

# *Council Policy*

Code of Practice for Access to Council,  
Council Committee and Information or  
Briefing Session Meetings & Documents



# COUNCIL POLICY

 <p><b>Adelaide Hills</b> COUNCIL</p>	<p align="center"><b>CODE OF PRACTICE FOR ACCESS TO COUNCIL, COUNCIL COMMITTEE AND INFORMATION OR BRIEFING SESSION MEETINGS &amp; DOCUMENTS</b></p>
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<p><b>Policy Number:</b></p>	<p>GOV-17</p>
<p><b>Responsible Department(s):</b></p>	<p>Governance &amp; Performance</p>
<p><b>Relevant Delegations:</b></p>	<p>As per the delegations schedule and as included in this Code</p>
<p><b>Other Relevant Policies:</b></p>	<p><i>Code of Practice for Meeting Procedures Council Member Conduct Policy Information or Briefing Sessions Policy Advisory Group Operation and Conduct Policy</i></p>
<p><b>Relevant Procedure(s):</b></p>	<p>None</p>
<p><b>Relevant Legislation:</b></p>	<p><i>Local Government Act 1999 Local Government (General) Regulations 2013</i></p>
<p><b>Policies and Procedures Superseded by this policy on its Adoption:</b></p>	<p><i>Code of Practice for Access to Council, Council Committee and Information or Briefing Sessions Meetings &amp; Documents - 23 April 2019, Item 12.7, 75/19</i></p>
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## Version Control

<b>Version No.</b>	<b>Date of Effect</b>	<b>Description of Change(s)</b>	<b>Approval</b>
1.0	23/4/2019	Code adopted	Council – Res75/19
1.1	21/4/2020	Amendments to provide consistency with <i>Electronic Participation in Council Meetings Notice (No 1) 2020</i>	Council – 63/20
1.2	22/9/2020	Amendments to provide for the broadcasting of Council meetings	Council – 198/20
1.3	9/11/2021	Consequential amendments from adoption of Information or Briefing Sessions Policy	Council – Res 226/21
1.4	26/11/2021	Updated legislative references relating to publication of Electronic Participation in Council Meetings Notice (No 5) 2021	N/A
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1.6	23/08/23	Minor updates to legislative provisions and terminology	Council – Res 227/23

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## **CODE OF PRACTICE FOR ACCESS TO COUNCIL, COUNCIL COMMITTEE AND INFORMATION OR BRIEFING SESSION MEETINGS & DOCUMENTS**

### **1. INTRODUCTION**

1.1. This Code sets out the commitment of Council to provide public access to Council, Council Committee and Information or Briefing Session meetings and Council and Council Committee documents and outlines the policies and procedures contained within the Act, 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.

1.2. 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;
- livestreaming/broadcasting of meetings;
- the process to exclude the public from meetings;
- matters for which the Council, a Council Committee, or an Information or Briefing Session 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.

1.3. On 15 September 2020, Council resolved (198/20) to commence broadcasting the proceedings of Council meetings.

### **2. STATEMENT OF PRINCIPLE**

2.1. 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 Act, the Adelaide Hills Council (Council) is fully committed to the principle of open and accountable government.

2.2. However, Council also recognises that on a limited number of occasions it may be necessary, in the public interest, to restrict public access to discussion/decisions and/or documents.

### 3. OBJECTIVES

3.1. The objectives of the *Code of Practice for Access to Council and Council Committee<sup>1</sup> and Information or Briefing Session<sup>2</sup> Meetings & Documents* (Code) are:

- Clearly outline to the community for what purpose and on what basis Council may apply the provisions of the Act to restrict public access to meetings or documents;
- Provide information on Council's code of practice to the community; and
- Summarise the legal position relating to public access to Council and Council Committee and Information or Briefing Session meetings and documents.

