

Audit Committee Report – 19 July 2019

ITEM 18.1.3 30/07/2019
Council

Program Contact:

Rudi Deco, Manager Governance
8203 7442

2018/04062

Confidential - s 90(3) (b) & (d) commercial advantage/prejudice commercial position of council/commercial information of a confidential nature

Confidential - s 90(3) (i) litigation

Approving Officer:

Mark Goldstone, Chief Executive Officer

EXECUTIVE SUMMARY:

The Audit Committee plays a critical role supporting the Council and Chief Executive Officer in the financial reporting framework of Council, by overseeing and monitoring the participation of management and external auditors in the financial reporting process. It also addresses issues such as the approach being adopted by Council and management to address business risks, corporate and financial governance responsibilities and legal compliance.

The Audit Committee held a meeting on Friday, 19 July 2019 and is required to report to Council after every meeting to identify and present advice and recommendations.

A deliberation of the Audit Committee in confidence for the Update on Activities of the Strategic Risk and Internal Audit Group Meetings required the report presented to the Committee to be provided to this meeting of Council in confidence.

The full Agenda for the 19 July 2019 meeting, including the confidential report - Update on Activities of the Strategic Risk and Internal Audit Group Meetings - can be viewed [here](#).

Update on Activities of the Strategic Risk and Internal Audit Group Meetings - Grounds and Basis for consideration in Confidence

Consideration in confidence is sought because the report includes information disclosure of which could reasonably be expected to prejudice the outcome of Council's actual litigation.

Internal Audit Progress Update - Grounds and Basis for consideration in Confidence

Consideration in confidence is sought because the disclosure of information in this report could reasonably prejudice the commercial position of the Council in relation to the findings contained within the audit reports regarding data security.

Confidential Discussion with the Internal Auditor - Grounds and Basis for consideration in Confidence

Consideration in confidence is sought because the disclosure of information discussed may adversely impact the commercial advantage on a person with who the Council is conducting business.

RECOMMENDATION:

THAT COUNCIL

1. Notes the report of the meeting of the Audit Committee held on 19 July 2019.
2. In accordance with Section 91(7) & (9) of the Local Government Act 1999 (SA) and because Item # [Audit Committee Report – 19/7/2019] listed on the Agenda for the meeting of the Council held on 19 July 2019 was received, discussed and considered in confidence pursuant to Section 90(3) (b), (d) & (i) of the *Local Government Act 1999 (SA)*, this meeting of the Council do order that:
 - 2.1. the resolution become public information and included in the Minutes of the meeting.
 - 2.2. the report, the discussion and any other associated information submitted to this meeting in relation to the matter remain confidential and not available for public inspection until 31 December 2026.
 - 2.3. the confidentiality of the matter be reviewed in December 2020.
 - 2.4. the Chief Executive Officer be delegated the authority to review and revoke all or part of the order herein and directed to present a report containing the Item for which the confidentiality order has been revoked.



