

Exclusion of the Public

Program Contact:

Approving Officer: Michael Sedgman Chief Operating 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's delegate (in accordance with s83(5) of the Act) that the public be excluded from this Special Council meeting for the consideration of information and matters contained in the Agenda.

For the following Council Report seeking consideration in confidence on the following basis:

- 4 Confidential:** Lord Mayor Report [sections 90(3)(a), 90(3)(g) and 90(3)(h)) of the Act]

The Order to Exclude for Item 4 is that the Confidential: Lord Mayor Report contains

1. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of people; s90 (3) (a)
2. information that must be considered in confidence in order to ensure that the Council does not breach any law; s90 (3) (g); and
3. legal advice; s90 (3) (h)

ORDER TO EXCLUDE FOR ITEM 4

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in sections, 90(3)(a), 90(3)(g) and 90(3)(h) of the *Local Government Act 1999 (SA)*, this Special meeting of the Council dated 16 November 2023 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 4 Confidential: Lord Mayor Report listed on the Agenda in a meeting open to the public would on balance be contrary to the public interest.

Grounds

1. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of people; s90 (3) (a)
2. information that must be considered in confidence in order to ensure that the Council does not breach any law; s90 (3) (g); and
3. legal advice; s90 (3) (h)

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).

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this Special meeting of the Council dated 16 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 4 [Confidential: Lord Mayor Report] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in sections 90(3)(a), 90(3)(g) and 90(3)(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.
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 4 Lord Mayor Report
 - 6.1.1. The grounds utilised to request consideration in confidence is section 90(3)(a), 90(3)(g) and 90(3)(h) of the Act
 - 6.1.1.1. Section 90(3) (a) of the *Local Government Act 1999 (SA)*
 - (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)
 - 6.1.1.2. Section 90(3) (g) of the *Local Government Act 1999 (SA)*
 - (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
 - 6.1.1.3. Section 90(3) (h) of the *Local Government Act 1999 (SA)*
 - (h) legal advice

ATTACHMENTS

Nil

- END OF REPORT -