

WATTLE RANGE COUNCIL

Minutes of the Ordinary Meeting of Wattle Range Council held in the Supper Room, Millicent War Memorial Civic & Arts Centre, Ridge Terrace, Millicent on 14 June 2022 at 5.00 pm.

1. OPENING OF THE MEETING / CIVIC PRAYER / ACKNOWLEDGEMENT OF COUNTRY / RECORDING OF MEETINGS

2. PRESENT

His Worship the Mayor D Noll

Cr D Agnew

Cr C Brodie

Cr D Burrow

Cr S Cox

Cr J Drew

Cr K McGrath

Cr D Muhovics

Cr M Neagle

Cr D Price

Mr BJ Gower (Chief Executive Officer)

Mr PA Duka (Director Corporate Services)

Mr PA Halton (Director Engineering Services)

Ms EF Clay (Director Development Services)

Ms CP Allen (Executive Assistant)

3. APOLOGIES

Cr P Dunnicliff

4. DISCLOSURE OF INTERESTS

Cr Muhovics disclosed that he had a Perceived Conflict of Interest in regard to Item 15.2.4.

Cr Neagle disclosed that she had a Perceived Conflict of Interest in regard to Item 15.2.4.

5. CONFIRMATION OF THE MINUTES

5.1 Ordinary Meeting of Council – 10 May 2022 (Folio 9936 – Folio 10198)

Cr Agnew moved that the Minutes of the Ordinary Meeting dated 10 May 2022 be taken as presented and confirmed.

Cr Brodie seconded

CARRIED

5.2 Confidential Meeting of Council – 10 May 2022 (CM 983 – CM 984) – Released Immediately

Cr Cox moved that the Minutes of the Confidential Meeting dated 10 May 2022 be taken as presented and confirmed.

Cr Price seconded

CARRIED

5.3 Audit & Risk Committee Meeting – 7 June 2022 (Folio 10199 - Folio 101200)

Cr Burrow moved that the Minutes of the Audit & Risk Committee Meeting dated 7 June 2022 be taken as presented and confirmed.

Cr Drew seconded

CARRIED

5.4 Special Meeting of Council – 7 June 2022 (Folio 101201 – Folio 101202)

Cr Price moved that the Minutes of the Special Meeting dated 7 June 2022 be taken as presented and confirmed.

Cr Brodie seconded

CARRIED

6. MATTERS ARISING FROM THE MINUTES

7. ADJOURNMENTS

8. MAYORAL COMMUNICATIONS

8.1 Mayoral Communications

Cr Price moved that Mayoral Communications be taken as presented and confirmed and in the future they include the Wattle Range Flag.

Cr Muhovics seconded

CARRIED

9. DEPUTATIONS

NIL

10. PETITIONS

NIL

11. REPORTS FROM COUNCIL MEMBERS

Cr McGrath advised that on 6 June 2022 he attended a Lake George Committee Meeting. Lee Morgan was appointed as the Chairman.

Cr Neagle attended the Southend Community Consultation – Coastal Management public meeting on 6 June 2022.

Cr Cox advised that she presented the Youth Recognition Awards on 20 May 2022 to very worthy recipients.

12. QUESTIONS WITH NOTICE

12.1 Cr Dean Burrow – Questions with Notice – Deed of Trust – Greenrise Commonage

Cr Dean Burrow submitted the following Question(s) with Notice:

Question 1

Please provide details of each occasion when the legality of the Deed of Trust has been challenged, and the written legal advice, given in 2021 reaffirmed that it may not have been entered into legally.

Answer 1

Legal advice was obtained in 2021 and provided to Council as part of a formal report that related to a community request to access landfill from the Penola Commonage:

Implications Arising from Existence of Trust

The Trust, which was executed in 1998, purports to require the Council:

To hold the Subject Land for the public use of the residents of the former District Council of Penola (in its configuration as at 30 June 1997) for sporting, agricultural, educational, recreational, community or like purposed [sic] but subject to the conditions specified in or contemplated by this instrument.

The Trust then specifies certain conditions which are not relevant for the purposes of this advice.

The Trust was the subject of significant litigation from 2009 to 2012, relating to the proposed construction of the Penola bypass road through the Land.¹ There is accordingly a substantial amount of judicial analysis of this particular Trust. We have had regard to that analysis in formulating this advice.

The Supreme Court in fact expressed some doubt as to whether the Council was empowered to enter into the Trust at all. However, neither party to the litigation sought to impugn the Trust's validity and so the Court proceeded on the basis that the Trust is valid.²

The recent Supreme Court decision of *Duke Unley Pty Ltd v The Corporation of the City of Unley*³ casts more doubt upon whether the Council was empowered to make the Trust in 1998. In that case, the Court determined that the relevant council was not empowered under the *Local Government Act 1934* (which, relevantly, also applied at the time the Trust was purportedly made) to impress a trust upon land it already owned and which was not gifted or otherwise conveyed to the Council.

It is relevant to observe that the Trust was purportedly made in 1998 and, in 2002, the Council resolved to exclude the Land from being community land under the LG Act. However, we note that by 2006 - when the Council commenced public consultation with respect to the proposed revocation of community land status over part of the Land - the Council was proceeding on the basis that community land status of the Land was *not* revoked in 2002. This was presumably because the Council took the position the Trust is valid and so prevented the purported exclusion of community land status in 2002. The Council conducted itself in the Supreme Court litigation from 2009 to 2012 on the same basis, ie on the basis the Trust is valid.

Given the parties to the Supreme Court litigation proceeded on the basis the Council was empowered to make the Trust, and the Supreme Court also proceeded on this basis (despite expressing doubts), we consider senior counsel advice (potentially from the counsel who conducted the Supreme Court litigation on the Council's behalf, namely Mr Michael Roder QC) would be necessary if the Council now wishes to explore taking the position that it was in fact *not* empowered to make the Trust in 1998. We would also seek that the Council learn as much as possible about the history of this Land (including locating all resolutions made with respect to the Land at the time of, and subsequent to, the making of the Trust) before seeking such advice.

Question 2

Please provide conclusive legal advice as to whether or not the Deed of Trust is legally binding on the Wattle Range Council.

Answer 2

Legal advice was obtained in 2021 and provided to Council as part of a formal report that related to a community request to access landfill from the Penola Commonage:

“..... in light of the previous Supreme Court proceedings relating to the Land and the Trust, it would, in our view, be **necessary to obtain senior counsel advice before the Council decides whether to take such a position.**”

13. QUESTIONS WITHOUT NOTICE

Cr Cox requested that this Question Without Notice be entered into the Minutes:

Questions

Council received correspondence from Frank Brennan on April 4 regarding an extension to Admella Drive. Can you please tell me when the new policy re development infrastructure will be completed, as the Bellinger's have a date of July 2023 for their development?

As planning approval has already been given to this development can a new policy be applied retrospectively?

Answers

The Chief Executive Officer advised that the Bellinger's were only given planning approval for Stage 1 which took place in 2011. Stage 2 and 3 requires another planning application.

Council with the support of Norman Waterhouse are drafting a new Policy that covers development infrastructure requests as we need to make sure that we have a considered and consistent approach for this and future requests of this nature.

Various other questions were asked but there was no request that entry be made into the Minutes.

14. REPORTS FROM COUNCIL COMMITTEES

14.1 Rendelsham Community Hall Management Committee - Minutes of Meeting held on 31 May 2022

Cr McGrath moved that the Minutes of the Rendelsham Community Hall Management Committee Meeting dated 31 May 2022 be received and noted.

Cr Brodie seconded

CARRIED

15. REPORTS FROM COUNCIL OFFICERS

15.1 Chief Executive Officer

15.1.1 Monthly Project Status Report

Cr Agnew moved that Council receive and note the report.

Cr Price seconded

CARRIED

Mayor and Councillors thanked Muni for his very detailed report which he has provided over his time with Council and for his services to the community and wished him all the best into the future.

15.1.2 Council Service Centre

Cr Cox moved that Council:

1. Receive and note the report.

Cr Price seconded

Cr Price moved that Council:

CARRIED

2. Authorise Chapman Herbert Architects to proceed to the detailed documentation phase of the Council Service Centre project.

Cr Muhovics seconded

CARRIED

[Cr Cox left the meeting at 6.01 pm]

15.1.3 Revocation of the Emergency Management Orders

Cr Brodie moved that Council:

1. Receive and note the report.

Cr Drew seconded

CARRIED

[Cr Cox resumed the meeting at 6.03 pm]

Cr Price moved that Council:

2. Cease operation of the Delegations listed under the Local Government Act 1999 - Public Access and Public Consultation Notice (No 2) 2020 (Attachment 2) and Electronic Participation in Council Meetings Notice (No 1) 2020 (Attachment 1) at midnight 24 June 2022.
3. Alters its Discretionary Procedures (Procedures at Meetings) Code of Practice to remove the emergency declaration notice as listed in (Attachment 3 & 4) at midnight 24 June 2022.
4. Alters its Public Access to Council & Committee Meetings & Associated Documents Code of Practice to facilitate participation by Council members in Council meetings by electronic means (Attachment 3 & 4) at midnight 24 June 2022.
5. From 9 August 2022 cease using the Civic and Arts Centre Function Room / Supper Room as its primary Chamber and revert to its former primary Chamber location being the "Council Chambers" room adjacent the foyer/entrance within the Millicent Library building.