DISCUSSION

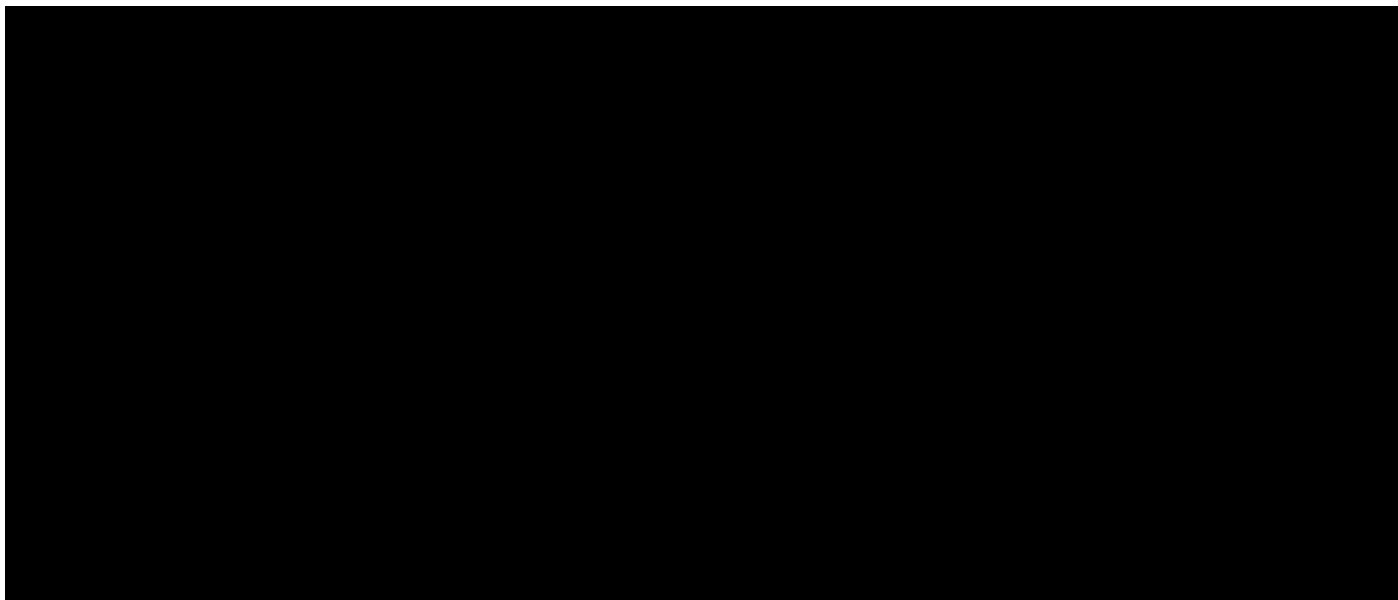
1. The following matters were the subject of confidential deliberations at the Audit Committee meeting held on Friday, 19 July 2019. The Audit Committee resolved as follows for each subject:

1.1. Confidential Report - Update on Activities of the Strategic Risk and Internal Audit Group Meetings

Considered, in confidence, pursuant to s 90(3) (i) of the *Local Government Act 1999* (SA).

THAT THE AUDIT COMMITTEE

1. Receives and notes the report.
2. The report is provided to the next meeting of the Council as part of the confidential report of Audit Committee meeting.
3. In accordance with Section 91(7) & (9) of the *Local Government Act 1999* and on the grounds that Item 9.1 listed on the Agenda for the meeting of the Audit Committee held on 19 July 2019 was received, discussed and considered in confidence pursuant to Section 90(3)(i) of the *Local Government Act 1999*, this meeting of the Audit Committee, do order that:
 - 3.1. The resolution becomes public information and included in the Minutes of the meeting.
 - 3.2. The report, the discussion and any other associated information submitted to this meeting and the Minutes of this meeting in relation to the matter remain confidential and not available for public inspection until 3 December 2026.
 - 3.3. The confidentiality of the matter be reviewed in December 2020.
 - 3.4. The Chief Executive Officer be delegated authority to review and revoke all or part of the order herein and directed to present a report containing the Item for which the confidentiality order has been revoked.



- END OF REPORT -



Moved by Councillor Martin,
Seconded by Councillor Moran -

1. Notes the report of the meeting of the Audit Committee held on 19 July 2019.
2. In accordance with Section 91 (8) & (9) of the Local Government Act 1999 (SA) and because Item 18.1.3 [Audit Committee Report 9/7/2019] listed on the Agenda for the meeting of the Council held on 30 July 2019 was received, discussed and considered in confidence pursuant to Section 90(3) (b), (d) & (i) of the *Local Government Act 1999 (SA)*, the meeting of the Council do order that:
 - 2.1. the resolution become public information and included in the Minutes of the meeting.
 - 2.2. the report, the discussion and any other associated information submitted to this meeting in relation to the matter remain confidential and not available for public inspection until 31 December 2026.
 - 2.3. the confidentiality of the matter be reviewed in December 2020.
 - 2.4. the Chief Executive Officer be delegated the authority to review and revoke all or part of the order herein and directed to present a report containing the Item for which the confidentiality order has been revoked.

Carried

Update on Activities of the Strategic Risk and Internal Audit Group Meetings

ITEM 9.1 19/07/2019
Audit Committee

Program Contact:

Rudi Deco, Manager Governance
8203 7442

2012/00053

Confidential - s 90(3) (i) litigation

Approving Officer :

Mark Goldstone Chief Executive
Office

EXECUTIVE SUMMARY:

This update reports on the activities of the Executive Strategic Risk and Internal Audit Group (SRIA Group) is intended to provide the Audit Committee with relevant information on Council risks and other associated matters, as tabled at the monthly SRIA Group meetings.