### 4. PUBLIC ACCESS TO THE AGENDA FOR COUNCIL AND COUNCIL COMMITTEE MEETINGS

4.1. At least three (3) clear days<sup>3</sup> before the Council or Council Committee meeting (unless it is a special meeting<sup>4</sup>) 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. . Where possible, the CEO will endeavour to have notices available in advance of the above timeframe.

4.2. The notice of meeting and agenda will be publically displayed at the principal office of council and the notice and agenda will be published on the Council's website [www.ahc.sa.gov.au](http://www.ahc.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. The electronic 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 both prior to the meeting.

4.6. Members of the public may obtain a paper 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 (after consultation with the principal member, 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.]

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<sup>1</sup> Council Committee means a committee established under Section 41 of the Act. For clarity it does not include the Council Assessment Panel created under Sections 82 & 83 of the *Planning Development and Infrastructure Act 2016*.

<sup>2</sup> Information or briefing session is a session to which more than one (1) member of the council or a council committee is invited by the council or the chief executive officer (CEO) of the council to attend or be involved in for the purpose of providing information or a briefing to attendees [Section 90A(1)]

<sup>3</sup> 'clear days' means that the time between the giving of the notice and the day of the meeting, but excluding both the day on which the notice was given and the day of the meeting, e.g. notice is given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday.

<sup>4</sup> Special meetings under s83(2) of the Act require at least four (4) hours' notice.

- 4.8. The above provisions apply to Council, Council Committees that have as part of their responsibility some regulatory activities and those other committees to which Council has determined these procedures will apply<sup>5</sup>. Where a Council Committee is not performing a regulatory activity these procedures may be varied, e.g. notice may be given in a form decided by the committee, and need not be given for each meeting separately. Public notice may be given at a place determined by the CEO taking into account the nature and purpose of the Committee.

## 5. PUBLIC ACCESS TO THE AGENDA FOR INFORMATION OR BRIEFING SESSIONS<sup>6</sup>

- 5.1. A council or the CEO must comply with the requirements of regulations relating to the publication of prescribed information relating to the Information or Briefing Session [s90A(7)].
- 5.2. Regulation 8AB of the *Local Government (General) Regulations 2013* requires the following information to be published as soon as practicable after the holding of an information or briefing session:
- the place, date and time;
  - the matter discussed;
  - whether or not the session was open to the public.
- 5.3. Council has determined that, where reasonably practicable, the details relating to the following Information or Briefing Sessions will be published prior to the session to inform interested members of the public:
- Workshops;
  - Professional Development [where the provisions of clause Section 90A(3) apply]; and
  - Advisory or Working Group meetings [where the provisions of Section 90A(3)] apply.
- 5.4. Agenda documents will be published on the website.
- 5.5. Where a confidential informal discussion declaration applies to an Information or Briefing Session (see clause 9), the reason for the Information or Briefing Session being held entirely or partially in confidence will be published on the Council's website.

## 6. PUBLIC ACCESS TO MEETINGS

- 6.1. Council, Council Committee and Information or Briefing Session meetings are open to the public and attendance is encouraged, except where the Council, the Council Committee or, in the case of an Information or Briefing Session, the Council or CEO, believes it is necessary in the public interest to exclude the public from the discussion (and, if necessary, decision<sup>7</sup>) of a particular matter.

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<sup>5</sup> Council's *Code of Practice for Meeting Procedures* sets out the Council Committees to which clause 5 applies.

<sup>6</sup> Further details of the provisions applying to Information or Briefing Sessions, are contained in Council's *Information or Briefing Sessions Policy* available at [ahc.sa.gov.au](http://ahc.sa.gov.au)

<sup>7</sup> Information or Briefing Sessions do not make decisions on any matter that is, or is intended to be, part of the agenda for a formal meeting of the Council or Council Committee

- 6.2. The public will only be excluded when considered proper and necessary (i.e. the need for confidentiality outweighs the principle of open decision-making). The following is an example:

*Council is intending to bid at an auction to acquire land and would not want others involved, such as the vendor to have prior knowledge of what Council was setting as an upper limit to bid at the auction, as to do so would prejudice the position of Council and disadvantage the community.*

