

Program Contact:

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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 Reports to Council seeking consideration in confidence

- 22** Confidential Recommendation of the CEO Tenure Review Committee – 13 October 2026 [section 90(3) (a) of the Act]
- 23** Confidential Recommendations of the Infrastructure and Public Works Committee – 20 October 2026 [section 90(3) (b) & (d) of the Act]

For the following Reports for Council (Chief Executive Officer's Reports seeking consideration in confidence

- 24.1** Capital City Committee Update [section 90(3) (g) of the Act]

The Order to Exclude for Items 22, 23 and 24.1:

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.

ORDER TO EXCLUDE FOR ITEM 22

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (a) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 27 October 2026 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 22 [Confidential Recommendation of the CEO Tenure Review Committee – 13 October 2026] 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 deals with the process of reviewing the existing CEO's tenure and consideration of the benefits and disbenefits of its possible extension.

The disclosure of information in this report could unreasonably disclose information concerning the personal affairs of the current CEO (namely their employment circumstances, appointment process and status).

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 27 October 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 22 [Confidential Recommendation of the CEO Tenure Review Committee – 13 October 2026] 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)(a) 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 27 October 2026 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 23 [Confidential Recommendations of the Infrastructure and Public Works Committee – 20 October 2026] listed on the Agenda in a meeting open to the public would on balance be contrary to the public interest.

Recommendation 1 - Grounds and Basis

This Item contains matters that must be considered in confidence with a recommendation authorising the Chief Executive Officer, or delegate, to undertake commercial negotiations regarding an appropriate licence fee beyond Council's General Fees and Charges.

The disclosure of information in this report would prejudice Council's commercial position and the opportunity to discuss or negotiate an appropriate fee that is yet to be determined at this point in time.

Recommendation 1 - 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 will result in release of information prior to a determination of a 'commercial in confidence' negotiation with interested parties that could prejudice the commercial position of the Council and on balance is contrary to the public interest.

Recommendation 2 - Grounds and Basis

This report and its attachments contain commercial information submitted by proponents through a competitive EOI process, including proposed uses, commercial terms, financial information, operating models and business proposals.

Administration is proposing to commence Lease negotiations with a preferred proponent. Disclosure of the submissions, McGees Property's commercial assessment or Council's proposed negotiating position before the process is concluded could prejudice the commercial position of the proponents, confer a commercial advantage on another party and prejudice Council's ability to negotiate an appropriate commercial outcome.

Recommendation 2 - Public Interest

The Council is satisfied that the meeting be conducted in a place open to the public is outweighed in the circumstances by the need to protect the integrity of the EOI process and prospective lease negotiations.

The disclosure before the commercial process is concluded could provide other parties with access to commercially sensitive information and adversely affect Council's negotiating position and the commercial position of the proponents. Public disclosure can be reconsidered following the conclusion of the commercial process and review of the confidentiality order.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 27 October 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 23 [Confidential Recommendations of the Infrastructure and Public Works Committee – 20 October 2026] 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.

ORDER TO EXCLUDE FOR ITEM 24.1

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (g) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 27 October 2026 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 24.1 [Capital City Committee 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 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.

The disclosure of information in this report would breach 'Cabinet in confidence' information presented to the Capital City Committee and the *City of Adelaide Act 1998* which has provided for a State/Capital City inter-governmental forum (the Capital City Committee) to operate 'in confidence' and a breach of the associated duty of confidence and legal obligation or duty as a member of the inter-governmental forum. The disclosure of information in this report would be acting contrary to the Capital City Committee operational provisions and could prejudice the position of the State Government and/or Council in relation to current/future proposals prior to State Government and/or City of Adelaide evaluation and deliberation.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 27 October 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 24.1 [Capital City Committee 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)(g) 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 reports are submitted seeking consideration in confidence.
 - 6.1 Information contained in Item 22 - Confidential Recommendation of the CEO Tenure Review Committee – 13 October 2026
 - 6.1.1 Is subject to an Existing Confidentiality Order dated 13/10/2026.
 - 6.2.2 The grounds utilised to request consideration in confidence is section 90(3)(a) of the Act
 - (a) Information the disclosure of which would involve the unreasonable disclosure of information concerning the affairs of any person (living or dead).
 - 6.2 Information contained in Item 23 - Confidential Recommendations of the Infrastructure and Public Works Committee – 20 October 2026
 - 6.2.1 Is subject to Existing Confidentiality Orders dated 20/10/2026.
 - 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 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.
 - 6.3 Information contained in Item 24.1 - Capital City Committee Update
 - 6.3.1 Is not subject to any Existing Confidentiality Orders.
 - 6.3.2 The grounds utilised to request consideration in confidence is section 90(3)(g) of the Act
- Council – Agenda – Tuesday, 27 October 2026

- (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;

ATTACHMENTS

Nil

- END OF REPORT -