Consideration in confidence is sought because the report includes information disclosure of which could reasonably be expected to prejudice the outcome of Council's actual litigation.

RECOMMENDATION:

THAT THE AUDIT COMMITTEE

1. Receives and notes the report
2. The report is provided to the next meeting of the Council as part of the confidential report of Audit Committee meeting.
3. In accordance with Section 91(7) & (8) of the *Local Government Act 1999* and on the grounds that Item 9.1 listed on the Agenda for the meeting of the Audit Committee held on 19 July 2019 was received, discussed and considered in confidence pursuant to Section 90(3)(i) of the *Local Government Act 1999*, this meeting of the Audit Committee, do order that
 - 3.1. The resolution becomes public information and included in the Minutes of the meeting
 - 3.2. The report, the discussion and any other associated information submitted to this meeting and the Minutes of this meeting in relation to the matter remain confidential and not available for public inspection until 31 December 2026.
 - 3.3. The confidentiality of the matter be reviewed in December 2020.
 - 3.4. The Chief Executive Officer be delegated authority to review and revoke all or part of the order herein and directed to present a report containing the Item for which the confidentiality order has been revoked.

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	Strategic Alignment - Corporate Activities The role of the City of Adelaide is diverse and complex. Our core role is to deliver services to the community as a leader, service provider, regulator, advocate, facilitator and owner of assets.
Policy	Alignment with the City of Adelaide Risk Management Operating Guideline
Consultation	Not in relation to this report
Resource	Not in relation to this report
Risk / Legal / Legislative	Sound risk and opportunity management enables well informed decision making and supports the delivery of the Strategic Plan
Opportunities	Sound risk and opportunity management enables well informed decision making and supports the delivery of the Strategic Plan.
19/20 Budget Allocation	Not in relation to this report
Proposed 20/21 Budget Allocation	Not in relation to this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not in relation to this report
19/20 Budget Reconsideration (if applicable)	Not in relation to this report
Ongoing Costs (eg maintenance cost)	Not in relation to this report
Other Funding Sources	Not in relation to this report

GROUNDINGS AND BASIS FOR CONSIDERATION IN CONFIDENCE

Grounds:

Section 90(3)(i) of the *Local Government Act 1999* [litigation]

Information relating to the actual litigation, or litigation that the council or council committee believes reasonable grounds will take place, involving the council or an employee of the council

Basis:

This Item is of a confidential nature because the report includes information on Council litigation.

The disclosure of information in this report could reasonably be expected to prejudice the outcome of Council's actual litigation.

The Audit Committee is satisfied that the principle that the meeting be conducted in place open to the public has been outweighed in the circumstances because the disclosure of this information relates to the actual litigation of council.

DISCUSSION

1. The Chief Executive Officer's Strategic Risk and Internal Audit (the SRIA Group) is responsible for:
 - 1.1. Developing and overseeing Enterprise Risk Management in its practical application with the Corporation
 - 1.2. Ensuring early, quick and clear escalation of strategic risks and emerging issues to key decision makers
 - 1.3. Ensuring appropriate controls are in place to actively manage and monitor strategic risks and emerging issues
 - 1.4. Ensuring that sufficiently mitigated matters return to routine operations management
 - 1.5. Identifying and communicating key learnings and ensuring the relevant processes are reviewed for continuous improvement.
2. The Terms of Reference for both the SRIA Group and the Audit Committee require regular updates on activities of the SRIA Group to be provided to the Audit Committee
3. This report provides an update on the activities of the SRIA Group and is intended to provide the Audit Committee with relevant information on Council's risks and other associated matters, as tabled at the monthly SRIA Group meetings.
4. Since the last Audit Committee Report on the activities of the SRIA Group, tabled at the 3 May 2019 Audit Committee meeting, the SRIA Group has met three times on 8 May 2019, 12 June 2019 and 10 July 2019. At these meetings, the SRIA Group considered the following items:
 - 4.1. Internal Audit:
 - 4.1.1. Internal Audit Scopes approved:
 - 4.1.1.1. Stores Management

