

15. Confidential items

15.1 Telstra v City of Onkaparinga appeal update

MOVED Cr R Brown.

1. That:

- a. under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting in order to consider in confidence this item.*
- b. the Council is satisfied that it is necessary that the public be excluded to enable the Council to consider the report at the meeting on the following grounds:

Section 90(3)(h) legal advice

Section 90(3)(i) – information relating to actual litigation, or litigation that the Council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.*
- c. 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 or discussion confidential.*

Seconded by Cr Wenham.

CARRIED.

MOVED Cr Wenham.

- 2. That Council not appeal the Environment, Resources and Development Court decision to the Supreme Court in the matter of Telstra Corp Ltd v City of Onkaparinga for a proposed telecommunications facility at Sellicks Beach, as the legal advice suggests that the prospects of success are unlikely to warrant further appeal, noting that an appeal must be based upon legal aspects rather than the planning merits of the proposal.*
- 3. That Council advocates to the Local Government Association seeking a review of State and Federal legislation to better allow mobile tower locations to be influenced by local planning policy.*
- 4. That Council reinforces its position on mobile tower locations as documented in the Federal Election 2013 document at item 9.4 of this agenda.*

Seconded by Cr Jamieson.

CARRIED.

MOVED Cr R Brown.

- 5. That with the matter of the Telstra v City of Onkaparinga appeal update having been considered in confidence under Section 90(3)(h) and 90(3)(i) of the Local Government Act 1999, an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the agenda report for the Telstra v City of Onkaparinga appeal update be kept confidential until the conclusion of legal proceedings (including any appeal actions). Attachment 2 to the agenda report containing legal advice shall remain confidential.*

6. *That, pursuant to section 91(9)(a) of the Local Government Act 1999, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.*
7. *That, pursuant to section 91(9)(c) of the Local Government Act 1999, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.*

*Seconded by **Cr Swann**.*

CARRIED.