Cr Neagle seconded

CARRIED

15.2 Director Corporate Services

15.2.1 Monthly Financial Performance Report

Cr Muhovics moved that Council receive and note the 2021/22 May Financial Performance Report.

Cr Price seconded

CARRIED

15.2.2 Rendelsham Community Hall Management Committee

Cr Agnew moved that Council:

1. Receive and note the report.

Cr Cox seconded

CARRIED

Cr McGrath moved that Council:

2. That pursuant to section 41(3) of the *Local Government Act 1999*, Council appoints Cherie Foran (Community Representative) as a member of the Rendelsham Community Hall Management Committee, for a period coinciding with the four-year term of Council, expiring on 11 November 2022.

Cr Cox seconded

CARRIED

15.2.3 Wattle Range Youth Development Foundation

Cr Cox moved that Council provide financial assistance of \$200 to:

1. William Wimshurst to assist with costs to attend the 2022 Australian National Junior Basketball Championships in Perth from 1 – 11 July 2022.

Cr Agnew seconded

CARRIED

15.2.4 Section 989, Fifth Street, Millicent, Hundred of Mount Muirhead

Cr Muhovics advised that he had a Perceived Conflict of Interest in regard to Item 15.2.4 as his wife is Secretary of the Millicent Craft Group and she responded to the land division on behalf of the Craft Group.

Cr Neagle advised that she had a Perceived Conflict of Interest in regard to Item 15.2.4 as her sister-in-law submitted a response.

Cr Muhovics remained in the chamber throughout the discussions.

Cr Neagle remained in the chamber throughout the discussions.

Cr Drew moved that Council:

1. Receive and note the submissions received during the public consultation process.

Cr Cox seconded

CARRIED

Cr Cox moved that Council:

2. Provide a copy of the Submissions Report to the Department for Environment and Water and advise the Department of Council's commitment to purchase Section 989, Hundred of Mount Muirhead.

Cr Drew seconded

CARRIED

Cr Muhovics voted in the affirmative.

Cr Neagle voted in the affirmative.

The majority of the members voted in the affirmative.

15.3 Director Development Services

15.3.1 Quarterly Development Services Performance Update

Cr Cox moved that Council receive and note the report.

Cr Agnew seconded

CARRIED

15.3.2 Draft Strategic Land Use Plan

Cr Agnew moved that Council:

1. Receive and note the report.

Cr Cox seconded

CARRIED

Cr Brodie moved that Council:

2. Endorse the draft 25 Year Strategic Land Use Plan for Community Consultation.

Cr Muhovics seconded

CARRIED

15.4 Director Engineering Services

15.4.1 Update to Parking Register – Beach Road Beachport

Cr McGrath moved that Council:

1. Receive and note the report.

Cr Cox seconded

CARRIED

Cr Cox moved that Council:

2. Seek community comment on the proposed no standing zone to be created on Beach Road, Beachport in front of Beachport Brewing to improve public safety and accessibility on Beach Road.

Cr Brodie seconded

CARRIED

15.4.2 Beachport Entrance Signage – Public Consultation Outcome

Cr Neagle moved that Council:

1. Receive and note the report.

Cr McGrath seconded

CARRIED

Cr Brodie moved that Council:

2. Proceed with concept design 'Option A' for further design development and installation of two Beachport Entrance Signs on Southern Ports Highway.
3. Provide Liam Mills (the photographer) \$250 as a thank you for providing the photos to Council.

Cr McGrath seconded

CARRIED

ADJOURNMENT OF MEETING

Cr Cox moved that the meeting be adjourned for dinner until 7.05 pm

Cr Neagle seconded

CARRIED

The meeting adjourned at 6.35 pm.

The meeting reconvened at 7.08 pm.

16. CORRESPONDENCE

16.1 Letter of Thanks - Nick McBride MP

Cr Neagle moved that the correspondence from Nick McBride MP dated 13 May 2022 regarding the meeting with him and new Liberal Leader Hon David Speirs MP be received and noted.

Cr Agnew seconded

CARRIED

16.2 Letter of Thanks - State Liberal Leader David Speirs MP

Cr Agnew moved that the correspondence from David Speirs MP regarding his visit to the Limestone Coast be received and noted.

Cr Burrow seconded

CARRIED

16.3 Letter from Hon Nicola Centofanti MLC

Cr Brodie moved that the correspondence from Hon Nicola Centofanti MLC regarding being appointed leader of the Opposition in the Legislative Council be received and noted.

Cr Burrow seconded

CARRIED

16.4 Sam Telfer MP - Shadow Minister for Local Government

Cr Neagle moved that the correspondence from Sam Telfer MP regarding introducing himself as the Shadow Minister for Local Government following the recent State Government Election in March be received and noted.

Cr Muhovics seconded

CARRIED

16.5 Peter Rymill - Penola / Coonawarra Rail Trail

Cr Burrow moved that the correspondence from Peter Rymill dated 28 May 2022 regarding illumination of the Eucalypts at the southern end of Penola and the Penola – Coonawarra Rail Trail be received and noted.

Cr Drew seconded

CARRIED

16.6 Glencoe Progress Association - Lake Leake

Cr Price moved that the correspondence from Mrs Fay Childs dated 24 May 2022 regarding care and control of Lake Leake be received and noted and that Council undertakes preliminary investigation into the implications for taking care and dedication of Lake Leake.

Cr Muhovics seconded

CARRIED

16.7 Green Triangle Freight Action Plan Implementation

Cr Muhovics moved that the correspondence from Cr Karen Stephens dated 23 May 2022 regarding the Green Triangle Freight Action Plan be received and noted.

Cr Cox seconded

CARRIED

17. MOTIONS ON NOTICE**17.1 Motion on Notice - Cr Sharon Cox - South East Coastal Lakes Project Team**

Cr Cox moved Council that Council invite a spokesperson from the South East Coastal Lakes Project Team / Department for Environment and Water Protected Area Management to present their findings from recent workshops to Council before they make any decisions on the future of Lake George, Lake Bonney and others that are in our Council area.

Cr Burrow seconded

CARRIED

17.2 Motion on Notice - Cr Dean Burrow - Greenrise Commonage

Cr Burrow moved that Council make a regulation prohibiting the stockpiling and burning of waste timber, sourced from anywhere other than that which is grown and generated from the Commonage land.

Cr Cox seconded

LOST

18. URGENT MOTIONS WITHOUT NOTICE

NIL

19. ITEMS FOR CONSIDERATION IN CONFIDENCE**19.1 Confidential - Millicent Saleyards Upgrades - Tender Evaluation Report**

Cr Cox moved that:

1. Pursuant to Sections 90(2) and 90(3)(k) of the *Local Government Act, 1999* the Council orders that the public be excluded from attendance at the part of this meeting relating to Item 19.1, excepting the following persons:

- Mr BJ Gower – Chief Executive Officer
- Mr PA Duka – Director Corporate Services
- Mr PA Halton – Director Engineering Services
- Ms EF Clay – Director Development Services
- Ms C Allen – Executive Assistant / Minute Taker
- Mr MK Sunkappa Reddappa – Project Manager

To enable the Council to consider Item 19.1 in confidence on the basis the Council considers it necessary and appropriate to act in a meeting closed to the public (excepting those persons listed above) in order to receive, discuss or consider in confidence the following information or matter relating to Item 19.1 tenders for the supply of goods, the provision of services or the carrying out of works.

Specifically, the present matter relates to a tender for rectification of compliance issues at Millicent Saleyards.

2. Accordingly, on this basis, the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential.

Cr Brodie seconded

CARRIED

Mayor Noll stated:

To all members of the gallery, I advise that Council has resolved that this matter is to be considered in confidence pursuant to section 90 of the Local Government Act 1999 because the matter relates to a tender for rectification of compliance issues at Millicent Saleyards.

Accordingly, I have to ask all members of the public and press to leave the Council Chambers.

Thank you

Cr McGrath moved that Council:

1. Receive and note the report.

Cr Brodie seconded

CARRIED

Short Term Suspension of Proceedings

The Mayor, with the approval of two-thirds of the members present suspended the meeting procedures pursuant to Regulation 20(1) of the *Local Government (Procedures at Meetings) Regulations 2013*, for a period sufficient to facilitate informal discussion in relation to the Millicent Saleyards upgrade.

Cr Price moved that the meeting be suspended until 8.16 pm

Cr Cox seconded

CARRIED

The meeting adjourned at 8.01 pm.