4.1.2. Internal Audit Reports:

4.1.2.1. Environmental Health Management

4.1.2.2. Customer Focus

4.1.2.3. PCI Compliance

5. The Corporate Strategic Risk and Opportunity Register (the Register) is a living document, developed following executive consultation and a series of executive workshops. The purpose of the Register is to assist the Executive Leadership Team with the delivery of a successful Strategic Plan, inform the allocating of resources and to inform the City of Adelaide Internal Audit Plan. The most recent executive workshop was held on 26 March 2019 and the latest update of the register was discussed at 10 April 2019 SRIA Group meeting. The following items are currently listed on the register:

- 5.1. Relationships
- 5.2. Economic Outlook
- 5.3. Service Delivery
- 5.4. Compliance
- 5.5. Organisational Culture
- 5.6. City Emergency
- 5.7. Reputation and
- 5.8. Financial Sustainability

6. Matters raised by employees and management included:

- 6.1. PDI Act and implications on s221 and s222 Act Permits
- 6.2. School Immunisation Program
- 6.3. PCI Compliance

7. [REDACTED]

8. [REDACTED]

9. [REDACTED]

10. Grievances / Investigations: Nil

11. Ombudsman: Nil

12. Section 270 *Local Government Act 1995* reviews:

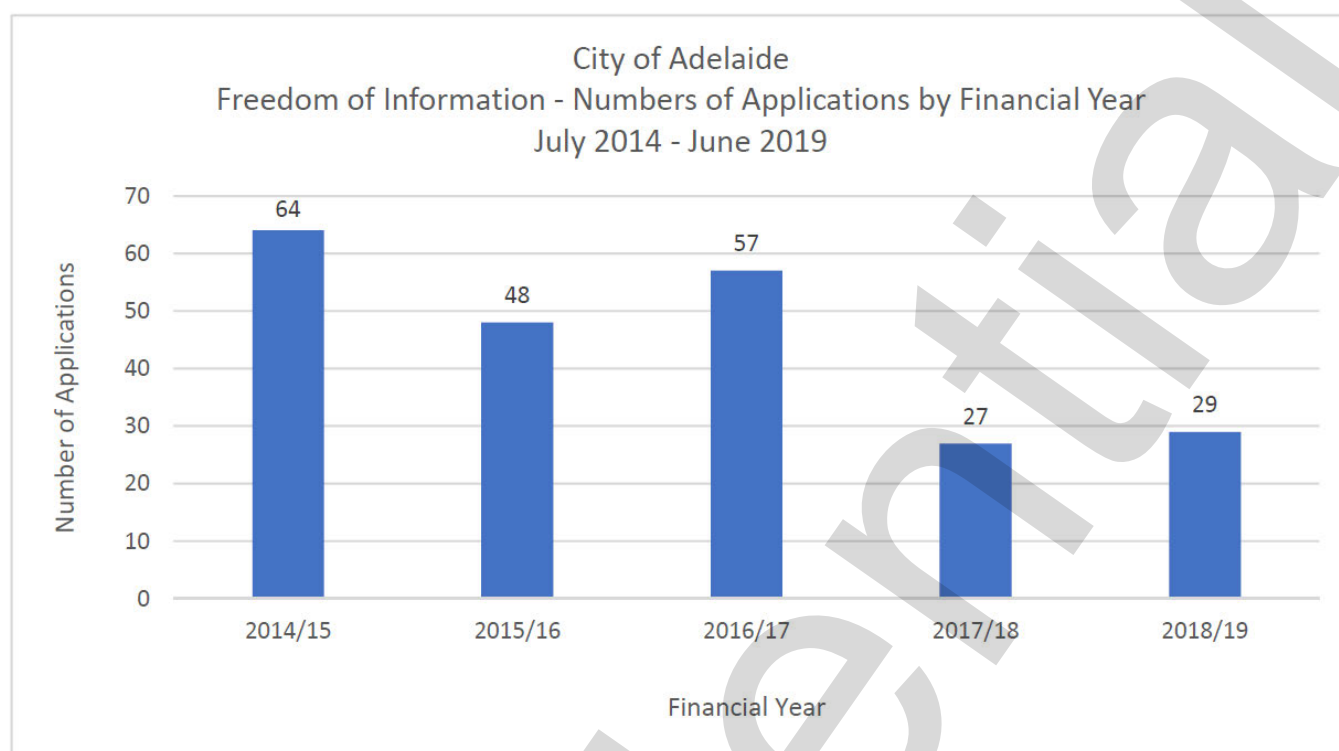
- 12.1. Parking Expiation
- 12.2. Heritage Incentive Scheme
- 12.3. Planning Dispute
- 12.4. Street Cleaning in Ebenezer Place

13. [REDACTED]

14. Relevant Legislation Update Report

Whistleblowers New Public Interest Disclosure Act 2018 has commenced replacing the Whistleblowers Protection Act. A report is being presented to Audit Committee at this meeting on the new Operating Guidelines.

