

Program Contact:
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Public

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EXECUTIVE SUMMARY

Section 90(2) of the *Local Government Act 1999* (SA) (the Act), states that a Council may order that the public be excluded from attendance at a meeting if the Council considers it to be necessary and appropriate to act in a meeting closed to the public to receive, discuss or consider in confidence any information or matter listed in section 90(3) of the Act.

It is the recommendation of the Chief Executive Officer that the public be excluded from this Council meeting for the consideration of information and matters contained in the Agenda.

For the following Committee Reports for Recommendation to Council seeking consideration in confidence

- 26** Confidential Recommendations of the Special Audit and Risk Committee - 27 November 2025 [section 90(3) (b), (d), (h) & (k) of the Act]
- 27** Confidential Recommendations of the Special City Community Services and Culture Committee - 2 December 2025 [section 90(3) (o) of the Act]

For the following Reports for Council (Chief executive Officer's Reports seeking consideration in confidence

- 28.1** Capital City Committee Annual Report and Update [section 90(3) (g) of the Act]
- 28.2** Delegation to Award Contract – Community Sports Building, Golden Wattle Park / Mirnu Wirra (Park 21 West) [section 90(3) (b) & (d) of the Act]
- 28.3** Adelaide Economic Development Authority Appointment of Board Member [section 90(3) (a) of the Act]
- 28.4** Appointment of Independent Council Assessment Panel Members [section 90(3) (a) of the Act]

The Order to Exclude for Items 26, 27, 28.1, 28.2, 28.3 and 28.4:

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

ORDER TO EXCLUDE FOR ITEM 26

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (b), (d), (h) & (k) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 9 December 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 26 [Confidential Recommendations of the Special Audit and Risk Committee - 27 November 2025] listed on the Agenda in a meeting open to the public would on balance be contrary to the public interest.

Recommendation 1 - Advice of the Audit and Risk Committee 27 November 2025

Grounds and Basis

This item contains certain information of a confidential nature (not being a trade secret) the disclosure of which could reasonably expect to confer a commercial advantage on a person with whom the Council is conducting business, prejudice the commercial position of the Council in respect to its assets and strategic land holdings, and that of adjacent landowners.

The disclosure of information in this report could reasonably prejudice the position of Council and third parties as it includes specialist information including legal advice provided to Council and others on a confidential basis.

Public Interest

The Audit and Risk Committee 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 release of confidential information of Council and adjacent landowners that are of a financial, legal and strategic nature.

Recommendation 2 - Item 6.3 - Confidential - Appointment of External Auditor

Grounds and Basis

This Item is confidential as a procurement process was conducted for tenders to provide services to Council.

The disclosure of information in this report could reasonably prejudice the commercial position of the person who supplied the information as part of the tender process.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 9 December 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 26 [Confidential Recommendations of the Special Audit and Risk Committee - 27 November 2025] 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) (b), (d), (h) & (k) of the Act.

ORDER TO EXCLUDE FOR ITEM 27

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (o) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 9 December 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 27 [Confidential Recommendations of the Special City Community Services and Culture Committee - 2 December 2025] 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 contains confidential information that must be considered in confidence in order to protect the personal affairs of the nominee. Public discussion and disclosure of information in this report prior to a resolution being determined by Council may potentially implicate the nominee's reputation in the community.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 9 December 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 27 [Confidential Recommendations of the Special City Community Services and Culture Committee - 2 December 2025] 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) (o) of the Act.

ORDER TO EXCLUDE FOR ITEM 28.1

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (g) and section 90(2) & (7) of the *Local Government Act 1999* (SA), this meeting of the Council dated 9 December 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 28.1 [Capital City Committee Annual Report and Update] 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 contains matters that must be considered in confidence in order to ensure that the Council does not breach any law, any duty of confidence, or other legal obligation or duty.

The disclosure of information in this report would breach 'Cabinet in confidence' information presented to the Capital City Committee (CCC) and the *City of Adelaide Act 1998* which has provided for a State/Capital City inter-governmental forum (the Capital City Committee) to operate 'in confidence' and a breach of the associated duty of confidence and legal obligation or duty as a member of the inter-governmental forum. The disclosure of information in this report would be acting contrary to the Capital City Committee operational provisions and could prejudice the position of the State Government and/or Council in relation to current/future proposals prior to State Government and/or City of Adelaide evaluation and deliberation.

2. Pursuant to section 90(2) of the *Local Government Act 1999* (SA) (the Act), this meeting of the Council dated 9 December 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 28.1 [Capital City Committee Annual Report and Update] 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) (g) of the Act.

ORDER TO EXCLUDE FOR ITEM 28.2

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (b) & (d) and section 90(2) & (7) of the *Local Government Act 1999* (SA), this meeting of the Council dated 9 December 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 28.2 [Delegation to Award Contract – Community Sports Building, Golden Wattle Park / Mirnu Wirra (Park 21 West)] 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 identify the proponent and to confer a commercial advantage on a person with whom the Council is conducting business and prejudice the commercial position of the Council, with the potential to confer a commercial advantage to a third party competitor of a person with whom the Council is conducting business.

Public Interest

The Council 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 release of information prior to the finalisation of 'commercial in confidence' negotiation with the proponent and because the disclosure of Council's commercial position may 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 contract negotiations.

