

Exclusion of the Public for item requested to be considered in confidence

Requested by:
Michael Sedgman, Chief Executive
Officer

Confidential - s 90(3) (b) & (d) commercial advantage/prejudice commercial
position of council/commercial information of a confidential nature

Purpose

Exclusion of the public from this meeting is sought for the consideration of the following Agenda Item:

- 9.1** Results of Park Lands Commercial Expressions of Interest – Victoria Park/ Pakapakanthi (Park 16)
[section 90(3) (b) (i) (ii) of the Act]

Meetings of Kadaltilla must be conducted in a place open to the public except in special circumstances. Special circumstances and associated considerations to exclude the public from a meeting are outlined in section 90 the *Local Government Act 1999 (SA)* (the Act).

Clause 4.8.21 of the Charter enables Kadaltilla, to order the exclusion of the public from attendance to consider in confidence any information or matter listed in section 90(3) of the Act. The exercise of this power does not exclude Board Members and/or any other person permitted by Kadaltilla to remain in the room.

The Order to Exclude for Items 9.1:

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; and
3. In addition, identifies for the following grounds – section 90(3) (b), (d) or (j) - how information open to the public would be contrary to the **public interest**.

All Board members must keep confidential all documents and any information presented to them for consideration on a confidential basis prior to the meeting.

Order to Exclude for Item 9.1

THAT THE ADELAIDE PARK LANDS AUTHORITY

1. Having taken into account the relevant considerations contained in Clause 4.8.21 of the Adelaide Park Lands Authority Charter and section 90(3) (b) & (d) and 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Board of Kadaltilla / Park Lands Authority dated 18 September 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 9.1 [Results of Park Lands Commercial Expressions of Interest – Victoria Park/ Pakapakanthi (Park 16)] 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 Board 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 Kadaltilla dated 18 September 2025 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 9.1 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) of the Act.

Discussion

1. The *Adelaide Park Lands Act 2005 (SA)* requires the Authority to operate utilising Chapter 6 Part 3 of the *Local Government Act 1999 (SA)* (the Act). Chapter 6 Part 3 relates to public access to meetings and outlines the conduct to be observed by the Authority.
2. It is a requirement of the *Adelaide Park Lands Act 2005 (SA)* [13 (c)] reflected in clause 4.8.19 of the *Adelaide Park Lands Charter* (Charter), that meetings of the Authority be conducted in a place open to the public except in special circumstances. These circumstances and associated considerations to exclude the public from a Board meeting are outlined in Chapter 6, Part 3 of the Act.
3. In considering whether an order should be made to exclude the public the order must specify
 - 3.1. the grounds on which the order was made; and
 - 3.2. the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made; and
 - 3.3. if relevant, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest.
4. In considering whether an order should be made to exclude the public, it is irrelevant that discussion of a matter in public may:
 - 4.1. cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
 - 4.2. cause a loss of confidence in the council or council committee.
 - 4.3. involve discussion of a matter that is controversial within the council area; or
 - 4.4. make the council susceptible to adverse criticism
5. When determining whether to exclude the public from the meeting the Authority is required to consider & resolve whether it is necessary and appropriate to act in a meeting closed to the public to consider the following information in confidence.
 - 5.1. Information contained in Item 9.1 [Results of Park Lands Commercial Expressions of Interest – Victoria Park/ Pakapakanthi (Park 16)]
 - 5.1.1. Is not subject to an existing Kadaltilla / Park Lands Authority Confidentiality Order
 - 5.1.2. Is subject to an existing City of Adelaide Reconciliation Committee Confidentiality Order
 - 5.1.3. The grounds utilised to request consideration in confidence is 90(3) (b) & (d) of the *Local Government Act 1999 (SA)*
(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 -