

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 Reply to Question on Notice seeking consideration in confidence

- 20** Confidential Question on Notice Reply [section 90(3) (b) & (d) of the Act]

For the following Committee Reports for Recommendation to Council seeking consideration in confidence

- 21** Confidential Recommendation of the Infrastructure and Public Works Committee – 17 March 2026 [section 90(3) (b) & (d) of the Act]

The Order to Exclude for Items 20 and 21:

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 20

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 24 March 2026 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 20 [Confidential Question on Notice Reply] 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 being considered in confidence as it contains commercially sensitive information relating to business-specific invoices and commercial arrangements as it contains.

Public Interest

The consideration and release of this information is contrary to the public interest, as disclosure could reasonably be expected to prejudice the commercial position of the businesses concerned, undermine confidentiality obligations, and compromise Council's ability to conduct fair and effective commercial dealings.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 24 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 20 [Confidential Question on Notice Reply] 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 21

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 24 March 2026 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 21 [Confidential Recommendation of the Infrastructure and Public Works Committee – 17 March 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 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 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 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 Council dated 24 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 21 [Confidential Recommendation of the Infrastructure and Public Works Committee – 17 March 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.



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 20 – Confidential Question on Notice Reply
 - 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
 - 6.2 Information contained in Item 21 – Confidential Recommendation of the Infrastructure and Public Works Committee – 17 March 2026
 - 6.2.1 Is subject to an Existing Confidentiality Order dated 17/3/2026
 - 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 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 -