

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 11 June 2024
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 19.3

Responsible Officer: Zoë Gill
Governance and Risk Coordinator
Office of the Chief Executive

Subject: Mayor Seeking Legal Advice Update

For: Information

1. Mayor Seeking Legal Advice Update – Exclusion of the Public

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- Chief Executive Officer, Greg Georgopoulos
- Director Environment & Infrastructure, David Waters
- Director Corporate Services, Gary Lewis
- A/Director Community & Development, Jess Charlton
- Governance and Risk Coordinator, Zoë Gill
- Governance and Risk Officer, Skye Luzday
- Minute Secretary, Rebekah Lyons
- IT Support, Tom Portas

be excluded from attendance at the meeting for Agenda Item 19.3: (Mayor Seeking Legal Advice) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3) (a) and (h) of the Local Government Act, the information to be received, discussed or considered in relation to this Agenda Item is:

- a) Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- b) Legal advice.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

2. Mayor Seeking Legal Advice Update – Confidential Item

SUMMARY

This report outlines the current status of the Mayor Seeking Legal Advice inquiry being conducted by Minter Ellison.

RECOMMENDATION

Council notes:

- 1. That the report be received.**
 - 2. That the independent inquiry into the Mayor's use of the Mayor Seeking Legal Advice Policy is in progress.**
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1. BACKGROUND

At the 13 February 2024 Council meeting, Council resolved (resolution 34/24):

Council resolves:

- 1. In accordance with Section 5.2 of the Mayor Seeking Legal Advice Policy, Council approves the Mayor seeking independent legal advice be deferred, for further consideration by Council, to an Ordinary Meeting of Council on 28 May 2024.**
- 2. That in order for Council to be in a fully informed position, prior to making a decision, and, importantly, be satisfied that it was appropriate for the Mayor to have sought independent legal advice on this occasion, including yet not limited to, in accordance with the provisions of the Policy [and, if applicable, Legislative and Regulatory instruments], Council requests that the Administration engage an external legal provider to undertake a thorough independent inquiry, including yet not limited to, the circumstances giving rise to the obtaining of the said independent legal advice.**
- 3. That following the outcome of the inquiry, appropriate recommendations are made to Council, for consideration at an Ordinary Meeting of Council in May 2024, including yet not limited to, whether retrospective approval should be granted.**

The resolution outlined that following the outcome of the inquiry, an appropriate recommendation be made to Council, for consideration at an Ordinary Meeting of Council in May 2024.

Due to a number of delays, including a targeted tender process and procedural fairness requirements, the inquiry is not currently in a position to make recommendations for Council's consideration. This report provides an update to Council regarding the inquiry.

Council Administration engaged Minter Ellison to conduct the independent inquiry. To date the independent inquiry has:

- identified and contacted relevant witnesses.
- Reviewed a large amount of relevant documentation.
- Identified and considered the range of complex issues, which continue to be investigated.
- Ensured procedural fairness is being provided to the Mayor.

Minter Ellison continue to make further inquiries. Subject to these further inquiries, Minter Ellison has advised they expect to make findings and recommendations by the end of June 2024.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

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Strategic Plan 2020-24 – A brighter future

Goal 5	A progressive Organisation
Objective 05	We are accountable, informed, and make decisions in the best interests of the whole community
Priority 05.2	Make evidence-based decisions and prudently assess the risks and opportunities to our community before taking action by the community.
Priority 05.3	Demonstrate accountability through robust corporate planning and reporting that enhances performance, is relevant and easily accessible by the community

➤ Legal Implications

There are no legal implications in providing an update on the inquiry.

➤ Risk Management Implications

There are no risk management implications in providing an update on the inquiry.

➤ Financial and Resource Implications

There are no risk management implications in providing an update on the inquiry.

➤ Customer Service and Community/Cultural Implications

There are no Customer Service and Community/Cultural Implications in providing an update on the inquiry.

➤ Sustainability Implications

There are no sustainability Implications in providing an update on the inquiry.

➤ **Engagement/Consultation conducted in the development of the report**

There was no community consultation in developing this update report.

➤ **Additional Analysis**

Nil

3. OPTION

Council notes this report.

4. APPENDICES

Nil

3. Mayor Seeking Legal Advice Update – Duration of Confidentiality

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 19.3 in confidence under sections 90(2) and 90(3) (a) and (h) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:

Item	Duration of Confidentiality NB: Item to be reviewed every 12 months if not released
Report	For 12 months unless Council determines otherwise
Related Attachments	For 12 months unless Council determines otherwise
Minutes	For 12 months unless Council determines otherwise
Other (presentation, documents, or similar)	For 12 months unless Council determines otherwise

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.