

# Exclusion of the Public

Tuesday, 17 March 2026

Infrastructure and Public  
Works Committee

**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 Infrastructure and Public Works Committee meeting for the consideration of information and matters contained in the Agenda.

For the following Report for Recommendation to Council seeking consideration in confidence

**10.1** Bonython Park Kiosk Expressions of Interest Outcomes [section 90(3) (b) & (d) of the Act]

The Order to Exclude for Item 10.1:

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 10.1

THAT THE INFRASTRUCTURE AND PUBLIC WORKS COMMITTEE:

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 Infrastructure and Public Works Committee dated 17 March 2026 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 10.1 [Bonython Park Kiosk Expressions of Interest Outcomes] 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 (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 on a third party.

The disclosure of information in this report could reasonably prejudice the commercial position and identity of the proponent who supplied 'commercial in confidence' information containing a business case and capability to undertake a promotional opportunity for evaluation by Council at the request of the Council for which 'commercial in confidence' discussions have been undertaken and remain current. Disclosure of this information may adversely impact project viability, prejudice the ability to undertake/participate in future negotiations on the proposal and prejudice the Council's commercial position and opportunity for Council to participate in future like considerations or discussions.

Public Interest

The Infrastructure and Public Works 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 may result in the release of information prior to the finalisation of commercial Lease negotiations with the preferred proponents and competitors receiving the information to the detriment of the proponents who supplied information at this point in time, may materially and adversely affect the financial viability of the proponent for any future projects and severely prejudice Council's ability to discuss/participate or influence a proposal for the benefit of the Council and the community in this matter and in relation to other commercial Lease negotiations.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Infrastructure and Public Works Committee dated 17 March 2026 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 [Bonython Park Kiosk Expressions of Interest Outcomes] 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.
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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 report is submitted seeking consideration in confidence.
  - 6.1 Information contained in Item 10.1 – Bonython Park Kiosk Expressions of Interest Outcomes
    - 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) (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;

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## ATTACHMENTS

Nil

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- END OF REPORT -