2. Pursuant to section 90(2) of the *Local Government Act 1999* (SA) (the Act), this meeting of the Council dated 9 December 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 28.2 [Delegation to Award Contract – Community Sports Building, Golden Wattle Park / Mirnu Wirra (Park 21 West)] 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) (b) & (d) of the Act.

ORDER TO EXCLUDE FOR ITEM 28.3

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (a) and section 90(2) & (7) of the *Local Government Act 1999* (SA), this meeting of the Council dated 9 December 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 28.3 [Adelaide Economic Development Authority Appointment of Board Member] 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 contains confidential information that must be considered in confidence in order to protect the personal affairs of the nominee. Public discussion and disclosure of information in this report prior to a resolution being determined by Council may potentially implicate the nominee's reputation in the community.

2. Pursuant to section 90(2) of the *Local Government Act 1999* (SA) (the Act), this meeting of the Council dated 9 December 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 28.3 [Adelaide Economic Development Authority Appointment of Board Member] 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) (a) of the Act.

ORDER TO EXCLUDE FOR ITEM 28.4

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in section 90(3) (a) and section 90(2) & (7) of the *Local Government Act 1999* (SA), this meeting of the Council dated 9 December 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 28.4 [Appointment of Independent Council Assessment Panel Members] 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 confidential as the expressions of interest contain personal information, the disclosure of which could represent an unreasonable disclosure of personal affairs.

The Council is satisfied 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 would unduly impact applicants who have expressed an interest to join the Council Assessment Panel in confidence.

2. Pursuant to section 90(2) of the *Local Government Act 1999* (SA) (the Act), this meeting of the Council dated 9 December 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 28.4 [Appointment of Independent Council Assessment Panel Members] 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) (a) of the Act.

DISCUSSION

1. Section 90(1) of the *Local Government Act 1999* (SA) (the Act) directs that a meeting of Council must be conducted in a place open to the public.
2. Section 90(2) of the Act, states that a Council may order that the public be excluded from attendance at a meeting if Council considers it to be necessary and appropriate to act in a meeting closed to the public to receive, discuss or consider in confidence any information or matter listed in section 90(3) of the Act.
3. Section 90(3) of the Act prescribes the information and matters that a Council may order that the public be excluded from.
4. Section 90(4) of the Act, advises that in considering whether an order should be made to exclude the public under section 90(2) of the Act, it is irrelevant that discussion of a matter in public may -
 - (a) *cause embarrassment to the council or council committee concerned, or to members or employees of the council; or*
 - (b) *cause a loss of confidence in the council or council committee; or*
 - (c) *involve discussion of a matter that is controversial within the council area; or*
 - (d) *make the council susceptible to adverse criticism.'*
5. Section 90(7) of the Act requires that an order to exclude the public:
 - 5.1 Identify the information and matters (grounds) from section 90(3) of the Act utilised to request consideration in confidence.
 - 5.2 Identify 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.
 - 5.3 In addition identify for the following grounds – section 90(3) (b), (d) or (j) of the Act - how information open to the public would be contrary to the public interest.
6. Section 83(5) of the Act has been utilised to identify in the Agenda and on the Report for the meeting, that the following reports are submitted seeking consideration in confidence.
 - 6.1 Information contained in Item 26 – Confidential Recommendations of the Special Audit and Risk Committee - 27 November 2025
 - 6.1.1 Is subject to Existing Confidentiality Orders dated 27/11/2025
 - 6.1.2 The grounds utilised to request consideration in confidence is section 90(3) (b), (d), (h) & (k) of the Act
 - (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 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.
 - (h) legal advice
 - (k) Tenders for the supply of goods, the provision of services or the carrying out of works;
 - 6.2 Information contained in Item 27 – Confidential Recommendations of the Special City Community Services and Culture Committee - 2 December 2025
 - 6.2.1 Is subject to an Existing Confidentiality Order dated 2/12/2025.
 - 6.2.2 The grounds utilised to request consideration in confidence is section 90(3) (o) of the Act
 - (o) information relating to a proposed award recipient before the presentation of the award

6.3 Information contained in Item 28.1 – Capital City Committee Annual Report and Update

6.3.1 Is not subject to an Existing Confidentiality Order

6.3.2 The grounds utilised to request consideration in confidence is section 90(3) (g) of the Act

(g) 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;

6.4 Information contained in Item 28.2 – Delegation to Award Contract – Community Sports Building, Golden Wattle Park / Mirnu Wirra (Park 21 West)

6.4.1 Is not subject to an Existing Confidentiality Order

6.4.2 The grounds utilised to request consideration in confidence is section 90(3) (b) & (d) of the Act

(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 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.

6.5 Information contained in Item 28.3 – Adelaide Economic Development Authority Appointment of Board Member

6.5.1 Is not subject to an Existing Confidentiality Order

6.5.2 The grounds utilised to request consideration in confidence is section 90(3) (a) of the Act

(a) Information the disclosure of which would involve the unreasonable disclosure of information concerning the affairs of any person (living or dead).

6.6 Information contained in Item 28.4 – Appointment of Independent Council Assessment Panel Members

6.6.1 Is not subject to an Existing Confidentiality Order

6.6.2 The grounds utilised to request consideration in confidence is section 90(3) (a) of the Act

(a) Information the disclosure of which would involve the unreasonable disclosure of information concerning the affairs of any person (living or dead).

ATTACHMENTS

Nil

- END OF REPORT -