Cr Drew moved that the meeting be further suspended until 8.28 pm

Cr Price seconded

CARRIED

The Meeting adjourned at 8.18 pm

The meeting reconvened at 8.28 pm.

Cr Neagle moved that:

2. Authorise the Chief Executive Officer to award contract to Hamlyn Wilson Pty Ltd to undertake compliance works at Millicent Saleyards, subject to satisfactory negotiations.

Cr Agnew seconded

CARRIED

Cr Muhovics moved that:

1. Pursuant to Section 91(7) of the *Local Government Act, 1999*, Council orders **that the following document(s) (or part) shall be kept confidential**, being document(s) (or part) relating to a matter dealt with by the Council on a confidential basis under Sections 90(2) and 90(3)(k) of the Act:

- **The Report of Item No. 19.1 of 14 June 2022**

On the grounds that the document(s) (or part) relates to tenders for the supply of goods, the provision of services or the carrying out of works.

Specifically, the present matter relates to a tender for rectification of compliance issues at Millicent Saleyards.

This order shall operate until **14 June 2023** and will be reviewed at least annually in accordance with the Act.

2. Pursuant to Section 91(9)(c) of the Act, the Council delegates to the Chief Executive Officer the power to revoke this order and must advise the Council of the revocation of this order as soon as possible after such revocation has occurred.

Cr Neagle seconded

CARRIED

[Cr Price left the meeting at 8.36 pm]

[Cr Muhovics left the meeting at 8.36 pm]

[Cr Price resumed the meeting at 8.37 pm]

[Cr Muhovics resumed the meeting at 8.38 pm]

19.2 Confidential - CEO Annual Performance Review

[Mr Gower, Mr Halton, Ms Clay and Mr Duka left the meeting at 8.38 pm]

Cr Brodie moved that:

1. Pursuant to Sections 90(2) and 90(3)(a) of the *Local Government Act, 1999*, the Council orders that the public be excluded from attendance at that part of this meeting relating to Item 19.2, excepting the following persons:
 - Ms CP Allen – Executive Assistant / Minute Taker

to enable the Council to consider Item 19.2 in confidence on the basis that Council considers it necessary and appropriate to act in a meeting closed to the public (excepting those persons listed above) in order to receive, discuss or consider in confidence the following information or matter relating to Item 19.2:

- Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).
 - Specifically, the present matter relates to the personal affairs of Mr Ben Gower, Chief Executive Officer.
2. Accordingly, on this basis, the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential.

Cr Cox seconded

CARRIED

Cr Drew moved that:

1. Receive and note the report

Cr Brodie seconded

CARRIED

[Mr Gower, Mr Halton, Ms Clay and Mr Duka resumed the meeting at 9.05 pm]

Cr Cox moved that Council:

1. Endorse the findings of the CEO Performance Review Committee.
2. Acknowledge that the CEO has performed his role in a manner that meets the requirements of his contract and approves an increase to the CEO's annual base salary by 2.5% backdated to the CEO's 12-month anniversary of 4 April 2022.
3. Set the following 4 KPI's for the CEO in the forthcoming year:
 1. Achieve the awarding of a construction contract for the Council Service Centre by 30 June 2023.
 2. Achieve the implementation of the Datascape Finance, Rates and Property, and Payroll modules and deploy the Customer Service, Compliance and Enforcement and Records Management and other minor modules by 30 June 2023.
 3. Evolve the Council's community engagement strategy and achieve significant improvement by 30 June 2023.
 4. Enhance Council's reputation as an employer of choice in order to attract and retain quality people

Cr Agnew seconded

CARRIED

Cr Cox moved that having considered Agenda Item 19.2 Chief Executive Officer – Annual Performance Review in confidence under section 90(2) and 90(3)(a) of the *Local Government Act 1999*, the Council pursuant to Section 91(7) of that Act orders that the **minutes and report related to this item be released to the public.**

Cr Brodie seconded

CARRIED

Meeting closed at 9.38 pm.

Taken as presented and confirmed.

.....
MAYOR

.....
DATE



Wattle Range
COUNCIL

Attachment 1

WATTLE RANGE COUNCIL

INSTRUMENT OF DELEGATION

LOCAL GOVERNMENT ACT 1999 - ELECTRONIC
PARTICIPATION IN COUNCIL MEETINGS NOTICE (NO 1)
2020 - NOMINATIONS BY CEO

07 JUNE 2022

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the South Australian Public Health Act 2011, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the Emergency Management Act 2004, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On the basis that a relevant declaration has been made in relation to a public health emergency and being satisfied that variation or suspension of the provisions specified in Schedule 1 to this notice is reasonably necessary as a result of the emergency, I, Stephan Karl Knoll, Minister for Transport, Infrastructure and Local Government, in the State of South Australia, in accordance with section 302B of the Local

Government Act 1999 ("the Act") hereby vary or suspend the operation of the specified provisions of the Act as set out in Schedule 1 to this notice, subject to any conditions specified in this notice including in accordance with any alternative requirements, arrangements or procedures as provided for in this notice.

Attachment 1

Delegation Sources

- Electronic Participation in Council Meetings Notice (No 1) 2020

Positions

Abbreviation	Position	Name
CEO	Chief Executive Officer	Benjamin James Gower
CO	Communications Officer	Megan Elizabeth Tilley
EA	Executive Assistant	Catherine Patricia Allen
GO	Governance Officer	Kaitlin Jayne Creek

Attachment 1

Local Government Act 1999 - Electronic Participation in Council Meetings Notice (No 1) 2020 - Nominations by CEO

Electronic Participation in Council Meetings Notice (No 1) 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
84(5)(a)	As soon as practicable after they were supplied to members of the Council, publish on Council's website any document or report supplied before a meeting to members of the council for consideration at a meeting of the council.	CO, CEO, EA, GO	
s84(5)(b)	As soon as practicable after they were supplied to members of the Council, publish on Council's website any document or report supplied at a meeting to members of the council for consideration at a meeting of the council.	CO, CEO, EA, GO	
90(1a)(a)	Make available a live stream of a Council meeting on the Council's website, ensuring that members of the public can hear the discussion between all members present at the meeting.	CO, CEO, EA, GO	
90(1a)(b)	If steps taken to make a live stream of a Council meeting available has failed, to make a recording of	CO, CEO,	

Electronic Participation in Council Meetings Notice (No 1) 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	the meeting and publish it on Council's website as soon as practicable after the meeting, ensuring that the public can hear the discussion between all council members present at the meeting.	EA, GO	
90(1b)(a)	If reasonable steps have been taken to publish a live stream or recording of a council meeting on the Council's website but have been unable to, to publish the steps taken to do so on the Council's website.	CO, CEO, EA, GO	

Attachment 1



Wattle Range
COUNCIL

Attachment 2

WATTLE RANGE COUNCIL

INSTRUMENT OF DELEGATION

LOCAL GOVERNMENT ACT 1999 - PUBLIC ACCESS &
PUBLIC CONSULTATION NOTICE (NO 2) 2020 -
DELEGATIONS FROM COUNCIL

07 JUNE 2022

These delegations:

- 3.1 operate and have effect for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect;
- 3.2 do not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council;
- 3.3 for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect, take precedence in the event of any inconsistency between this delegation and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of the making of these delegations.

Attachment 2

Delegation Sources

- Public Access & Public Consultation Notice (No 2) 2020

Positions

Abbreviation	Position	Name
CEO	Chief Executive Officer	Benjamin James Gower
DCS	Director Corporate Services / Deputy CEO	Paul Allen Duka
GO	Governance Officer	Kaitlin Jayne Creek
MA	Manager Administration	Catherine Louise Bell

Attachment 2

Local Government Act 1999 - Public Access & Public Consultation Notice (No 2) 2020 - Delegations from Council

Public Access & Public Consultation Notice (No 2) 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 45(2)	<p>1.1 the power pursuant to Section 45(2) of the LG Act to, if the delegate is satisfied it is reasonably necessary as a result of the public health emergency, to:</p> <p>1.1.1 close the principal office of the Council; or</p> <p>1.1.2 vary the transaction of business hours at the principal office of the Council;</p>	CEO	<p>This delegation:</p> <p>3.1 operates and has effect for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect;</p> <p>3.2 does not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council;</p> <p>3.3 for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect, take precedence in the event of any inconsistency between this delegation and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of the making of these delegations.</p>
s 45(3)	1.2 the power pursuant to Section 45(3) of the LG Act if the Council closes its principal office or varies the transaction of business hours	CEO	This delegation:

