

Exclusion of the Public

Tuesday, 10 December
2024

Council

Program Contact:
Anthony Spartalis, Chief
Operating Officer

Approving Officer:
Michael Sedgman, Chief
Executive Officer

Public

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 Council meeting for the consideration of information and matters contained in the Agenda.

For the following Recommendations from Committees seeking consideration in confidence

- 23** Confidential Recommendation of the City Community Services and Culture Committee – 3 December 2024 [section 90(3) (o) of the Act]

For the following Chief Executive Officer's Report seeking consideration in confidence

- 24.1** Leasing Matter [section 90(3) (i) of the Act]
- 24.2** Adelaide Aquatic Centre Redevelopment Update [section 90(3) (b), (d) & (j) of the Act]

The Order to Exclude for Items 23, 24.1 and 24.2:

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.

ORDER TO EXCLUDE FOR ITEM 23

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (o) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 10 December 2024 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 23 [Confidential Recommendation of the City Community Services and Culture Committee – 3 December 2024] 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 is confidential as it contains information relating to recommended award recipients prior to the presentation of the awards at the Australia Day Citizenship Ceremony scheduled for Thursday, 24 January 2025.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 10 December 2024 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 23 [Confidential Recommendation of the City Community Services and Culture Committee – 3 December 2024] 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) (o) of the Act.

ORDER TO EXCLUDE FOR ITEM 24.1

THAT COUNCIL:

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 Council dated 10 December 2024 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 24.1 [Leasing 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 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.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 10 December 2024 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 24.1 [Leasing Matter] 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.

ORDER TO EXCLUDE FOR ITEM 24.2

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (b), (d) & (j) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 10 December 2024 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 24.2 [Adelaide Aquatic Centre Redevelopment Update] 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 is commercial information of a confidential nature which has been provided to City of Adelaide on a confidential basis by the State Government.

The disclosure of information in this report could prejudice the position of the State Government and/or Council in relation to the Adelaide Aquatic Centre Redevelopment project.

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 as been provide to Council in confidence by the State Government.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 10 December 2024 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 24.2 [Adelaide Aquatic Centre Redevelopment 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) (b), (d) & (j) 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 meeting, that the following reports are submitted seeking consideration in confidence.
 - 6.1 Information contained in Item 23 – Confidential Recommendation of the City Community Services and Culture Committee – 3 December 2024
 - 6.1.1 Is subject to an existing Confidentiality Order dated 3/12/2024.
 - 6.1.2 The grounds utilised to request consideration in confidence is section 90(3) (o) of the Act
 - (o) information relating to a proposed award recipient before the presentation of the award.
 - 6.2 Information contained in Item 24.1 – Leasing Matter
 - 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
 - (i) 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.
 - 6.3 Information contained in Item 24.2 – Adelaide Aquatic Centre Redevelopment Update
 - 6.3.1 Is not subject to an existing Confidentiality Order
 - 6.3.2 The grounds utilised to request consideration in confidence is section 90(3) (b), (d) & (j) of the Act
 - (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;
 - (j) information the disclosure of which —

- (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
- (ii) would, on balance, be contrary to the public interest;

ATTACHMENTS

Nil

- END OF REPORT -