



THE COMMITTEE AGENDA & REPORTS

for the Special meeting

Monday 4 February 2019

in the Colonel Light Room,
Adelaide Town Hall



Members - The Right Honourable the Lord Mayor [Sandy Verschoor];
Councillor Moran (Chair)

Councillors Abiad (Deputy Lord Mayor), Abrahamzadeh, Couros, Dr Donovan, Hou, Hyde, Khera, Knoll,
Martin (Deputy Chair) and Simms.

1. Acknowledgement of Country

At the opening of the Committee Meeting, the Chair 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. Apologies and Leave of Absence - Nil

3. Exclusion of the Public

3.1. Exclusion of the Public to Consider [2018/04291] [Page 2]:

For the following Discussion Forum Items in Confidence:

Strategic Alignment – Liveable

4.1. Strategic Property Development [s 90(3) (b) & (d)]

4.2. Strategic Property Matter [s 90(3) (b) & (d)]

For the following CEO Update Item in Confidence:

5.1. CEO Update – SMA - Legal Update [s 90(3) (h)]

4. Discussion Forum Items in Confidence

Strategic Alignment – Liveable

4.1. Strategic Property Development [2015/00903] [Page 7]

Facilitator – Ian Hill, Director Growth, City of Adelaide

4.2. Strategic Property Matter [2018/02324]

Facilitator – Steve Mathewson, Director Services City of Adelaide

To be distributed separately

5. CEO Update in Confidence

5.1. CEO Update – SMA - Legal Update

6. Discussion Forum Item

Strategic Alignment - Corporate Activities

6.1. 2019-20 Long Term Financial Plan and Funding Priorities

Facilitator - Steve Mathewson, Director Services City of Adelaide

7. Closure

Exclusion of the Public

ITEM 3.1 04/02/2019
The Committee

Program Contact:
Jacki Done, AD People &
Governance 8203 7256

2018/04291
Public

Approving Officer:
Mark Goldstone, Chief
Executive Officer

EXECUTIVE SUMMARY:

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

For the following Discussion Forum Items aligned with the *City of Adelaide Strategic Plan 2016-2020* in confidence:

Strategic Alignment – Liveable

- 4.1. Strategic Property Development [s 90(3) (b) & (d)]
- 4.2. Strategic Property Matter [s 90(3) (b) & (d)]

For the following CEO Update Item in confidence:

- 5.1. CEO Update - SMA - Legal Update [s 90(3) (h)]

The Order to Exclude for Items 4.1, 4.2 and 5.1:

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), (d) or (j) - how information open to the public would be contrary to the public interest.

ORDER TO EXCLUDE FOR ITEM 4.1:

THAT THE COMMITTEE:

1. Having taken into account the relevant consideration contained in s 90(3) (b) & (d) and s 90(2) & (7) of the *Local Government Act 1999 (SA)*, this Special meeting of The Committee dated 4/2/2019 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 4.1 [Strategic Property Development] 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 contains certain 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 and prejudice the commercial position of the person who supplied the information and confer a commercial advantage on a third party.

More specifically, the disclosure of certain information in this update could reasonably prejudice the commercial position of Council given that the City of Adelaide Council land holding is the subject of commercial 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 given that information within this update pertains to commercial negotiations for a City of Adelaide Council land holding. The release of such information may severely prejudice the City of Adelaide Council's ability to influence a proposal for the benefit of the City of Adelaide Council and the community in this matter.

2. Pursuant to s 90(2) of the *Local Government Act 1999 (SA)*, this Special meeting of The Committee dated 4/2/2019 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 4.1 [Strategic Property Development] 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) of the Act.

ORDER TO EXCLUDE FOR ITEM 4.2:

THAT THE COMMITTEE:

1. Having taken into account the relevant consideration contained in s 90(3) (b) & (d) and s 90(2) & (7) of the *Local Government Act 1999 (SA)*, this Special meeting of The Committee dated 4/2/2019 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 4.2 [Strategic Property Matter] 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 contains certain information of a confidential nature (not being a trade secret) the disclosure of which could reasonably expect to confer a commercial advantage on a person with whom the Council is conducting business, prejudice the commercial position of the Council and prejudice the commercial position of the person who supplied the information and confer a commercial advantage on a third party.

More specifically, the disclosure of certain information in this update could reasonably prejudice the commercial position of Council given that the City of Adelaide Council land holding is the subject of commercial 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 given that information within this update pertains to commercial negotiations for a City of Adelaide land holding. The release of such information may severely prejudice the City of Adelaide Council's ability to influence a proposal for the benefit of the City of Adelaide Council and the community in this matter.

2. Pursuant to s 90(2) of the *Local Government Act 1999 (SA)*, this Special meeting of The Committee dated 4/2/2019 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 4.2 [Strategic Property Matter] 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) of the Act.

ORDER TO EXCLUDE FOR ITEM 5.1:

THAT THE COMMITTEE:

1. Having taken into account the relevant consideration contained in s 90(3) (h) and s 90(2) & (7) of the *Local Government Act 1999 (SA)*, this Special meeting of The Committee dated 4/2/2019 resolves that it is necessary and appropriate to act in a meeting closed to the public for the consideration of Item 5.1 [CEO Update - SMA - Legal Update] listed on the Agenda.

Grounds and Basis

The CEO Update on SMA Legal Status provides members with information relating to legal advice.

2. Pursuant to s 90(2) of the *Local Government Act 1999 (SA)* this Special meeting of The Committee dated 4/2/2019 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 [CEO Update - SMA - Legal Update] 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) (h) of the Act.
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DISCUSSION

1. s 90(1) of the *Local Government Act 1999 (SA)*, directs that a meeting of a Council Committee 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 Committee may order that the public be excluded from attendance at a meeting if the Council Committee 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 87(10) 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 matters are submitted seeking consideration in confidence.
 - 6.1 Information contained in Item 4.1 – Strategic Property Development:
 - 6.1.1 Is subject to Existing Confidentiality Orders.
 - 6.1.2 The grounds utilised to request consideration in confidence is s 90(3) (b) & (d)
 - (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;
 - 6.2. Information contained in Item 4.2 - Strategic Property Matter:
 - 6.2.1 Is subject to Existing Confidentiality Orders.
 - 6.2.2 The grounds utilised to request consideration in confidence is s 90(3) (b) & (d)
 - (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;

6.3 Information contained in Item 5.1– CEO Update – SMA - Legal Update:

6.3.1 Is not subject to an Existing Confidentiality Order.

6.3.2 The grounds utilised to request consideration in confidence is s 90(3) (h)

(h) legal advice;

ATTACHMENTS

Nil

- END OF REPORT -

Confidential Item 4.1

Strategic Property Development

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

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