Public Access & Public Consultation Notice (No 2) 2020

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	<p>in accordance with Section 45(2) of the LG Act, to, as soon as reasonably practicable, take reasonable steps to:</p> <p>1.2.1 make alternative arrangements to enable the local community to access the services of the Council which are ordinarily available at the principal office of the Council;</p> <p>1.2.2 inform the Council's local community (including by publishing the information on a website determined by the Chief Executive Officer) about the changes to the arrangements to access those services;</p>		<p>3.1 operates and has effect for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect;</p> <p>3.2 does not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council;</p> <p>3.3 for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect, take precedence in the event of any inconsistency between this delegation and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of the making of these delegations.</p>
s 45(4)(b)	<p>1.3 the power pursuant to Section 45(4)(b) of the LG Act to satisfy any obligation under the LG Act to make a document available for inspection at the principal office of the Council by making the document available for inspection at an alternative place or by an alternative means as determined by the delegate;</p>	<p>CEO, DCS, MA, GO</p>	<p>This delegation:</p> <p>3.1 operates and has effect for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect;</p> <p>3.2 does not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council;</p> <p>3.3 for the period the Public Access and Public Consultation</p>

Public Access & Public Consultation Notice (No 2) 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			Notice (No 2) 2020 has effect, take precedence in the event of any inconsistency between this delegation and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of the making of these delegations.
s 45(5)	1.4 the power pursuant to Section 45(5) of the LG Act, if the Council or chief executive officer makes a document available for inspection in accordance with Section 45(4) of the LG Act, to, as soon as reasonably practicable, take reasonable steps to inform the Council's local community (including by publishing the information on a website determined by the chief executive officer) about the changes to the arrangements for inspection of the document;	CEO, DCS, MA, GO	<p>This delegation:</p> <p>3.1 operates and has effect for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect;</p> <p>3.2 does not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council;</p> <p>3.3 for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect, take precedence in the event of any inconsistency between this delegation and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of the making of these delegations.</p>

Public Access & Public Consultation Notice (No 2) 2020

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 45(10)	1.5 the power pursuant to Section 45(10) of the LG Act if the Council makes copies of a document available in accordance with Sections 45(8) or (9) of the LG Act, to, as soon as reasonably practicable, take reasonable steps to inform the Council's local community (including by publishing the information on a website determined by the chief executive officer) about the changes to the arrangements for provision of copies of the document.	CEO, DCS, MA, GO	<p>This delegation:</p> <p>3.1 operates and has effect for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect;</p> <p>3.2 does not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council;</p> <p>3.3 for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect, take precedence in the event of any inconsistency between this delegation and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of the making of these delegations.</p>
s 50(5a)	1.6 the power pursuant to Section 50(5a) of the LG Act to alter the Council's Public Consultation Policy or substitute a new policy without undertaking public consultation, even if the Council's existing Public Consultation Policy requires the Council to conduct public consultation;	CEO	<p>This delegation:</p> <p>3.1 operates and has effect for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect;</p> <p>3.2 does not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the</p>

Public Access & Public Consultation Notice (No 2) 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			<p>office of Chief Executive Officer of the Council;</p> <p>3.3 for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect, take precedence in the event of any inconsistency between this delegation and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of the making of these delegations.</p>
s 123(5)	<p>1.7 the power pursuant to Section 123(5) of the LG Act to ensure that copies of the draft annual business plan are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council (including as provided for in Sections 45(4) and 45(9) of the LG Act) and on the website at least 21 days before the end of the period for providing written submissions;</p>	<p>CEO, DCS, MA</p>	<p>This delegation:</p> <p>3.1 operates and has effect for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect;</p> <p>3.2 does not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council;</p> <p>3.3 for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect, take precedence in the event of any inconsistency between this delegation and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of</p>


Public Access & Public Consultation Notice (No 2) 2020

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			the making of these delegations.
s 151(8)	1.8 the power pursuant to Section 151(8) of the LG Act to ensure that copies of the report required under Section 151(5)(d) are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council (including as provided for in Sections 45(4) and 45(9) of the LG Act) at least 21 days before the end of the period for public consultation;	CEO, DCS, MA	<p>This delegation:</p> <p>3.1 operates and has effect for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect;</p> <p>3.2 does not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council;</p> <p>3.3 for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect, take precedence in the event of any inconsistency between this delegation and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of the making of these delegations.</p>
s 156(14e)	1.9 the power pursuant to Section 156(14e) of the LG Act to ensure that copies of the report required under section 156(14a)(a) of the LG Act are available for inspection (without charge) and purchase (on	CEO, DCS, MA	<p>This delegation:</p> <p>3.1 operates and has effect for the period the Public Access and</p>

Public Access & Public Consultation Notice (No 2) 2020

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	<p>payment of a fee fixed by the Council) at the principal office of the Council (including as provided for in Sections 45(4) and 45(9) of the LG Act) at least 21 days before the end of the period for public consultation.</p>		<p>Public Consultation Notice (No 2) 2020 has effect;</p> <p>3.2 does not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council;</p> <p>3.3 for the period the Public Access and Public Consultation Notice (No 2) 2020 has effect, take precedence in the event of any inconsistency between this delegation and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of the making of these delegations.</p>

Attachment 2

	CODE OF PRACTICE 104	Version:	6
	Discretionary Procedures (Procedures at Meetings)	Date Adopted:	14/04/2020
		Next Review Due:	Nov 2021

1. STATEMENT

This is a Code of Practice developed for the requirements of Regulation 6 of the *Local Government (Procedures at Meetings) Regulations 2013 (the Regulations)*.

IMPORTANT NOTE REGARDING THE OPERATION OF THIS CODE

Public Health Emergency: Electronic Participation in Council Meetings

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999 (Notice No 1)* varying or suspending the operation of the specified provisions of the Local Government Act 1999 as set out in Schedule 1 to Notice No 1. Notice No 1 commenced operation on 31 March 2020.

For the period Notice No 1 has effect (as provided for in Notice No 1), this Code of Practice is altered as set out below and those alterations have effect notwithstanding any other provision in this Code of Practice to the contrary.

For the avoidance of doubt, save for the alterations to the Code of Practice as set out below (and highlighted in blue), this Code of Practice otherwise applies to all meetings of the Council.

2. DEFINITIONS

Act means the Local Government Act 1999.


electronic means includes a telephone, computer or other electronic device used for communication.

regulations means the Local Government (Procedures at Meetings) Regulations 2013.

disconnection of the electronic includes:

- (a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard;
- (b) ending a video conferencing connection such that the discussion and voting at the meeting cannot be seen or heard;
- (c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard;
- (d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; or

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GF/ 9.63.1/4	Public	Corporate Services	Chief Executive Officer	Annually
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- (e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard.

The Act and the Regulations may specify other definitions that apply.

3. ALTERATION TO CODE OF PRACTICE

Attendance at Council Meetings

Members of the Council may participate in a meeting of the Council by electronic means.

A member of the Council participating in a Council meeting by electronic means is taken to be present at the meeting provided that the member:

- (a) can hear all other members present at the meeting;
- (b) can be heard by all other members present at the meeting; and
- (c) can be heard by the person recording the minutes of the meeting.

Quorum

A member of the Council participating in a Council meeting by electronic means is taken to be present at the meeting provided that the member:

- (a) can hear all other members present at the meeting;
- (b) can be heard by all other members present at the meeting; and
- (c) can be heard by the person recording the minutes of the meeting.

A quorum is taken to be present even if 1 or more Council members constituting the quorum is present by electronic means.

Leave of the Meeting

A vote on whether ***leave of the meeting*** is granted may be conducted by:


- (a) a show of hands; or
- (b) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative.

A division may be called in relation to the vote.

Adjourned Meetings

If a meeting is adjourned to another day, the Chief Executive Officer must:

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- (a) give notice of the adjourned meeting to each member of the Council setting out the date, time and place of the meeting;
- (b) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be published on a website determined by the chief executive officer.

Minutes

On confirmation of the minutes the presiding member may initial or sign the minutes in hardcopy or electronically.

The minutes of the proceedings of a meeting must include in relation to each member present at the meeting the method of attendance by the person.

Example:

The following are examples of methods of attendance:

- a) physical attendance;
- b) by an audio-visual link;
- c) by an audio link;
- d) by telephone.

Petitions

A petition must be addressed to the Council and delivered to the Council by means determined by the Chief Executive Officer as follows:

Email to: council@wattlerange.sa.gov.au

Post to: PO Box 27 Millicent SA 5280

Deputations

A person or persons wishing to appear as a deputation at a meeting must deliver (to the Council by means determined by the Chief Executive Officer as set out below) a written request to the Council.


Email to: council@wattlerange.sa.gov.au

Post to: PO Box 27 Millicent SA 5280

A person or persons wishing to appear as a deputation at a meeting may appear by electronic means.

The Chief Executive Officer will (with respect to a request that has not been refused), when informing the person or persons who requested the deputation of the outcome of their request, indicate the method by which the person or persons are to appear at the meeting.

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Voting

A vote in relation to a question for decision before the Council may be taken:

- (a) by a show of hands; or
- (b) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative.

The presiding member, or any other member, may ask the chief executive officer to read out a motion or amendment before a vote is taken.

In relation to a member participating in a Council meeting by electronic means, a member is not permitted to vote in circumstances where there has been a disconnection of the electronic means.

