



COUNCIL AGENDA & REPORTS

for the Special meeting

Monday 18 March 2019
at 5.00pm

in the Colonel Light Room,
Adelaide Town Hall



Members - The Right Honourable the Lord Mayor [Sandy Verschoor] (Presiding);
Deputy Lord Mayor (Councillor Abiad);
Councillors Abrahamzadeh, Couros, Dr Donovan, Hou, Hyde, Khera, Knoll,
Martin, Moran and Simms.

1. Acknowledgement of Country

At the opening of the Council Meeting, the Lord Mayor will state:

'Council acknowledges that we are meeting on traditional Country of the Kurna people of the Adelaide Plains and pays respect to Elders past and present. We recognise and respect their cultural heritage, beliefs and relationship with the land. We acknowledge that they are of continuing importance to the Kurna people living today.

And we also extend that respect to other Aboriginal Language Groups and other First Nations who are present today.'

2. Acknowledgement of Colonel William Light

Upon completion of the Kurna Acknowledgment, the Lord Mayor will state:

'The Council acknowledges the vision of Colonel William Light in determining the site for Adelaide and the design of the City with its six squares and surrounding belt of continuous Park Lands which is recognised on the National Heritage List as one of the greatest examples of Australia's planning heritage.'

3. Apologies and Leave of Absence

Deputy Lord Mayor (Councillor Abiad), Councillor Couros and Councillor Hyde

4. Exclusion of the Public

4.1. Exclusion of the Public [2018/04291] [Page 3]

For the following Chief Executive Officer Report seeking consideration in confidence:

5.1.1. Strategic Partnership Opportunity [s 90(3) (b) (d) and (g)]

5. Confidential Report

5.1. Confidential Report for Council (Chief Executive Officer's Reports)

Strategic Alignment – Corporate Activities

5.1.1. Strategic Partnership Opportunity – to be distributed separately

6. Closure

Confidential Item 5.1.1

Strategic Partnership Opportunity

Section 90 (3) (b) (d) and (g) of the *Local Government Act (SA) 1999*

- To be distributed separately
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Program Contact:
Jacki Done, AD People &
Governance 8203 7256

Approving Officer:
Mark Goldstone, Chief
Executive Officer

2018/04291
Public

EXECUTIVE SUMMARY:

It is the recommendation of the Chief Executive Officer that the public be excluded from this Council meeting for the consideration of information and matters contained in the Agenda.

For the following Chief Executive Officer Report seeking consideration in confidence:

Strategic Alignment – Corporate Activities

5.1.1 Strategic Partnership Opportunity [s 90(3) (b), (d) & (g)]

The Order to Exclude for Item 5.11:

1. Identifies the information and matters (grounds) from s 90(3) of the *Local Government Act 1999 (SA)* utilised to request consideration in confidence;
2. Identifies the basis – how the information falls within the grounds identified and why it is necessary and appropriate to act in a meeting closed to the public; and
3. In addition identifies for the following grounds – s 90(3) (b) and (d) - how information open to the public would be contrary to the public interest.

ORDER TO EXCLUDE FOR ITEM 5.1.1:

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in s 90(3) (b), (d) & (g) and s 90(2) & (7) of the *Local Government Act 1999 (SA)*, this Special meeting of the Council dated 18/3/2019 resolves that it is necessary and appropriate to act in a meeting closed to the public for the consideration of Item 5.1.1 [Strategic Partnership Opportunity] listed on the Agenda in a meeting open to the public would on balance be contrary to the public interest.

Grounds and Basis

This Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting business, prejudice the commercial position of the Council.

The disclosure of information in this report could reasonably prejudice the commercial position of Council who supplied a 'commercial in confidence' proposal for evaluation by the Commonwealth government. Disclosure of commercial in confidence negotiations may adversely impact project viability, prejudice the ability to undertake/participate in future negotiations on the proposal and prejudice the Council's commercial position and opportunity for Council to participate in future like considerations or discussions.

Council has a duty of confidence to the Commonwealth and State governments in relation to the Strategic Partnership Opportunity negotiation process. It is reasonable to assume the Commonwealth and State may expect the Council maintain the confidentiality of negotiations.

Public Interest

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information may result in release of information prior to the finalisation of 'commercial in confidence' negotiations with the Commonwealth government. The disclosure of this information may materially and adversely affect the Council's ability to finalise the Strategic Partnership Opportunity and may prejudice Council's ability to discuss/participate or influence the proposal for the benefit of the Council and the community in this matter.

2. Pursuant to s 90(2) of the *Local Government Act 1999 (SA)* this meeting of the Council dated 18/3/2019 orders that the public (with the exception of members of Corporation staff and any person permitted to remain) be excluded from this meeting to enable this meeting to receive, discuss or consider in confidence Item 5.1.1 [Strategic Partnership Opportunity] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in s 90(3) (b), (d) & (g) of the Act.

DISCUSSION

1. s 90(1) of the *Local Government Act 1999 (SA)*, directs that a meeting of Council must be conducted in a place open to the public.
2. s 90(2) of the *Local Government Act 1999 (SA)*, states that a Council may order that the public be excluded from attendance at a meeting if Council considers it to be necessary and appropriate to act in a meeting closed to the public to receive, discuss or consider in confidence any information or matter listed in s 90(3).
3. s 90(3) prescribes the information and matters that a Council may order that the public be excluded from.
4. s 90(4) of the *Local Government Act 1999 (SA)*, advises that in considering whether an order should be made under s 90(2), it is irrelevant that discussion of a matter in public may:
 - 4.1 cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
 - 4.2 cause a loss of confidence in the council or council committee.’
 - 4.3 involve discussion of a matter that is controversial within the council area; or
 - 4.4 make the council susceptible to adverse criticism.
5. s 90(7) of the *Local Government Act 1999 (SA)* requires that an order to exclude the public:
 - 5.1 Identify the information and matters (grounds) from s 90(3) of the *Local Government Act 1999 (SA)* utilised to request consideration in confidence;
 - 5.2 Identify the basis – how the information falls within the grounds identified and why it is necessary and appropriate to act in a meeting closed to the public; and
 - 5.3 In addition identify for the following grounds – s 90(3) (b), (d) or (j) - how information open to the public would be contrary to the public interest.
6. s 83(5) of the *Local Government Act 1999 (SA)* has been utilised to identify in the Agenda and on the Report for the meeting, that the following report is submitted seeking consideration in confidence.
 - 6.1 Information contained in Item 5.1.1 – Strategic Partnership Opportunity
 - 6.2.1 Is subject to an Existing Confidentiality Orders dated 16/5/2017, 11/12/2018 and 15/1/19.
 - 6.2.2 The grounds utilised to request consideration in confidence is s 90(3) (b), (d) & (g)

- (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;
 - (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;
 - (g) matters that must be considered in confidence to ensure the Council does not breach any duty of confidence.
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ATTACHMENTS

Nil