

# Council Policy 1.5

## Meeting Agenda/Minutes - Confidential Items

### Strategic Plan Objective

3.3 To provide responsible and accountable governance and management of the EMRC.

### Purpose

To ensure that confidential items, appearing on the Council and/or Committee agendas are easily recognised so that they can be dealt with in accordance with their special nature.

### Legislation

*Local Government Act 1995 s.5.23, s.5.25(1)(j), 5.94 and 5.95*

*Local Government (Administration) Regulations 1996 s.5.23, r14, 29 and 29A*

*Local Government (Rules of Conduct) Regulations 2007*

*Freedom of Information Act 1992 r.6 Schedule 1 Clause 4*

*EMRC Standing Order Local Law 2013 clauses, 4.20 and 5.13*

### Policy Statement

1. That, in accordance with s.5.23 of the Local Government Act, items which at the discretion of the Chief Executive Officer (CEO) are confidential are to be distributed separate from but accompanying the Council and/or Committee agendas and marked confidential.
2. That the agenda is to indicate that an item should be treated as confidential while it is being considered by Council/Committee.
3. That the Council and/or Committee decision relating to a confidential item be included in the minutes of the meeting.
4. That confidential documents and attachments are distributed to all councillor and deputy members via an online platform (i.e. Diligent Board) upon delivery of all relevant agendas.
5. That in accordance with s.5.95(1)(b) and s.5.95(3) of the *Local Government Act 1995* the reports and other documents; relating to the confidential item and presentation at the meeting, not be available for inspection by the public unless the document has been declassified.

The procedure for dealing with confidential information is:

1. Confidential information will be categorised by the EMRC CEO into information that will be disclosed only to the Council and information which may be disclosed to committees and member Council CEOs and officers.
2. Confidential information which will only be disclosed to the Council will include information which is the subject of legal professional privilege, commercially sensitive information and information relating to employees and information which if disclosed will or may cause harm to the EMRC.

3. Where confidential information is to be disclosed only to the Council, the Council may consider that information behind closed doors. Release of confidential information will be limited to officers and employees of the EMRC and Council members including member Council Mayors and Shire President. Confidential information will not be disclosed to any third party, inclusive of member Council CEOs and officers unless authorised by the EMRC CEO prior.
4. Confidential information which may be disclosed to committees and member Council CEOs and officers will be marked as being expressly subject to confidentiality and will be considered behind closed doors by those committees and member Council CEO's.
5. Confidential information which is categorised by the CEO to be not disclosed to committees and member Council CEO's and officers may be referred to Council for review about whether it should be disclosed to committees and member Council CEOs and officers.
6. Application of these procedures will be made in a manner which will facilitate decision making by the EMRC and its Council and committees, prevent confidential information being accidentally disseminated, minimise the conflict of interest member Council CEOs and officers may have consequent upon the duty they owe to a participant and the legal and equitable duty of confidence they owe to the EMRC and to avoid the need for litigation by the EMRC.

### **Financial Considerations**

Nil

### **Adopted/Reviewed**

18 September 1997  
22 July 1999  
02 May 2002  
20 May 2004  
23 February 2006  
18 September 2008  
23 September 2010  
18 September 2014  
06 December 2018  
21 March 2019  
23 June 2022

### **Next Review**

Following the Ordinary Elections in 2023

### **Responsible Unit**

Business Support Team