Divisions

A division is taken as follows:

- (a) except for a member participating in a meeting by electronic means which has audio only:
 - (i) the members voting in the affirmative will, until the vote is recorded, stand in their places;
 - (ii) the members voting in the negative will, until the vote is recorded, sit in their seats;
 - (iii) the presiding member will count the number of votes and then declare the outcome;
- (b) where a member is participating in a meeting by electronic means which has audio only, the member will provide a verbal indication of voting in the affirmative or voting in the negative.

Form of Participation by Electronic Means


Where:

- (a) a Council member is to participate in a Council meeting by electronic means; and
- (b) the electronic means has the functionality to allow the Council member to participate in the meeting by being heard but not seen or by being both seen and heard; and
- (c) the electronic means of the Council has the functionality to allow the council member to be heard but not seen or to be both seen and heard, the member must participate by being both seen and heard.

Suspension of other Inconsistent Provisions

To the extent that any other discretionary provision of this Code of Practice or specific procedure adopted by the Council in this Code of Practice could be read as being inconsistent or incompatible with the ability of a member of the Council to participate in a meeting of the

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Council by electronic means, the provision is suspended in respect of the member while they are participating in the meeting by electronic means.

In circumstances where a provision is suspended under this paragraph, the presiding member may give directions to a member of the Council in respect of an alternative method of compliance with the suspended provision.

Any member who disagrees with a direction of the presiding member under this paragraph may move a motion that the direction not be adhered to. Such a motion must be moved immediately following the issuance of the direction. In the event such a motion is successful, the meeting may give directions to a member, by resolution.

4. PRINCIPLES

4.1 Guiding Principles

Council has considered the following Guiding Principles in developing this Code of Practice:

- procedures should be fair and contribute to open, transparent and informed decision making;
- procedures should encourage appropriate community participation in the affairs of the Council;
- procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting; and
- procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting. (Regulation 4 of the Regs)

4.2 Variation of Regulations

In addition to the mandatory procedures detailed in the Act and Regulations, Council has determined to vary the following Regulations (in accordance with regulation 6). Any other sub-regulation not referred to, but capable of being varied, remains as per the Regulations.

4.2.1 Motions

Regulation 12(11) states:

"A member who has spoken to a motion may not at a later stage of the debate move or second any amendments to the motion".

Council varies this to:


A member, other than the mover or a seconder, who has spoken to a motion may at a later stage of the debate move or second an amendment to the motion.

4.2.2 Amendments to Motions

Regulation 13(1) states:

"A member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion."

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Council varies this to:

A member, other than the mover or seconder, who has or has not spoken to a motion may at a later stage of the debate move or second an amendment to the motion.

4.2.3 Addresses by Members

Regulation 15(1) states:

"A member must not speak for longer than 5 minutes at any 1 time without leave of the meeting."

Council varies this to:

A member must not speak for longer than 5 minutes at any 1 time without leave of the meeting and must rise in their place if able.

5. REVIEW

This Code of Practice must be reviewed at least once each financial year ^{(r6(2))}.

The Council may, at any time, by resolution supported by at least two thirds of the members of the council entitled to vote may alter, substitute or revoke the Code of Practice ^{(r6(3))} Note: regulation 12(4) would not apply in this circumstance.

6. AVAILABILITY

This Code is available for inspection without charge during ordinary business hours at:

- Principal Office, "Civic Centre", George Street, Millicent
- Council Website: www.wattlerange.sa.gov.au.

A copy of this Code may be purchased from the Principal Council Office upon payment of the fee detailed in Council's Schedule of Fees and Charges.

7. REFERENCES & FURTHER READING


Relevant Legislation:	<ul style="list-style-type: none"> • Local Government Act 1999 • Local Government (Procedures at Meetings) Regulations 2013 •
Relevant Policies / Procedures / Guidelines	<ul style="list-style-type: none"> • Code of Conduct 6 - Public Access to Council and Committee Meetings and Associated Documents • Procedure 106 - Deputations to Council • Procedure 369 - Petitions to Council

8. ADOPTION & AMENDMENT HISTORY

The table below sets out the adoption, review and amendment history of the policy.

Version No:	Issue Date:	Authorised by:	Description of Change:	Minutes Reference:
1	8 / 11 / 2011	Council	Adopted	Folio 4660; Item 11.1.3
2	11 / 12 / 2012	Council	Reviewed	Folio 4848; Item 11.1.9
3	08 / 04 / 2014	Council	Reviewed and Amended	Folio 5284; Item 12.2.8
4	27 / 11 / 2018	Council	Reviewed.	Folio 7983; Item 13.1.2
5	12/11/2019	Council	Removed reference to regulations that have not been varied.	Folio 8695; Item 15.2.5
6	14/04/2020	Council	Amended due to changes to the Local Government Act (COVID-19)	Folio 8948; Item 4.1.1

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	CODE OF PRACTICE 6		Version:	8
	Public Access to Council and Committee Meetings and Associated Documents		Date Adopted:	14/04/2020
			Next Review Due:	Nov 2022

1. STATEMENT

This Code sets out the commitment of Wattle Range Council to provide public access to Council and Council Committee meetings and associated documents and outlines the policies, procedures and practices contained within the *Local Government Act 1999 (the Act)*, to restrict public access.

Wattle Range Council supports the principle that the procedures to be observed at a meeting of Council or a Council Committee (formed under the Local Government Act) should contribute to open, transparent and informed decision-making and encourage appropriate community participation in the affairs of the Council.

This Code has been developed to meet the requirements of section 92 of the Act.

IMPORTANT NOTE REGARDING THE OPERATION OF THIS CODE:

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999* (**Notice No 1**) varying or suspending the operation of the specified provisions of the Local Government Act 1999 as set out in Schedule 1 to Notice No 1. Notice No 1 commenced operation on 31 March 2020.

For the period Notice No 1 has effect (as provided for in Notice No 1), this Code of Practice is altered as set out below and those alterations have effect notwithstanding any other provision in this Code of Practice to the contrary.


For the avoidance of doubt, save for the alterations to the Code of Practice as set out below (and highlighted in blue) this Code of Practice otherwise applies to all meetings of the Council.

2. DEFINITIONS

Audio Recording means any recording made by any electronic device capable of recording sound. This includes but is not limited to recordings made by mobile phone, video camera, cassette recorder, or DAT recorder, and stored on compact disk (CD), Digital Audio Tape (DAT), or in any other format (such as WAV, MP3, etc.).

Clear Days means 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.

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 Wattle Range COUNCIL	CODE OF PRACTICE 6	Version:	8
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connect means able to hear and/or see the meeting, including via a live stream or recording of the meeting;

disconnect means remove the connection so as to be unable to hear and see the meeting;

live stream means the transmission of audio and/or video from a meeting at the time that the meeting is occurring;

the Act refers to the *Local Government Act 1999*

personal affairs is defined by the Act and includes a person's financial affairs, criminal records, marital or other personal relationship, personal qualities, attributes or health status, employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person. It does not include the personal affairs of a body corporate.

3. ALTERATIONS to CODE OF PRACTICE

Public Notice of Council Meetings

The notice of meeting and agenda is not required to be placed on public display at each office of the Council.

A person is entitled, on payment of a fee fixed by the Council, to obtain a copy of a notice and agenda published on a website determined by the Chief Executive Officer and the notice and agenda will continue to be published on the website until the completion of the relevant meeting.

Copies of any document or report supplied to members of the Council for consideration at a meeting of the Council are not required to be made available for inspection by members of the public at the principal office of the Council or at the meeting.


The chief executive officer (or a person nominated in writing by the chief executive officer) will ensure that any document or report supplied to members of the Council for consideration at a meeting of the Council is available for inspection by members of the public:

- in the case of a document or report supplied to members of the Council before the meeting - on a website determined by the chief executive officer as soon as practicable after the time when the document or report is supplied to members of the Council; or
- in the case of a document or report supplied to members of the Council at the meeting - on a website determined by the chief executive officer as soon as practicable after the time when the document or report is supplied to members of the Council.

Meetings to be Held in Public Except in Special Circumstances

A Council meeting will be taken to be conducted in a place open to the public even if 1 or more Council members participate in the meeting by electronic means provided that:

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- (a) the chief executive officer (or a person nominated in writing by the chief executive officer) makes available to the public a live stream of the meeting on a website determined by the chief executive officer and ensures that members of the public can hear the discussion between all council members present at the meeting via the live stream; or
- (b) if the chief executive officer (or a person nominated in writing by the chief executive officer) has taken reasonable steps to make available a live stream of the meeting but is unable to make available a live stream of the meeting, the chief executive officer (or a person nominated in writing by the chief executive officer) makes available to the public a recording of the meeting as soon as practicable after the meeting on a website determined by the chief executive officer and ensures that members of the public can hear the discussion between all Council members present at the meeting via the recording.

