

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

- 22** Confidential Audit and Risk Committee Report 14 November 2025 [section 90(3) (i) & (k) of the Act]

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

- 23.1** Nomination of Council Appointed Members to Kadaltilla [section 90(3) (a) of the Act]
23.2 Adelaide TreeClimb Exemption to EOI [section 90(3) (b) & (d) of the Act]

The Order to Exclude for Items 22, 23.1 and 23.2:

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 22

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 25 November 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 22 [Confidential Audit and Risk Committee Report 14 November 2025] listed on the Agenda in a meeting open to the public would on balance be contrary to the public interest.

Recommendation 1 - Activity of Strategic Risk and Internal Audit Group

Grounds and Basis

Information relating to actual litigation, or litigation that the council or council committee believes on reasonable ground will take place, involving the council or an employee of the council.

This Item is confidential in nature because the report includes information on Council litigation.

The disclosure of information in this report could reasonably be expected to prejudice the outcome of Council's actual litigation.

Recommendation 2 - Shortlist of External Audit Candidates

Grounds and Basis

This Item is confidential as the item contains certain information of a confidential nature relating to a tender to provide services to the City of Adelaide.

The disclosure of information may adversely impact on the commercial position of the City of Adelaide, and the professional standing of proponents tendering for the specified goods or services.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 25 November 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 22 [Confidential Audit and Risk Committee Report 14 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) of the Act.

ORDER TO EXCLUDE FOR ITEM 23.1

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 25 November 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 23.1 [Nomination of Council Appointed Members to Kadaltilla] 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 25 November 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 23.1 [Nomination of Council Appointed Members to Kadaltilla] 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 23.2

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 25 November 2025 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 23.2 [Adelaide TreeClimb Exemption to EOI] 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

Infrastructure and Public Works 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 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 proponent 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 the Council dated 25 November 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 23.2 [Adelaide TreeClimb Exemption to EOI] 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.

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 22 – Confidential Audit and Risk Committee Report 14 November 2025
 - 6.1.1 Is subject to Existing Confidentiality Orders dated 14/11/2025
 - 6.1.2 The grounds utilised to request consideration in confidence is section 90(3) (i) & (k) of the Act
 - (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;
 - (k) Tenders for the supply of goods, the provision of services or the carrying out of works;
 - 6.2 Information contained in Item 23.1 – Nomination of Council Appointed Members to Kadaltilla
 - 6.2.1 Is not subject to an Existing Confidentiality Order
 - 6.2.2 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).
 - 6.3 Information contained in Item 23.2 – Adelaide TreeClimb Exemption to EOI
 - 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) (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.

ATTACHMENTS

Nil

- END OF REPORT -