- 16| [REDACTED] : an overview of all applications received and a five year overview demonstrating numbers of applications was considered.



ATTACHMENTS

Nil

- END OF REPORT -

Council Litigation Update Report - July 2019

CULTURE PORTFOLIO

CUSTOMER AND PEOPLE

Novus Actus PTY LTD Parking Expiation Prosecution

Responsible Council Officer

Robert Donoghue, Enforcement Officer

Date of Update	Status Update
18 June 2019	The defendant appeared at the hearing on 17 June 2019 and agreed to pay the council's costs to finalise the matter. The Magistrate provided an adjournment until 30 July 2019 in order for the defendant to make payment.
20 May 2019	At the previous hearing the defendant requested an adjournment in order to obtain legal advice. This was granted and matter adjourned to 17 June 2019.
29 April 2019	No further update.
28 March 2019	Matter adjourned to 7 May 2019.
25 February 2019	A Parking Expiation (no. 17482611) was issued to vehicle S279BVH for not displaying a valid parking ticket in Hutt Street. The owner of the company the vehicle is registered to has elected to be prosecuted. The defendant will be arguing the case on the basis of it being trifling. Initial hearing set for 19 March 2019.

Constantinos Trakas Parking Expiation Prosecution

Responsible Council Officer

Robert Donoghue, Enforcement Officer

Date of Update	Status Update
18 June 2019	No further update.
3 June 2019	Pre Trial Conference set for 18 July 2019 @ 2:15 pm
29 April 2019	Matter adjourned to 21 May 2019
28 March 2019	A Parking Expiation (no. 18154993) was issued to vehicle ANAME0 on 7 January 2019 in King William Street, Adelaide for not displaying a valid ticket in a ticket parking zone. The owner of the vehicle is claiming to have run out of petrol (4th time the customer has made this claim). Hearing date set for 2 April 2019.

COMMUNITY AND CULTURE

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INFORMATION MANAGEMENT

-	
FINANCE AND PROCUREMENT	
Graham Brunsgard - Litigation for unpaid rates	
Responsible Council Officer	
David Burgess, Accounts Receivable Officer	
Date of Update	Status Update
20 June 2019	Directions hearing set for 8 July 2019 @ 10:00am, Adelaide Magistrates Court.
20 June 2019	Claim served 13 May 2019.
20 June 2019	Minor Civil Action Claim filed for outstanding property rates.
GROWTH PORTFOLIO	
PROPERTY AND COMMERCIAL	
-	
ECONOMIC DEVELOPMENT AND INNOVATION	
-	
MARKETING AND COMMUNICATIONS	
-	
SUSTAINABILITY	
-	
PLACE PORTFOLIO	
PLANNING, DESIGN AND DEVELOPMENT	
Appeal against refusal of Development Application - Ancillary Car Park Hutt et (DA/998 018)	
Responsible Council Officer	
Rebecca Rutschack, Manager Planning Assessment	
Date of Update	Status Update
5 July 2019	Appeal against Council refusal with drawn t week. Ready to close.
31 May 2019	Expert witnesses prepared to support th Panels refusal hearing date not yet set.
23 April 2019	Preliminary conference set d for 29 Ap 2019.
27 March 2019	Appeal lodged. Awaitin date of preliminary conference.