If the chief executive officer (or a person nominated in writing by the chief executive officer) has taken reasonable steps but is unable to make available a live stream of the meeting, or make available a recording of the meeting as soon as practicable after the meeting (on a website determined by the chief executive officer), the chief executive officer (or a person nominated in writing by the chief executive officer) must publish on a website determined by the chief executive officer the steps taken to comply and the requirement regarding live streaming and recording is suspended.

The council or council committee must disconnect any live stream or recording of a meeting for the period that the meeting is closed to the public pursuant to an order made under section 90(2) of the Act.

It is an offence for person who, knowing that an order is in force under section 90(2), to connect to a meeting of the Council or Council committee by electronic means, or fail to disconnect from a meeting of the Council or Council committee.

Minutes and Release of Documents

A copy of the minutes of a meeting of the council must be placed on public display on a website determined by the chief executive officer within five days after the meeting and kept on display for a period of one month.


Code of Practice

The Council is not required to adopt any provision in a code of practice that would prevent or inhibit members from participating in Council meetings or Council committee meetings by electronic means.

Council members may meet by electronic means to alter the code of practice of the Council, or substitute a new code of practice of the Council, even if the existing code of practice prevents or inhibits the Council members from meeting by electronic means.

The requirement in section 92(5) that before a Council adopts, alters or substitutes a code of practice it make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection and purchase at the principal office of the Council and on a website

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determined by the Council and that the Council follow the steps set out in its public consultation policy is suspended while these provisions are in effect.

Suspension of Other Inconsistent Provisions

To the extent that any other provision of this Code of Practice could be read as being inconsistent or incompatible with the ability of the Council to hold electronic meetings, the provision is suspended while these provisions are in effect.

4. PRINCIPLES

4.1 Scope

This Code sets out the policy of Council for access to meetings and documents and includes information relating to:

- Public access to the agenda, document and minutes for meetings;
- the process to exclude the public from meetings;
- matters for which the Council, or a Council Committee, can order that the public be excluded;
- how the Council will approach the use of the confidentiality provisions in the Act;
- public access to documents, including minutes;
- review of confidentiality orders;
- example of confidentiality Provisions;
- accountability and reporting to the community, and the availability of the code; and
- grievances about the use of the code by Council.

4.2 Public access to meetings

4.2.1 Ordinary meetings of Council or Council Committees

Council and Council Committee meetings are open to the public and attendance is encouraged. Details of Council meetings are displayed on Council's Website and in Council Offices.

Ordinary meetings of Council are held in the Council Chamber, Civic Centre, George St, Millicent on the third Tuesday of January and second Tuesday of every other Month, commencing at 5pm.


At least three (3) 'clear days' before an ordinary Council meeting the Chief Executive Officer (CEO) will give written notice of the meeting to all Council Members setting out the date, time and place of the meeting. The notice will be accompanied by the agenda for the meeting.

The notice of meeting will be placed on public display at the following locations:

- Millicent Office – 'Civic Centre' George Street, Millicent
- Beachport Office – Millicent-Beachport Road, Beachport
- Penola Office – 27 Arthur Street, Penola
- Council's website www.wattlerange.sa.gov.au

until the completion of the relevant meeting.

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Meetings will commence as soon after the time specified in the notice of meeting as a quorum is present.

4.2.2 Special meetings of Council or Council Committees

Special Council or Council Committee meetings may be held at any time, however, at least four hours' notice is required for a Special meeting of Council and Council Committees performing a regulatory function. The notice of the meeting and agenda will be available as soon as practicable after the time that notice of the meeting is given to Council members.

4.2.3 Informal gatherings or discussion

Council members and staff may participate in informal gatherings and public access to these is detailed in Council's Informal Gathering Policy.

4.2.4 Recording Council or Committee Meetings

Wattle Range Council prohibits any person from photographing, filming, televising or recording by audio or visual devices (including mobile phones) any Committee or Council Meeting without written approval from the Mayor or Chief Executive Officer (CEO). Approval is at the discretion of the Mayor or CEO. An approval granted may be either a standing on-going approval or on a specific occasion. An approval may be withdrawn either generally or on a specific occasion.

This applies to Council Members, Council Committee Members, Council staff, the general public and media representatives.

4.3 Public access to documents

4.3.1 Public access to the Notice of Meeting and agenda

The non-confidential Council or Council Committee notice of meeting and agenda is available to view by the public 3 clear days before a meeting is scheduled at:

- Millicent Office – 'Civic Centre' George Street, Millicent
- Beachport Office – Millicent-Beachport Road, Beachport
- Penola Office – 27 Arthur Street, Penola
- Council's website www.wattlerange.sa.gov.au

Members of the public may obtain a copy of the agenda for a fee to cover the costs of photocopying, in accordance with Council's schedule of fees and charges.

One copy of the agenda will be made available to view by the general public in attendance at a meeting.


Items listed on the agenda will be described accurately and in reasonable detail.

4.3.2 Public access to minutes

During Council meetings the minutes are displayed on an overhead screen to enhance community understanding of meeting processes and to confirm the decisions made.

The non-confidential minutes of a Council or Council Committee meeting will be publicly available, including on the Council's website within 5 clear days after the meeting.

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A copy of the non-confidential minutes will be displayed at the Millicent Office – 'Civic Centre' George Street, Millicent for a period of at least one month.

Members of the public may obtain a copy of the non-confidential minutes for a fee in accordance with Council's schedule of fees and charges.

4.3.3 Public access to other documents

Council makes various documents available for public inspection and purchase at its offices. Council also makes many of these documents freely available on Council's website.

The *Freedom of Information Act 1991* also makes provision for members of the public to access the documents of government. There are some exemptions under that Act and other pieces of legislation (e.g. Copyright Act) where some documents may not be released. Inquiries in relation to the process for seeking access to documents held by Council should be directed to Council's Accredited Freedom of Information Officer on (08) 8733 0900

4.4 Excluding public access to meetings or documents

4.4.1 Principles for the use of confidentiality provisions

The principle of open and accountable government is strongly supported.

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


In all cases the objective is that the information be made publicly available at the earliest possible opportunity and that the community is informed of any Council order and the associated implications.

4.4.2 Powers to exclude the public from meetings

Section 90 of the Act gives Council and Council Committees the power to exclude the public from a meeting, only when discussion of a matter involves:

- (a) *information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);*
- (b) *information the disclosure of which -*
 - (i) *could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and*
 - (ii) *would, on balance, be contrary to the public interest;*
- (c) *information the disclosure of which would reveal a trade secret;*
- (d) *commercial information of a confidential nature (not being a trade secret) the disclosure of which -*
 - (i) *could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and*

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- (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 proposed amendment to a Development Plan under the Development Act 1993 before a Development Plan Amendment proposal relating to the amendment is released for public consultation under that Act;*
- (n) *information relevant to the review of a determination of a council under the Freedom of Information Act 1991.*


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 above grounds and the factual reasons for the relevance and application of the ground(s) in the circumstances.

In considering whether to exclude the public, it is irrelevant that discussion of a matter in public may—

- (a) cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
- (b) cause a loss of confidence in the council or council committee; or
- (c) involve discussion of a matter that is controversial within the council area; or
- (d) make the council susceptible to adverse criticism.

When a decision to exclude the public is carried, the Council or the Council Committee will make a note in the minutes of the making of the order and the grounds on which it was made.

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Once Council, or a Council Committee has made an order to exclude the public, 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.

4.4.3 Powers to make orders of confidentiality over documents

When an order to exclude the public has been made and following confidential discussion, section 91(7) of the Act then allows Council or a Council Committee to make a further order that documents (e.g. reports, attachments, minutes, or others) are kept confidential.

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.

When Council makes an order (by resolution) to keep documents confidential the minutes will record:

- the grounds on which it was made;
- the duration of the order or the circumstances in which the order will cease to apply; and
- the period after which the order must be reviewed.

Council also has the power to determine that an employee of Council may revoke the order. [s.91(9)]


An order cannot be made to prevent: [refer s91(8) LG Act]

- 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.

4.4.4 Public Requests for Information to be Confidential

Council is only permitted to exclude the public and retain information under a confidentiality order when it meets the criteria specified by the Act (summarised in sections 3.4.2 & 3.4.3 above).

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4.4.5 Process to exclude the public

Council officers prepare reports as per the flow diagram in Appendix 3.

If the CEO believes that a matter should be considered in confidence, it will be clearly noted on the agenda (generally in the *Items to be Considered in Confidence* section).

The public (non-confidential) version of the agenda will only contain the report title and the reason(s) why it should be considered in confidence.

Council must, in public, formally determine if it is necessary and appropriate to consider an item confidentially. A resolution to exclude the public will need to be carried. If this occurs, the public must immediately leave the meeting room and move to a location that the meeting cannot be viewed or overheard. Any staff exempted and listed by name in the resolution are entitled to remain in the meeting room with the Council Members. At the discretion of Council, any other person or persons exempted and listed may remain in the meeting room (e.g. a ratepayer who is suffering personal hardship their circumstances concerning the payment of rates is being discussed).

