December 2022, and require an extension to remain in confidence (**Attachment A**)
 - 6.2. 34 orders will be released by the Chief Executive Officer, in part or full, during December 2022.
7. Of the 85 orders that will expire in December 2022, 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 (SA)</i>	Times applied for order
(a) personal affairs	8
(b) commercial advantage / position	45
(d) commercial information	43
(g) breach of law	5
(h) legal advice	11
(i) litigation	18
(j) information provided in confidence	10
(k) tenders	2
(m) development plan	1

8. The table below shows the number of orders received, released and extended since 2020:

	2020 review	2021 review	2022 review
Number of orders reviewed	661	666	621
Number of orders extended	102	53	85
Number of orders released in part or in full as part of current annual review	85	8	34
Number of orders released in part or in full during the calendar year as part of the rolling review	106	25	152
Total number of orders released in part or in full	191	33	186

ATTACHMENTS

Attachment A – Confidentiality Orders Extension

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