

9.1 2019 Annual Review of Confidential Orders

Purpose of Report	Annual Review Confidential Orders
Director	Corporate Services
Author	Director Corporate Services
Disclosure of Interest	Various declarations of conflict of interest have been made in relation to items listed in this report.
File Ref	GF/9.73.1/1
Strategic Plan Reference	Theme Five – Organisational Excellence Strategy 5.2 – Govern in a responsible and responsive way
Risk Assessment	Unlikely / Major - Medium
Budget Allocation 2018/19	\$ 0
Request for Budget Variation	\$ 0
Budget Spent to Date	\$ 0
Attachments	1. TABLE 1: Register of Confidential Item Currently Held Under a Confidentiality Order 2. Attachment 1: Section 90 & 91 of the <i>Local Government Act 1999</i>
In Confidence	Yes – Section 90(3)(e) Report, Attachment and Minutes of Item 9.1 of 19 March 2019 to be released immediately .

Summary

To undertake an annual review of items currently under a confidentiality order and for the Audit Committee to maintain confidentiality orders as required in accordance with *the Local Government Act 1999*.

RECOMMENDATION

1. Pursuant to Sections 90(2) and 90(3)(e) of the *Local Government Act 1999*, the Audit & Risk Committee orders that the public be excluded from attendance at that part of this meeting relating to Item 9.1 – Annual Review of Confidential Orders, excepting the following persons:

- Mr BJ Gower – Chief Executive Officer
- Mr PA Duka – Director Corporate Services
- Mr AC Peek – Manager Finance
- Mrs EL Strother – Finance Officer

to enable the Audit & Risk Committee to consider Item 9.1 – Annual Review of Confidential Orders in confidence on the basis the Audit & Risk Committee 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 9.1 – Annual Review of Confidential Orders:

- 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 matters relate to:

- Council's internal controls

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

RECOMMENDATION

1. Pursuant to Section 97(7) of the *Local Government Act, 1999* the Audit & Risk Committee orders **that the following documents (or part) shall be kept confidential** being documents (or part) relating to a matter dealt with by the Audit & Risk Committee on a confidential basis under Sections 90(2) and 90(3)(e) of the Act:

- **The Report and Attachments of Item No. 7.1 Interim Audit Management Letter – Dean Newbery & Associates of 4 October 2016**

On the grounds that the documents (or part) relates to 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 Council's internal controls.

This order shall operate until **further order of the Audit & Risk Committee** 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.

RECOMMENDATION

1. That having considered Agenda Item 9.1 *Annual Review of Confidential Orders* in confidence under section 90(2) and (3)(e) of the *Local Government Act 1999*, the Audit & Risk Committee pursuant to section 91(7) of that Act orders that the **Minutes, Report and Attachments** related to this item **be released to the public**.

CONFIDENTIAL

Background & Analysis

As this report relates to items currently held in confidence it is recommended to also consider this item in confidence.

The *Local Government Act 1999* (the Act) specifies circumstances in which Council can order the public to be excluded from a meeting so it can receive, discuss or consider matters in confidence. Minutes, reports and documents from items considered in confidence can also be ordered to remain confidential under section 91(7) of the Act. Council maintains a register that details items that are currently held under confidentiality orders and the conditions under which they are kept.

Section 91(9)(a) of the Act requires confidentiality orders operating for a period exceeding 12 months to be reviewed at least once in every year. The last review was considered at the Audit Committee on 16 May 2018 (Folio 7649 – 7651), CM 772 Item 8.1).

As part of the annual review process, the Audit & Risk Committee must ascertain whether the information (e.g. minutes, reports, documents) relating to each item can be released to the public. Items can be released either by the expiration of an existing order due to the passage of time or by revocation. If there is a requirement for information to remain confidential beyond that specified in an existing order, a new order must be made in accordance with the Act. Only the Audit & Risk Committee may make a new order. It is not possible to place a new order on items where an existing order has expired or been revoked (and information released to the public). Council or a Council Committee may delegate to an employee of the Council (e.g. Chief Executive Officer) the power to revoke an order made in accordance with section 91(7) of the Act.

Table 1 below contains an item currently held under a confidentiality order that is to be considered as part of this annual review. The Item within Table 1 highlighted in green has an order which may fall due for release in the next 12 months. The last column in Table 2 provides a recommendation for further confidentiality orders to be made or revoked.

Risk Management

Risks have been identified as detailed in the table below.

Risks	Likelihood	Consequence	Rating	Mitigating Action
Inappropriate use of or unclear confidentiality orders causing a breach of legislation or policy.	Unlikely	Major	Medium	Ensure orders are made in accordance with the <i>Local Government Act 1999</i> and Code of Practice.
A confidentiality order expires causing the release of sensitive reports, documents or minutes prematurely.	Unlikely	Major	Medium	Undertake annual review of confidentiality orders. Place new orders as required.

Policy Considerations

Public Access to Council and Committee Meetings and Associated Documents Code of Practice.

Financial Implications

There are no known financial implications related to this report. Many of the items held under confidentiality orders relate to financial matters.

Legislative Implications

Section 90 and 91 of the *Local Government Act 1999* (refer attached).

Environmental/Sustainability Impacts

There are no known environmental or sustainability impacts related to these matters.

Communication & Consultation

Once items are no longer under a confidentiality order, they are released for public access, including via Council's Website.

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TABLE 1: Register of Confidential Items – Items Currently Held Under a Confidentiality Order – Audit & Risk Committee

Rows highlighted in green are to be considered by the Audit & Risk Committee

Date of Meeting	Folio Number	Item Number	Subject	Nature of Confidentiality	Released	Items held under confidentiality order & expiration of order	Recommended Changes
4/10/2016 2/6/2017 16/5/2018	CM 686 - CM 687 CM 732 - CM 733 CM 773	7.1	Interim Audit Management Letter - Dean Newbery & Associates	90(3)(e)	Minutes 4/10/2016 2/6/2017 16/5/2018	Report & Attachments until 2/6/2019	Retain in confidence under a new order until further order of the Audit & Risk Committee.

CONFIDENTIAL