

# Exclusion of the Public

Friday, 10 November 2023

Audit and Risk Committee

**Program Contact:**

Alana Martin - Manager  
Governance

Public

**Approving Officer:**

Clare Mockler, Chief  
Executive Officer

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## EXECUTIVE SUMMARY

Section 90(2) of the *Local Government Act 1999 (SA)* (the Act), 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 section 90(3) of the Act.

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

- 10.1** Voters Roll Review [section 90(3) (h) of the Act]
- 10.2** <public title> [section 90(3) (#) of the Act]

The Order to Exclude for Items 10.1 and 10.2

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 10.1

### THAT THE AUDIT AND RISK COMMITTEE

1. Having taken into account the relevant consideration contained in section 90(3) (h) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Audit and Risk Committee dated 10 November 2023 resolves that it is necessary and appropriate to act in a meeting closed to the public for the consideration of Item 10.1 [Voters Roll Review] listed on the Agenda.

#### Grounds and Basis

This Item is confidential in nature because the report includes information provided to Council by a lawyer that is made primarily for the purpose of giving legal advice.

The disclosure of information in this report could reasonably be expected to prejudice the position of Council based on the legal advice provided.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Audit and Risk Committee dated 10 November 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 10.1 [Voters Roll Review] 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) (h) of the Act.

# ORDER TO EXCLUDE FOR ITEM 10.2

## THAT THE AUDIT AND RISK COMMITTEE

1. Having taken into account the relevant consideration contained in section 90(3) (i) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Audit and Risk Committee dated 10 November 2023 resolves that it is necessary and appropriate to act in a meeting closed to the public for the consideration of Item 10.2 [Strategic Risk and Internal Audit Update] listed on the Agenda.

### Grounds and Basis

This Item is confidential in 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 and Risk Committee 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 relates to actual litigation of Council.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Audit and Risk Committee dated 10 November 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 10.2 [Strategic Risk and Internal Audit 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) (i) 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 a Council Committee must be conducted in a place open to the public.
2. Section 90(2) of the Act, 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 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 87(10) of the Act 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 10.1 – Voters Roll Review
    - 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) (h) of the Act  
*Legal advice*
  - 6.2 Information contained in Item 10.2 – Strategic Risk and Internal Audit Update
    - 6.2.1 Is not subject to an Existing Confidentiality Order
    - 6.2.2 The grounds utilised to request consideration in confidence is section 90(3) (i) of the Act  
*Information relating to the actual litigation, or litigation that the council or council committee believes on reasonable ground will take place, involving the council or an employee of the council.*

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## ATTACHMENTS

Nil