- 6.3. Council encourages public attendance at meetings of the Council, Committees and Information or Briefing Sessions through public notification of meetings in the Council, Committee and Information or Briefing Sessions Schedule, located on Council's website.
- 6.4. Council has adopted the *Information or Briefing Sessions Policy* which provides information on the manner in which the provisions in Section 90A relating to information or briefing sessions will be managed.
- 6.5. When Council is meeting in person (i.e. in the Council Chamber) the meeting proceedings will be live streamed and recorded on a an audio system and a streaming platform determined by the CEO. Details of the broadcast will be on the Council's website.
- 6.6. Council's position is that Workshop or Professional Development Information or Briefing Sessions that are required to be open to the public under s90A(3) will be live streamed and recorded unless the confidentiality provisions of s90(3) and (4) apply.

## **7. PROCESS TO EXCLUDE THE PUBLIC FROM A COUNCIL OR COUNCIL COMMITTEE MEETING**

- 7.1. Before a Council or Council Committee 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.
- 7.2. 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 the Council /Committee. The live streaming of a Council meeting will be ceased for the period that the meeting is closed to the public pursuant to an order made under section 90(2).
- 7.3. Once Council or a Council Committee has made the order, it is an offence for a person, who knowing that an order is in force, enters or remains in a room in which such a meeting is being held. 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.
- 7.4. Once discussion on that particular matter is concluded, the public are then permitted to re-enter or reconnect to the meeting and the broadcasting, if applicable, will recommence. 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.

- 7.5. Please note that the Council, or the Council Committee, can by inclusion within the resolution permit a particular person or persons to remain in the meeting. An example would be allowing a ratepayer who is suffering personal hardship to remain in the meeting when their circumstances concerning the payment of rates are being discussed.
- 7.6. Council's practice is that, for the convenience of the public present at a meeting, where it is resolved to consider a matter in confidence, that the matter (unless there are pressing reasons as to why it should be debated at that point of the meeting) may be deferred until all other business has been dealt with. This is the preferred option of Council rather than asking the public to leave the room and wait for however long it takes until the matter is concluded and then invite them back to the meeting room with the possibility of the same process being repeated for a subsequent matter.

## **8. PROCESS TO EXCLUDE THE PUBLIC FROM AN INFORMATION OR BRIEFING SESSION<sup>8</sup>**

- 8.1. The Council or CEO may, on a case-by-case basis, declare an information or briefing session [to which Section 90A(3) applies] discussion to be a 'confidential discussion' where the information or briefing session is a briefing session relating to information or a matter of a confidential nature within the ambit of section 90(3) of the Local Government Act [see clause 9 below for the provisions of s90(3)].
- 8.2. If an information or briefing session [to which Section 90A(3) applies] has been declared to be a 'confidential discussion' under s90A(4), then the information or briefing session may be attended by Council/Committee Members, the CEO and any other person invited to attend by the Council or the CEO.
- 8.3. If a confidential declaration has been made in respect of only some of the matters to be discussed at an information or briefing session, then these confidential matters will normally be scheduled to be discussed at the end of the agenda for the information or briefing session. The information or briefing session will be open to the public until immediately prior to the discussion on confidential matters commencing and post the discussion, as applicable.

## **9. MATTERS FROM WHICH THE PUBLIC CAN BE EXCLUDED**

- 9.1. In accordance with the requirements of section 90(3) of the Act, Council, or a Council Committee or an Information or Briefing Session [to which Section 90A(3) applies], may order that the public be excluded in the following circumstances:
  - (a) *information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);*
  - (b) *information the disclosure of which—*

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<sup>8</sup> Further details of the provisions applying to Information or Briefing Sessions, are contained in Council's *Information or Briefing Sessions Policy* available at [ahc.sa.gov.au](http://ahc.sa.gov.au)