Appeal against refusal of Development Application - 22A Moger Lane (DA/812/2018)	
Responsible Council Officer	
Rebecca Rutschack, Manager Planning Assessment	
Date of Update	Status Update
5 July 2019	Appellant working towards a compromise proposal to be tabled at a future CAP meeting
20 May 2019	Adjournment granted to allow a report to be tabled at the CAP meeting on 17 June. Council cannot secure expert opinions that support the refusal.
23 April 2019	Aden Migel from Norman Waterhouse Lawyers appeared at a directions hearing before Commissioner Nolan and advised the Court that the Council had been somewhat distracted in considering experts due to the further application lodged by the appellants. The Commissioner was advised that the Council had not decided what experts to call and that given the timeframe expressed by Mr Schutz, the Court should adjourn the hearing for a month to allow the Council to reach a position. The Commissioner agreed to adjourn on Monday 27 May 2019 at 9.15am in the expectation that the matter will be listed for hearing then. Council is currently seeking experts to support its decision. This is unlikely to occur in time for the next Panel meeting on 6 May. The following meeting is on 27 May, the same day as the slated hearing. Aden will seek a week-long adjournment (yet to be confirmed) to allow the report to be tabled at the Panel meeting.
27 March 2019	No further update.
27 February 2019	No further update.
4 February 2019	Application refused by the Council Assessment Panel has been appealed through the ERD Court. Council has engaged Norman Waterhouse Lawyers. Letter has been sent advising that the "agreement" reached by the CEO and Mr Brown contemplated no further legal action relating to the development of the Land, not just demolition of the previously existing walls. Applicant will withdraw appeal if they receive a letter from Planner comparing merits between DA 812/2018 and previously approved 268/2017/A (i.e. that we prefer the former proposal). Norman Waterhouse to draft response to letter from Mr Brown's lawyer dated 4 February 2019 advising the former DA has been approved so they can proceed with that.
Appeal against refusal of Development Application - 200 Hutt Street and 290 Adelaide Street Adelaide (DA/3/2019)	
Responsible Council Officer	
Helen Dand, Principal Planner - Development Assessment	
Date of Update	Status Update
5 July 2019	Compromise proposal presented to the CAP on 17 June. CAP supported the proposal and the ERD Court was advised. ERD Court issued a consent order on 19 June 2019. No further action from Council. Matter has been withdrawn. This matter is ready to be closed.
20 May 2019	Resuming conference attended on 30 April. Applicant keen to gain Council support for a compromise proposal. They are currently working on amendments and a report to the CAP on 17 June is anticipated. Resuming conference has been slated for Friday 21 June.
23 April 2019	Application presented to the CAP on 18 April with a recommendation to support the proposal. The Panel disagreed and did not support the compromise proposal. Matter is due to be heard at a resuming conference on 30 April.
27 March 2019	Amended plans have been provided. Working on putting compromise back to the Panel in April or May.
27 February 2019	Preliminary conference scheduled for 28 February 2019.

COUNCIL LITIGATION REPORT - JULY 2019

4 February 2019	Application refused by the Council Assessment Panel has been appealed through the ERD Court. Preliminary conference has been scheduled for 18 February 2019	
Appeal against consent granted to non-complying development - 1-2 Brougham Place, North Adelaide (DA/672/2018)		
Responsible Council Officer		
Helen Dand, Principal Planner - Development Assessment		
Date of Update	Status Update	
8 July	Council granted consent to a non-complying development (once SCAP concurrence had been received) to construct three level building comprising parking and common lobby at ground, with two apartments (one per each level) with associated fencing and landscaping. Appellant lodged an appeal against the decision. Compulsory conference to be held at ERD Court on 15 July	
-		
INFRASTRUCTURE		
-		
PUBLIC REALM		
-		
CEO		
GOVERNANCE		
-		
Litigation Closed		
Date closed	Title	Description
6 December 2018	Gawler Place Rent Review	All items finalised. Council has paid the Court order in relation to the defendant's costs of \$75,000
1 March 2018	Removal of unfinished development at 22 Moger Lane, Adelaide	All items in the Court Order have been addressed and finalised
12 April 2018	Appeal against the refusal of Planning consent - DA 80/2017 - 382 Gilles Street	Applicant withdrew

COUNCIL LITIGATION REPORT - JULY 2019

12 April 2018	Kurna Native Title Claim	No longer a claim
1 June 2018	Mark Bombardieri Parking Expiation Prosecution	Magistrate found in Council's favour.
19 July 2018	Litter Prosecution	Magistrate rejected defendant's version of facts, and fined the defendant (largest imposed)
11 October 2018	Common law claim in negligence Dust Diseases Act 2005	Matter finalised - payment made
23 November 2018	Martyn Faranda parking expiation prosecution	Magistrate found in Council's favour.
30 November 2018	George Kareklas parking expiation prosecution	Magistrate found in Council's favour.
21 December 2018	Town Hall Café	No response from plaintiff until September 2016
21 December 2018	Gawler Place Carpark - rent calculation	Costs have been settled
13 February 2019	Gawler Place Concrete Sealing	Item to be closed or moved, as there is no current or pending litigation re: concrete sealing. Concrete sealing works are being progressed.
13 February 2019	Cosenza vs South Australia - SCCIV 1124 of 2016	Decision of Chief Justice stands and in favour of Council
25 February 2019	Ellie Davidson parking expiation prosecution	Magistrate found in Council's favour
25 February 2019	Debt Recovery / Bankruptcy Proceedings	Judgment received. Bankruptcy is now reinstated and a trustee allocated
12 March 2019	Joe Santo parking expiation prosecution	Defendant agree to settle the matter and made payment