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 item remain confidential (e.g. report, attachment or minutes). In determining this, the meeting shall have regard to the provisions of section 91 of the Act.

Council will consider each confidential item separately (they will not be considered en bloc). Hence, 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.

Once discussion on the matter is concluded, the public are then permitted to re-enter the meeting.

Decisions made will be available in the public minutes unless Council has ordered that they remain confidential, in which case they will not be publicly available.

4.5 Review & Release of Confidentiality Orders


A review of the reports, attachments, minutes or any other documents that are the subject of a confidentiality order are conducted annually to ensure that items are released to the public in accordance with the resolutions of Council. Released documents are available on Council's website at www.wattlerange.sa.gov.au.

4.6 Accountability and Reporting to the Community

Information on the use of confidentiality provisions will be included in the Annual Report, which is available for inspection by the public at Council offices. This includes:

- Number of occasions each of the provisions for excluding the public were utilised;
- Subject of the confidential item;
- Number of occasions that information originally declared confidential has subsequently been made publicly available; and
- Any other information that the Act or Regulations require to be reported.

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5. REVIEW

This Code of Practice will be reviewed within 12 months after the conclusion of each periodic election or before if required.

In addition, Section 92(5) of the *Local Government Act 1999* requires any future amendment or alteration to the Code, or a substitution of a new Code, will be subject to the specifications of Council's Community Engagement Policy

6. AVAILABILITY

This Policy is available for inspection without charge at the following location during ordinary business hours:

- Principal Office, "Civic Centre", George Street, Millicent
- Council Website: www.wattlerange.sa.gov.au.

A copy of the Policy may be purchased from the Principal Council Office upon payment of a prescribed fee in accordance with Council's Schedule of Fees and Charges.

7. REFERENCES & FURTHER READING


Relevant Legislation:	<ul style="list-style-type: none"> • <i>Local Government Act 1999</i> • <i>Local Government (Procedures at Meetings) Regulations 2013</i> • <i>Freedom of Information Act 1991</i>
Relevant Policies / Procedures / Guidelines	<p>This Policy should be read in conjunction with:</p> <ul style="list-style-type: none"> • Appendix 1 – Matters for which Council, or a Committee, can order that the public be excluded. • Appendix 2 – Template for Making Section 90(2) and 91(7) Orders Under the <i>Local Government Act 1999</i> • Policy 1.1 – Code of Conduct for Council Members • Policy 1.5 – Community Engagement • Code of Practice 104 - Discretionary Procedures – Procedures at Meetings • Policy 1.47 – Informal Gatherings • Policy 28 – Customer Experience & associated procedures • Procedure 106 – Deputations to Council • Procedure 369 – Petitions to Council

8. ADOPTION & AMENDMENT HISTORY

The table below sets out the adoption, review and amendment history of the policy.

Version No:	Issue Date:	Authorised by:	Description of Change:	Minutes Reference:
1	12/12/2006	Council	Adopted	Folio 3789; Item 18.1.1
2	14/12/2010	Council	Reviewed	Folio 4496; Item 16.1.7
3	08/05/2012	Council	Amended	Folio 4574; Item 11.1.2
4	11/12/2012	Council	Reviewed	Folio 4847; Item 11.1.9
5	08/04/2014	Council	Amended	Folio 5284; Item 12.2.9
6	08/11/2016	Council	Amended	Folio 6936; Item 13.2.3
7	21/01/2020	Council	Amended	Folio 8922; Item 15.2.6
8	14/04/2020	Council	Amended – LG Act changes due to COVID-19	Folio 8948; Item 4.1.2

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APPENDIX 1 - CONFIDENTIAL ITEM RECOMMENDATIONS

TEMPLATE FOR MAKING AN ORDER TO EXCLUDE THE PUBLIC (SECTION 90(2) ORDERS)

It is irrelevant to exclude the public from the Meeting just because the issue:

- May cause embarrassment to the Council or to members or employees of the Council; or
- May cause a loss of confidence in the Council; or
- May involve discussion of a matter that is controversial within the Council area; or
- May make the Council susceptible to adverse criticism.

Appendix 2 contains the list of reasons that can be used to go into confidence (under section 90(3)(a) to (n) of the Act) and will need to be referenced to complete this recommendation.

REASON = Insert the relevant letter from the "REASON" column in Appendix 2, e.g. (a)

GROUND = Insert the information from the "GROUND" column in Appendix 2 (both the white and green box). Ensure you complete the information in the green box as required.

Recommendation 1

That Council:

- Pursuant to Sections 90(2) and 90(3)([REASON]) of the *Local Government Act 1999*, the Council orders that the public be excluded from attendance at that part of this meeting relating to Item XX.X, excepting the following persons:
 - [First Name] [Last Name] – Chief Executive Officer
 - [First Name] [Last Name] – Director Corporate Services
 - [First Name] [Last Name] – Director Development Services
 - [First Name] [Last Name] – Director Engineering Services
 - [First Name] [Last Name] – Executive Assistant / Minute Taker

NOTE: Only the Mayor and Councillors have an automatic right to remain when the public are excluded. Any other person, including staff members, must be listed to remain in the Chamber whilst the item is discussed.

to enable the Council to consider Item XX.X in confidence on the basis the Council considers it necessary and appropriate to act in a meeting closed to the public (excepting those persons listed above) in order to receive, discuss or consider in confidence the following information or matter relating to Item XX.X:

[GROUND]

- Accordingly, on this basis, the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential.

TEMPLATE FOR MAKING REPORT RECOMMENDATION


This is the recommendation which relates to the matter detailed within the report.

Recommendation 2

That Council:

- Receive and note the report.

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2. XX

TEMPLATE FOR MAKING ORDERS TO RETAIN DOCUMENTS IN CONFIDENCE (SECTION 91(7) ORDERS)

E.G. RETAIN REPORTS, ATTACHMENTS, MINUTES OR OTHER DOCUMENT IN CONFIDENCE

This recommendation retains specified documents in confidence for a specified period of time. If you do not order that information is retained in confidence, it becomes public information. The reason for retaining in confidence must meet the criteria of Section 90 of the *Local Government Act 1999*.

Note: The Council cannot make a resolution to keep documents confidential if the purpose of the resolution is 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.

Please select one option only, not both. If using Option B, select

Appendix 2 contains the list of reasons that can be used to go into confidence (under section 90(3)(a) to (n) of the Act) and will need to be referenced to complete this recommendation.

REASON = Insert the relevant letter from the "REASON" column in Appendix 2, e.g. (a)

GROUND(S) = Insert the information from the "GROUND(S)" column in Appendix 2 (both the white and green box) Ensure you complete the information in the green box as required.

Recommendation 3

OPTION A: If no documents are required to be kept in confidence, use this recommendation.

That having considered Item **X.XX** in confidence under section 90(2) and (3)(REASON) of the Local Government Act 1999, the Council, pursuant to section 91(7) of the Act orders that the **Report, Attachment(s) and Minutes** related to this item **be released to the public**.

OPTION B: If any documents need to be kept in confidence, use this recommendation.

That Council:

- Pursuant to Section 91(7) of the *Local Government Act 1999*, the Council orders **that the following document(s) (or part) shall be kept confidential**, being document(s) (or part) relating to a matter dealt with by the Council on a confidential basis under Sections 90(2) and 90(3) ([REASON]) of the Act:

- The **Report** of Item **XX.X** of **DATE OF MEETING**
- The **Attachment(s)** of Item **XX.X** of **DATE OF MEETING**
- The **Minutes** of Item **XX.X** of **DATE OF MEETING**


on the grounds that the document(s) (or part) is:

NOTE: Only list the documents you are seeking to keep confidential.

E.g. If wanting to retain the report, you would remove the line for attachments and minutes and leave:

- The **Report** of ...

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[GROUNDS]

This order shall operate until **INSERT a DATE or an EVENT or “FURTHER ORDER OF THE COUNCIL”** and will be reviewed at least annually in accordance with the Act.

- Pursuant to Section 91(9)(c) of the Act, the Council delegates to the Chief Executive Officer the power to revoke this order and must advise the Council of the revocation of this order as soon as possible after such revocation has occurred.

Attachment 4

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APPENDIX 2: REASONS TO EXCLUDE THE PUBLIC AND RETAIN DOCUMENTS IN CONFIDENCE

Source: section 90(3) of the *Local Government Act 1999*

For use in Confidential Item **Recommendation 1** and **Recommendation 3** in Appendix 1.

REASON GROUNDS


- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);

Specifically, the present matter relates to information pertaining to the personal affairs of [a person] *or, if appropriate*, [name of person].

The disclosure of this information would be unreasonable because **[INSERT]**
(e.g. the information is sensitive/confidential to [person] and is not a matter of public knowledge)

- (b) information the disclosure of which:
- (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest;

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REASON GROUNDS

Specifically, the present matter relates to [TYPE OF INFORMATION]
(e.g. detailed costings and financial statements relating to the proposed renovation of the XX Plaza).