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- (i) *could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council; and*
    - (ii) *would, on balance, be contrary to the public interest;*
  - (c) *information the disclosure of which would reveal a trade secret;*
  - (d) *commercial information of a confidential nature (not being a trade secret) the disclosure of which—*
    - (i) *could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and*
    - (ii) *would, on balance, be contrary to the public interest;*
  - (e) *matters affecting the security of the Council, members or employees of the Council, or Council property, or the safety of any person;*
  - (f) *information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;*
  - (g) *matters that must be considered in confidence in order to ensure that the Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;*
  - (h) *legal advice;*
  - (i) *information relating to actual litigation, or litigation that the Council or Council committee believes on reasonable grounds will take place, involving the Council or an employee of the Council;*
  - (j) *information the disclosure of which—*
    - (i) *would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); and*
    - (ii) *would, on balance, be contrary to the public interest;*
  - (k) *tenders for the supply of goods, the provision of services or the carrying out of works;*
  - (m) *information relating to a 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;*
  - (n) *information relevant to the review of a determination of a Council under the Freedom of Information Act 1991;*

(o) *information relating to a proposed award recipient before the presentation of the award.*

9.2. 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.

9.3. In some sections under section 90(3) of the Act a public interest balancing test must be satisfied for the ground of exclusion to apply. The “*public interest balancing test*” applies to sections:

- 90(3)(b)(ii) – ‘commercial advantage’;
- 90(3)(d)(ii) – ‘commercial information’; and
- 90(3)(j)(ii) – ‘information provided on a confidential basis’.

This test requires that public interest reasons for closing a meeting to the public must outweigh the general requirements for meetings to be held in public. This requirement to satisfy a public interest test is mirrored in certain provisions of the *Freedom of Information Act 1999* (SA) (“the FOI Act”).

9.4. In considering whether an order should be made under section 90(2), it is irrelevant that discussion of a matter in public may [s.90(4)]:

- 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; or
- involve discussion of a matter that is controversial within the council area; or
- make the council susceptible to adverse criticism.

9.5. If a decision to exclude the public is taken, the Council, the Council Committee or an Information or Briefing Session [to which Section 90A(3) applies] 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.

## **10. USE OF THE CONFIDENTIALITY PROVISIONS**

10.1. 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 9.1 of this Code.

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- 10.2. In relation to Council and Council Committee meetings, Council's policy approach is as follows:
- 10.2.1. The principle of open and accountable government is strongly supported;
  - 10.2.2. 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;
  - 10.2.3. 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 or Committee must not order that a document remain confidential;
  - 10.2.4. 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. 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. ;
  - 10.2.5. Once discussion of the matter is concluded and the public have returned, the decision of the meeting in relation to this matter will be made publicly known unless the Council or Committee 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.
  - 10.2.6. In all cases the objective is that the information be made publicly available at the earliest possible opportunity and that the community is informed of any Council or Committee order and the associated implications; and
  - 10.2.7. Where a person provides information to the Council or Committee and requests that it be kept confidential, Council or Committee 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 or Committee will then be in a position to consider the request on its merits.
- 10.3. There is no legal requirement to resolve to “come out of confidence” or to go back into “public session”. The public may and should be invited to re-enter the meeting when consideration of the relevant Agenda Item has concluded. The public are also entitled to be present for the debate on whether any subsequent item should be considered in confidence.
- 10.4. The Council or Committee 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.

## 11. EXAMPLE CONFIDENTIALITY PROVISIONS

- 11.1. The Council will record in the minutes of any Council or Council Committee meetings the making of an order in accordance with sections 90(2) and (3) and section 91(7) as follows:

***Example: If Council were considering the terms for a waste resources contract.***

*A Section 90(3)(b) order would be made before Council went into confidence such as:*

*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.*

*If the Council resolved for the report containing the commercial information to remain in confidence, a Section 91(7) would be made at the conclusion of considering the item, such as:*

*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 signed.*

## **12. REVIEW OF CONFIDENTIALITY ORDERS**

- 12.1. A confidentiality order made under section 91(7) of the Act must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed.
- 12.2. An order will lapse if the time or event specified has been reached or carried out. There is no need for the Council to resolve for the confidential order to be lifted. Once the order has lapsed, the minutes and/or documents automatically become public.  
  
