



COUNCIL AGENDA & REPORTS

for the Special meeting

Wednesday 11 August 2021
at 5.30 pm

in the Colonel Light Room,
Adelaide Town Hall



Members - The Right Honourable the Lord Mayor, Sandy Verschoor (Presiding)
Deputy Lord Mayor, Councillor Couros
Councillors Abrahimzadeh, Donovan, Hou, Hyde, Khera, Knoll,
Mackie, Martin and Moran.

1. Acknowledgement of Country

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

'Council acknowledges that we are meeting on traditional Country of the Kaurna 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 Kaurna 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 Kaurna 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

Nil

4. Exclusion of the Public

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

5.1.1 CEO Update [s 90(3) (a) & (g)]

5.2.1 Cultural Investigation [s 90(3) (a), (g) & (h)]

5. Confidential Report

5.1. Confidential Presiding Member's Report for Council

Strategic Alignment – Enabling Priorities

5.1.1 CEO Update [2018/00459]

Such report to be tabled at the Special Meeting

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

Strategic Alignment – Enabling Priorities

5.2.1 Cultural Investigation [2021/01167]

Resumption of debate, in response to Regulation 18 of the Local Government (Procedures at Meetings) Regulations 2013 (SA) invoked at the meeting of Council held on 10 August 2021.

6. Closure

Exclusion of the Public

ITEM 4.1 11/08/2021
Council

Program Contact:
Mick Petrovski, Manager
Governance 8203 7119

2018/04291
Public

Approving Officer:
Clare Mockler, Acting Chief
Executive Officer

EXECUTIVE SUMMARY

Section 90(2) of the *Local Government Act 1999 (SA)* (the Act), states that a Council may order that the public be excluded from attendance at a meeting if the 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 section 90(3) of the Act.

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

For the following Presiding Member's Report seeking consideration in confidence

5.1.1 CEO Update [section 90(3) (a) & (g) of the Act]

For the following Chief Executive Officer Report seeking consideration in confidence

5.2.1 Cultural Investigation [section 90(3) (a), (g) & (h) of the Act]

Resumption of debate, in response to Regulation 18 of the Local Government (Procedures at Meetings) Regulations 2013 (SA) invoked at the meeting of Council held on 10 August 2021.

The Order to Exclude for Item 5.1.1 & 5.2.1

1. Identifies the information and matters (grounds) from section 90(3) of the Act 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.
3. In addition, identifies for the following grounds – section 90(3) (b), (d) or (j) of the Act - 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 section 90(3) (a) & (g) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this Special meeting of the Council dated 11 August 2021 resolves that it is necessary and appropriate to act in a meeting closed to the public for the consideration of Item 5.1.1 [CEO Update] listed on the Agenda.

Grounds and Basis

Consideration in confidence is sought because the item contains information that must be considered in confidence to ensure that Council does not breach any law, any duty of confidence, or other legal obligation or duty. Disclosure would involve the unreasonable disclosure

of information concerning the candidates and preferred candidate prior to a resolution being determined by Council.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this Special meeting of the Council dated 11 August 2021 orders that the public (with the exception of members of Corporation staff and any person permitted to remain) be excluded from this Special meeting to enable this meeting to receive, discuss or consider in confidence Item 5.1.1 [CEO Update] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in section 90(3) (a) & (g) of the Act.

ORDER TO EXCLUDE FOR ITEM 5.2.1

THAT COUNCIL

1. Having taken into account the relevant consideration contained in section 90(3) (a), (g) & (h) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this Special meeting of the Council dated 11 August 2021 resolves that it is necessary and appropriate to act in a meeting closed to the public for the consideration of Item 5.2.1 [Cultural Investigation] listed on the Agenda.

Grounds and Basis

This Item is confidential as it contains matters that must be considered in confidence in order to ensure that the Council does not breach any law, any duty of confidence, or other legal obligation or duty, and preserves legal privilege.

The disclosure of this report would waive legal privilege and involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

The disclosure of information in this report could reasonably prejudice the identity of the persons named in the report and would prejudice the ability of the Chief Executive Officer to act as required by law. By maintaining the confidentiality of this report, procedural fairness will be observed.

Section 56 of the *Independent Commissioner Against Corruption Act 2012 (ICAC Act)* prohibits the publication of:

- information tending to suggest that a particular person is, has been, may be, or may have been, the subject of a complaint, report, assessment, investigation or referral under the Act;
- information that might enable a person who has made a complaint or report under the Act to be identified or located;
- the fact that a person has made or may be about to make a complaint or report under the Act;
- the fact that a person has given or may be about to give information under the Act.

Contravention of these provisions is a criminal offence. However, these provisions do not prevent the making of this confidential report to Council.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this Special meeting of the Council dated 11 August 2021 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 5.2.1 [Cultural Investigation] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in section 90(3) (a), (g) & (h) of the Act.

DISCUSSION

1. Section 90(1) of the *Local Government Act 1999 (SA)* (the Act) directs that a meeting of Council must be conducted in a place open to the public.
2. Section 90(2) of the Act, 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 section 90(3) of the Act.
3. Section 90(3) of the Act prescribes the information and matters that a Council may order that the public be excluded from.
4. Section 90(4) of the Act, advises that in considering whether an order should be made to exclude the public under section 90(2) of the Act, 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.'*
5. Section 90(7) of the Act requires that an order to exclude the public:
 - 5.1 Identify the information and matters (grounds) from section 90(3) of the Act 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.
 - 5.3 In addition identify for the following grounds – section 90(3) (b), (d) or (j) of the Act - how information open to the public would be contrary to the public interest.
6. Section 83(5) of the Act has been utilised to identify in the Agenda and on the Report for the Special meeting, that the following report is submitted seeking consideration in confidence.
 - 6.1 Information contained in Item 5.1.1 – CEO Update
 - 6.1.1 Is not subject to an Existing Confidentiality Order.
 - 6.1.2 The grounds utilised to request consideration in confidence is section 90(3) (a) & (g) of the Act
 - (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)
 - (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
 - 6.2 Information contained in Item 12.2.3 – Cultural Investigation
 - 6.2.1 Is subject to an Existing Confidentiality Order 10/8/2021.
 - 6.2.2 The grounds utilised to request consideration in confidence is section 90(3) (a), (g) & (h) of the Act
 - (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)
 - (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

ATTACHMENTS

Nil

- END OF REPORT -