

## 10.2 Confidential - Almond Train and Carriage Café, McLaren Vale

*Cr Fletcher MOVED:*

1. *That:*

- a. *under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public with the exception of the Chief Executive Officer, General Manager Corporate and Community, General Manager Projects and Services, General Manager City Development, Chief Financial Officer, Manager Public Health & Safety, Group Manager Economic Development, Manager Property Services, Asset Planner Acquisitions' and Disposal, Scott Lumsden Partner Wallmans Lawyers and be excluded from attendance at the meeting in order to consider in confidence this item.*
- b. *Council is satisfied that it is necessary that the public be excluded to enable the Council to receive the information 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 Erwin.*

**CARRIED**

*Cr Wenham MOVED:*

2. *That Council note the current position of the court in relation to the proceedings brought against the Carriage Café (as first defendant) and the City of Onkaparinga (as second defendant) in the District Court.*
  3. *That Council endorse an amendment to the Permitted Use for the Almond Train to read as agreed to by the two lessees:*  
*'the sale of giftware, souvenirs, packaged providedore goods such as fruit, nuts, jams, sauces, chutneys, olives, olive oils, spices, honey and biscuits; the sale of chocolates and lollies produced in the Adelaide and Fleurieu region and the sale of bottled water'.*
  4. *That Council endorse an amendment to the Permitted Use for the Carriage Cafe to read as agreed to by the two lessees:*  
*'the operation of a buffet carriage for the sale of refreshments together with the hiring of bicycles but not the sale of giftware, souvenirs, packaged providedore goods such as fruit, nuts, jams, sauces, chutneys, olives, olive oils,*
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*spices, honey and in addition the sale of chocolates and lollies produced in the Adelaide and Fleurieu region is not permitted'.*

5. *That Council:*

- (a) *endorse provisions within the leases that outline that infrastructure owned privately by the parties (train carriages and toilet infrastructure) be removed from the land at the lessee's cost at the end of any lease agreement.*
- (b) *endorse the inclusion of a sub-leasing right in the lease subject to the lessee gaining council's prior written consent, upon our standard terms and conditions surrounding due diligence reporting, the provision of evidence of prior business experience and on the basis that the Permitted Use contained within the head lease is not altered.*
- (c) *endorse the requirement of the lessees to formally accept (via execution) or reject the lease documents for the operation of the Almond Train and Carriage Café by the expiry of one month from the date that the final leases are put to the lessees.*

6. *That Council delegate authority to the Chief Executive Officer to determine the matter of costs in the best interests of council noting that recovery of costs is preferred within the parameters advised by council's legal representative.*

*Seconded by Cr Peat.*

*CARRIED*

*Cr Nash MOVED:*

7. *That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the abovementioned document (or part of such document) including the minutes and the report of the Council relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(h), 90(3)(i) until court proceedings and lease agreements have been finalised.*

*Seconded by Cr Coomans.*

*CARRIED*

Mayor Rosenberg reopened the meeting to the public at 8.36pm.

Cr Mazzachi resumed his seat in the chamber at 8.37pm.