



# COUNCIL AGENDA & REPORTS

for the meeting

Monday, 31 July 2023

at 5.00 pm

in the Colonel Light Room, Adelaide Town Hall

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Members:           The Right Honourable the Lord Mayor, Dr Jane Lomax-Smith (Presiding)  
                      Deputy Lord Mayor, Councillor Martin  
                      Councillors Abrahamzadeh, Couros, Davis, Elliott, Giles, Hou, Li, Noon, Dr Siebentritt and  
                      Snape

## Agenda

| Item  | Pages |
|---|-------|
| <b>1. Acknowledgement of Country</b><br>The Lord Mayor will state:<br><br>‘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 recognize 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.<br><br>And we also extend that respect to other Aboriginal Language Groups and other First Nations who are present today.’ |       |
| <b>2. Acknowledgement of Colonel William Light</b><br>The Lord Mayor will state:<br><br>‘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.’   |       |
| <b>3. Apologies and Leave of Absence</b><br>On Leave -<br><br>Councillor Couros   |       |
| <b>4. Exclusion of the Public</b><br><br>In accordance with sections 90(2),(3) and (7) of the <i>Local Government Act 1999 (SA)</i> Council will consider whether to discuss in confidence the reports contained within section 5 of this Agenda.   | 3 - 5 |
| <b>5. Confidential Reports for Council (Chief Executive Officer's Reports)</b><br><b>5.1</b> Commercial Opportunity [S90(3) (d)]<br><br>To be distributed separately  |       |
| <b>6. Closure</b>   |       |

## Exclusion of the Public

Monday, 31 July 2023  
Council - Special

**Program Contact:**  
Alana Martin, Manager  
Governance

2018/04291  
Public

**Approving Officer:**  
Clare Mockler, 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 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 Committee Report seeking consideration in confidence

### 5.1 Commercial Opportunity [section 90(3) (d) of the Act]

The Order to Exclude for Item 5.1:

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.

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## ORDER TO EXCLUDE FOR ITEM 5.1

### THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (d) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this Special meeting of the Council dated 31 July 2023 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 5.1 [Commercial 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 contains commercial information of a confidential nature the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.

The receipt, consideration, and discussion of the information open to the public would, on balance, be contrary to the public interest.

#### 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 and may severely prejudice Council's ability to discuss/participate or influence a proposal for the benefit of the Council and community in this matter.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this Special meeting of the Council dated 31 July 2023 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 [Commercial Opportunity] 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) (d) of the Act.
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## 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 meeting, that the following reports are submitted seeking consideration in confidence.
  - 6.1 Information contained in Item 5.1 – Commercial Opportunity
    - 6.1.1 Is subject to an Existing Confidentiality Order dated 27/6/2023
    - 6.1.2 The grounds utilised to request consideration in confidence is section 90(3) (d) of the Act
      - (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

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## ATTACHMENTS

Nil

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- END OF REPORT -