

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 Committee Recommendation Reports seeking consideration in confidence

- 22** Confidential Audit and Risk Committee Report – 11 April 2025 [section 90(3) (i) of the Act]
- 23** Recommendation of the Infrastructure and Public Works Committee – 15 April 2025 [section 90(3) (b) & (d) of the Act]

The Order to Exclude for Items 22 and 23:

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 22

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 22 April 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 22 [Recommendation of the City Community Services and Culture Committee – 1 April 2025] 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 22 April 2025 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 22 [Confidential Audit and Risk Committee Report – 11 April 2025] 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 23

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (b) & (d) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 22 April 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 23 [Recommendation of the Infrastructure and Public Works Committee – 15 April 2025] 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 to a third party.

The disclosure of information in this report could reasonably prejudice the commercial position of the Council including its future commercial dealings given that it contains financial information and future direction with regard to Council assets and strategic land holdings.

Public Interest

The 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 prior to a determination of the Council as it may prejudice Council's further commercial dealing regarding these assets. On this basis, the disclosure of such information may severely prejudice Council's ability to influence the proposal for the benefit of the Council and the community.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 22 April 2025 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 [Recommendation of the Infrastructure and Public Works Committee – 15 April 2025] 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) 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 22 – Confidential Audit and Risk Committee Report – 11 April 2025
- 6.1.1 Is subject to an existing Confidentiality Order dated 11 April 2025.
- 6.1.2 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.
- 6.2 Information contained in Item 23 – Recommendation of the Infrastructure and Public Works Committee – 15 April 2025
- 6.2.1 Is subject to an existing Confidentiality Order dated 15 April 2025.
- 6.2.2 The grounds utilised to request consideration in confidence is section 90(3) (b) & (d) 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

ATTACHMENTS

Nil

- END OF REPORT -