INTERNAL MEMO

TO: Strategic Risk & Internal Audit Group
CC:

FROM: Katharine Finlay
Freedom of Information Officer

DATE: 1 July 2019

YOUR REF:

FO REF: 15/02953

EXT NO: 131

SUBJECT: Freedom of Information Applications – May and June 2019

Purpose

To report on the monthly status of Freedom of Information (FOI) applications currently being determined by the Risk & Audit Team.

Background

When an FOI application is received, City of Adelaide has 30 days to make an initial determination as to whether the documents should be released. The determination is made by an Accredited Freedom of Information Officer in accordance with the FOI Act after consultation with any affected third parties and internal staff.

There is a period of 30 days following the determination in which the applicant may appeal a determination made. This internal review is conducted by the Chief Executive Officer, Mark Goldstone, and must be completed within 14 days of receiving the appeal. Following the internal review determination, the applicant can then appeal to the Ombudsman SACAT within 30 days if they are still aggrieved by the decision.

Summary

Please find attached a report detailing the active Freedom of Information applications for the period 1 May to 30 June 2019.

During this period, there have been seven (7) active applications.

There have been no Internal or External Review applications.

Application

- Two (2) applications are currently being dealt with.
- One (1) application has had full release of documents.

- Two (2) applications have had partial release of documents.
- One (1) application has had access refused.
- One (1) application has been transferred.

Reviews:

- Nil.

Consultation by other agencies:

- There have has been two (2) consultations by external agencies.

FOI Applications - May and June 2019

Applicant Name	Applicant Type	Category	Status	Summary	Date Received	Due Date	Date Determined	Outcome	Exemption	Source
Frank Pangallo	MP	Non-personal	Determined	E-scooter applications, correspondence	7/03/2019	8/04/19 EoT 4/04/19 EoT to 22/05/2019	22/05/2019	Partial Release.	Clause 7 - Business affairs; Clause 6(1) - Personal affairs; Clause 13 - Confidential material	Central Records / Mail
The Advertiser	Media	Non-personal	Determined	Briefings of the Council's Building Fire & Safety committee since 1 January 2018	29/03/2019	29/04/2019 EoT to 31/05/2019	31/05/2019	Access refused.	Clause 9 - Internal working documents	Central Records / Mail
Turner Freeman	Member of Public	Non-personal	Determined	Records and plans of 73 Regent Street	**NE 1/05/2019		22/05/2019	Full release.	-	Email
Ian Wood	Member of Public	Non-personal	Transferred	Drawings - 248-258 East Terrace	* EW** 22/05/2019	21/06/2019	-	Transferred to DPTI 31/05/2019	-	FOI email
Rita Williams	Member of Public	Non-personal	Determined	Correspondence/complaints - AAC an	** EW** 22/05/2019	28/06/2019	24/06/2019	Partial Release.	Clause 6 - Personal affairs; Clause 16(1) - Agency operations.	Customer Centre
Dennis Brown	Member of Public	Non-personal	Active	Correspondence/complaints about ap li	EW 17/06/2019	17/07/2019				
Jennifer Davey	Member of Public	Non-personal	Active	Tynte Street streetscape/upgrade	**NEW** 9/06/2019	19/07/2019				

FOI Consultations

Applicant Name	Applicant Type	Category	Status	Summary	Date Received	Due Date	Date Determined	Outcome	Exemption	Source
Adelaide Uni	University	Non-personal	Determined	RCC development approval	2/05/2019	7/05/2019	3/05/2019	Full release.	-	Email
SAPOL	Govt. Dept.	Non-personal	Determined	CCTV footage King William Street	18/06/2019	24/06/2019	19/06/2019	Full release.	-	Email