The disclosure of this information could reasonably be expected to be commercially advantageous to [PARTY] because [REASONS]
(e.g. that party is currently in commercial negotiations with the Council related to this matter, and that party could adjust their bargaining position based on the positions of the Council disclosed in the information)

[AND/OR]

The disclosure of this information could reasonably be expected to prejudice the commercial position of the Council because [REASONS]
(e.g. the Council is currently inviting tenders in relation to this matter, and the disclosure of this information would likely influence any proposals submitted, to the commercial detriment of the Council)


The Council has considered the public interest in relation to whether to make this order. The prevailing public interest in these circumstances is [INSERT] *(e.g. the Council's ability to obtain best value for money)*. The Council considers that, on balance, disclosure would be contrary to the public interest. [SUMMARISE REASONS OF COUNCIL]
(e.g. To discuss the matter publicly would seriously compromise the Council's ability to achieve optimum value for money for its residents, as the Council's business stance in relation to the matter would inappropriately become known to other involved parties.)

- (c) information the disclosure of which would reveal a trade secret;

Specifically, the present matter relates to [DESCRIBE INFORMATION]
(Note: do not include the nature of the 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;

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REASON GROUNDS

Specifically, the present matter relates to [TYPE OF INFORMATION] (e.g. a report from XX Consultants relating to a proposed development)

The disclosure of this information could reasonably be expected to prejudice the commercial position of the person who supplied the information [or, if appropriate, NAME OF PARTY] because [REASONS] (e.g. the information details confidential financial and business forecasts about that party which could reasonably be expected to prejudice the party's ability to conduct business with other parties)

[AND/OR]

The disclosure of this information could reasonably be expected to confer a commercial advantage on a third party because [REASONS] (e.g. the information contains financial estimates of the party supplying the information regarding future work to be undertaken for third parties, and disclosure of those estimated costs would likely then be taken into account by those third parties in their dealings with the party supplying the information)

The Council has considered the public interest in relation to whether to make this order. The prevailing public interest in these circumstances is [INSERT] (e.g. the Council's ability to conduct its present business with XX Consultants, for the benefit of residents). The Council considers that, on balance, disclosure would be contrary to the public interest. [SUMMARISE REASONS OF COUNCIL] (e.g. the potential commercial detriment that the disclosure of this information could cause to XX Consultants may diminish the ability of XX Consultants to conduct its present business with the Council and is contrary to the Council's adherence to fair commercial conduct.)

- (e) matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person;

Specifically, the present matter relates to [DESCRIBE INFORMATION]

- (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;

Specifically, the present matter relates to [DESCRIBE INFORMATION]


- (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;

Specifically, the present matter relates to [DESCRIBE INFORMATION]

- (h) legal advice;

Specifically, the present matter relates to [DESCRIBE INFORMATION] (e.g. legal advice provided by XX Lawyers)
(Note: do not include the content or nature of the legal advice)

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REASON GROUNDS

- (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;

Specifically, the present matter relates to [DESCRIBE INFORMATION]
(Note: do not include the nature of any legally sensitive information)

- (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;

Specifically, the present matter relates to [TYPE OF INFORMATION AND MINISTER/PUBLIC AUTHORITY WHICH COMMUNICATED IT] *(e.g. correspondence between the Council and the Department of Planning, Transport and Infrastructure regarding a proposed highway)*

This information was communicated to the Council on a confidential basis.

The Council has considered the public interest in relation to whether to make this order. The prevailing public interest in these circumstances is [INSERT] *(e.g. the delivery by the State Government, in partnership with the Council, of a major public works project)*. The Council considers that, on balance, disclosure would be contrary to the public interest. [SUMMARISE REASONS OF COUNCIL] *(e.g. Full particulars of the project will be made available in due course if the project proceeds beyond its present, early stage. However, the release of this information at this early stage may compromise the delivery of a proposed significant roadwork project, which is intended to benefit the residents of the Council and the public in general.)*

- (k) tenders for the supply of goods, the provision of services or the carrying out of works;

Specifically, the present matter relates to [DESCRIBE INFORMATION]


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

Specifically, the present matter relates to [DESCRIBE INFORMATION]

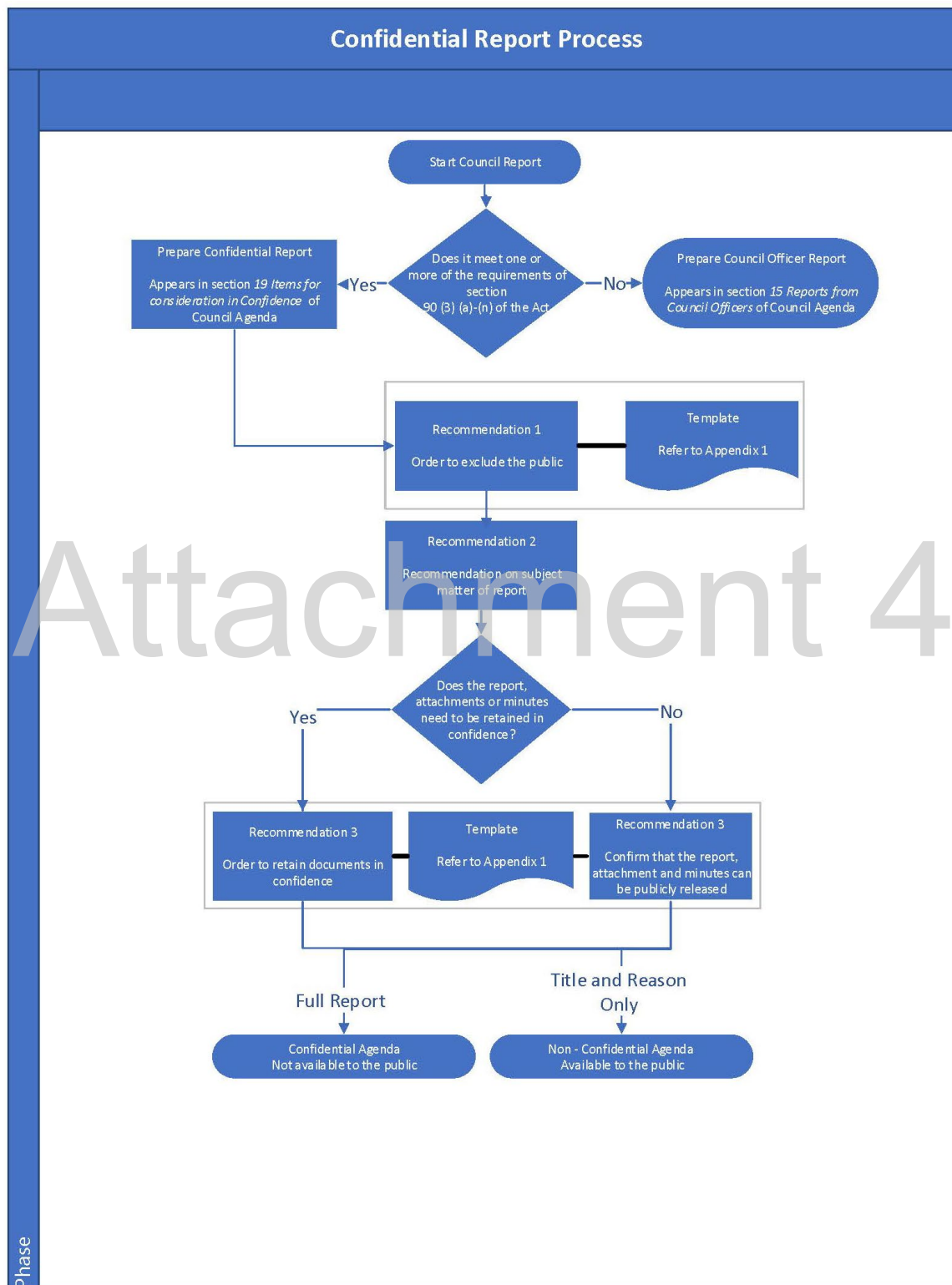
- (n) information relevant to the review of a determination of a council under the *Freedom of Information Act 1991*.

Specifically, the present matter relates to [DESCRIBE INFORMATION]

File Ref:	Classification:	Department:	Position Responsible:	Review Frequency:
GF 9.63.1/4	Public	Corporate Services	Director Corporate Services	4 Yearly
Printed copies of this document are uncontrolled, refer to Council's Intranet to verify this is the current version.				

	CODE OF PRACTICE 6 Public Access to Council and Committee Meetings and Associated Documents	Version:	8
		Date Adopted:	14/04/2020
		Next Review Due:	Nov 2022

APPENDIX 3: Council Officer Reporting of Confidential Items



File Ref:	Classification:	Department:	Position Responsible:	Review Frequency:
GF 9.63.1/4	Public	Corporate Services	Director Corporate Services	4 Yearly
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