Orders that exceed 12 months must be reviewed annually, under s91(9), 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.
- 12.3. The Council may delegate to the Chief Executive Office and sub-delegate to an employee of the Council, if appropriate, the power to revoke an order.
- 12.4. 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.
- 12.5. Each item must then be addressed separately and assessed against section 90(3) and section 91(7) of the Act.
- 12.6. The Council cannot delegate the power to apply sections 90(3) and 91(7) of the Act.
- 12.7. 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.
- 12.8. 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. PUBLIC ACCESS TO MINUTES**

- 13.1. Minutes of a meeting of Council or a Council Committee will be publicly available, within 5 days after the meeting.
- 13.2. Formal minutes are not recorded at Information or Briefing Sessions. While notes may be taken at these sessions, they will not be published on the website or made available to the public unless otherwise provided for in Council policy (see clause 14 regarding Public Access to Documents).

## 14. PUBLIC ACCESS TO DOCUMENTS

- 14.1. 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, Council documents include, but not limited to Council and Committee agendas, minutes, attachments, tabled documents, audio and visual recordings of meetings and information or briefing sessions.
- 14.2. The Council or the Council Committee will only order that a document associated with a discussion from which the public are excluded is to remain confidential if it is considered proper and necessary in the broader community interest (as per the processes described above).
- 14.3. The Council or the Council Committee can only resolve to keep minutes and/or documents confidential under section 91(7) if they were considered in confidence pursuant to sections 90(2) and 90(3).
- 14.4. 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
  - 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.
- 14.5. 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; and
  - (if applicable) whether the power to revoke the order will be delegated to an employee of the Council. [s.91(9)]
- 14.6. Requests to access Council and Council Committee documents can be made under the *Freedom of Information Act 1991*.

- 14.6.1. Freedom of Information applications should be submitted using the correct application form and be as specific as possible to enable the correct documents to be identified.
- 14.6.2. Application forms are available from at each office of the Council that is open to the public for the general administration of Council business or on the State Records website: [www.archives.sa.gov.au](http://www.archives.sa.gov.au), under Freedom of Information, Forms for FOI Process. The application form contains details of the fees payable and fee waivers available.
- 14.6.3. Freedom of Information requests should be addressed to:  
Freedom of Information Officer  
Adelaide Hills Council  
63 Mt Barker Road  
STIRLING SA 5252

## **15. ACCOUNTABILITY AND REPORTING TO THE COMMUNITY**

- 15.1. 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 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:
  - Number of occasions each of the provisions of sections 90(2) and 90(3) were utilised;
  - 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;
  - 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);
  - Number of occasions that information originally declared confidential has subsequently been made publicly available; and
  - Number of occasions that information declared confidential has not been made publicly available and the reason for this in each case.
- 15.2. The Council's Annual Report will include details of an Information or Briefing Sessions held by Council in the preceding financial year, including their purpose, the matters discussed at workshops and professional development/training sessions and whether the public were able to attend.

## **16. REVIEW OF THE CODE**

- 16.1. Council is required to review this Code within 12 months after the conclusion of each periodic election, therefore the next mandated review is due to occur in November 2027. However, Council has the ability to review this Code at any time if considered desirable.

## 17. GRIEVANCE

- 17.1. 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.
- 17.2. 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 in Council's *Internal Review of Council Decisions Policy* which is available at Council's Service and Community Centres or on Council's website [www.ahc.sa.gov.au](http://www.ahc.sa.gov.au).

## 18. DELEGATION

- 18.1. The CEO has the delegation to:
- 18.1.1. Approve, amend and review any procedures that shall be consistent with this Code.
  - 18.1.2. Make any legislative, formatting, nomenclature or other minor changes to the Code during the period of its currency.