

18 CONFIDENTIAL ITEMS

18.3 QUESTION ON NOTICE - CR ANDREW GRIEGER

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RECOMMENDATION

That:

1. Pursuant to Section 90(2) & (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Chief Executive Officer, Manager Corporate Services, Manager Infrastructure Services, Manager Property and Development Services, Manager Major Project Delivery, Coordinator Executive Services, Coordinator Organisational Development and the Minute Secretary be excluded from attendance at the meeting held on Wednesday 15 September 2021 for Agenda Item 18.3 Question on Notice - Cr Andrew Grieger;
2. The Council is satisfied that pursuant to section 90 (3) (g) and (h) of the Local Government Act 1999, the information to be received, discussed or considered in relation to the Agenda Item 18.3 Question on Notice - Cr Andrew Grieger is:

 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; AND legal advice.
3. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed by the need to discuss this Agenda Item 18.3 in confidence.

**MOVED COUNCILLOR REBECCA BOSELEY
 SECONDED COUNCILLOR PAUL IRELAND**

That:

1. Pursuant to Section 90(2) & (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Chief Executive Officer, Manager Corporate Services, Manager Infrastructure Services, Manager Property and Development Services, Manager Major Project Delivery, Coordinator Executive Services and the Minute Secretary be excluded from attendance at the meeting held on Wednesday 15 September 2021 for Agenda Item 18.3 Question on Notice - Cr Andrew Grieger;
2. The Council is satisfied that pursuant to section 90 (3) (g) and (h) of the Local Government Act 1999, the information to be received, discussed or considered in relation to the Agenda Item 18.3 Question on Notice - Cr Andrew Grieger is:

 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; AND legal advice.
3. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed by the need to discuss this Agenda Item 18.3 in confidence.

CARRIED.

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Attachments: Nil.

Section under the Act	The grounds on which part of the Council or Committee may be closed to the public are listed in Section 90(2) & (3) of the <i>Local Government Act 1999</i> .
Sub-clause and Reason:	(g) and (h) - 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 and legal advice.

I, Councillor Andrew Grieger, having complied with the requirements of Section 9 of the Local Government (Procedures at Meetings) Regulations 2013, hereby give Notice of the following question/s to be submitted at the meeting of the Southern Mallee District Council to be held on 15 September 2021.

Question

The Council's Audited Financial Statements (within its Annual Report), its Annual Business Plan and Budget, and its Quarterly Budget Reviews, set out Council's annual expenses. The most recent versions of these statements and documents (eg FY19 and FY20) do not set out Council's legal expenditure for the year. While there are references to expenses relating to 'contracts' and 'contractors', there is no apparent provision for expenditure specifically for legal services providers. Section 59 (specifically section 59(1)(a)(iii)) of the Local Government Act 1999 (SA) sets out the roles of council members, which includes "to keep the council's resource allocation, expenditure, and activities, and the efficiency and effectiveness of its service delivery, under review". So that I, and the other elected members, can keep Council's expenditure under review, could Council administration please set out Council's expenditure on legal services for financial years 20/21 and 19/20. Could the disclosure of legal expenditure be separated into relevant categories, as applicable, e.g.:

1. employment / HR
2. development and environment
3. litigation
4. regulatory
5. freedom of information
6. governance
7. internal and external reviews and investigations
8. asset and property management and transactions
9. insurance
10. banking / finance

Further, could the legal expenditure please be categorised by service provider (i.e. by law firm).

I acknowledge that Council administration cannot reveal any additional details of specific matters, due to confidentiality and legal professional privilege.

Response

Elected Members seeking access to Council documents are required to make a request under section 61 of the Local Government Act. Any request should be directed to the CEO.

Cr Grieger has not made any request to the CEO for such information. The process of making requests to Council's CEO for information is well known to all elected members. In August 2020 Cr Pfeiffer made a similar request for information via a question on notice, rather than directly to the CEO as provided for by legislation, and a similar answer was provided.

Requests for access to Council documents must be made in connection with the performance or discharge of duties of the member and relate to matters that are being considered by Council. The basis for the request must be explained. A general request for documents which are not related to matters being dealt with by Council may be refused. A request for all tax invoices for legal advice for a two year period may fall within this category. However, any request for access will be considered on its merits having regard to the reasons provided by the Elected Member when the application is made.

Documents may be released on a confidential basis if that is appropriate. Because itemised invoices may disclose the substance of legal advice, they will be subject to legal professional privilege such that, if access is granted, it may be by inspection only.

18 CONFIDENTIAL ITEMS**18.3 QUESTION ON NOTICE - CR ANDREW GRIEGER****RECOMMENDATION**

That having considered agenda Item 18.3 in confidence under section 90 (2) and (3) (g) and (h) of the Local Government Act 1999, the Council pursuant to section 91 (7) of the Act orders that the documents considered by the Council, including the officer's report and all minutes be retained in confidence. This order is to be reviewed at or before the ordinary Council meeting to be held in January 2022, as to if this order is to continue in operation.

MOVED COUNCILLOR MICK SPARNON**SECONDED COUNCILLOR NEVILLE PFEIFFER**

That having considered agenda Item 18.3 in confidence under section 90 (2) and (3) (g) and (h) of the Local Government Act 1999, the Council pursuant to section 91 (7) of the Act orders that the documents considered by the Council, including the officer's report and all minutes be retained in confidence. This order is to be reviewed at or before the ordinary Council meeting to be held in January 2022, as to if this order is to continue in operation.

CARRIED.

19 MEETING CLOSED

The meeting closed at 8.26pm.

These minutes are to be taken as read and confirmed at the meeting of Ordinary Council Meeting on Wednesday 20 October 2021.

MAYOR CR

DATED Wednesday 20 October 2021