

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

Requested by:
Clare Mockler, Chief Executive
Officer

Public

Purpose

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

10.1 North Adelaide Railway Station – Expression of Interest Results [section 90(3) (b) & (d) 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 Item 10.1

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 10.1

THAT KADALTILLA / 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 s 90(3) (b) & (d) and 90(4) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Board of Kadaltilla / Park Lands Authority dated 28 July 2022 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 10.1 [North Adelaide Railway Station – Expression of Interest Results] 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 commercial information (not being a trade secret) of a confidential nature which the proponent has requested be considered in confidence on the grounds that the proposal details their intellectual property, and the release of this information prematurely may be contrary to public interest. The disclosure of information in this report could reasonably be expected to prejudice the commercial position and negotiations of the Council and proponent with external parties.

Public Interest

Kadaltilla 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' negotiations between the proponent and their suppliers and may materially and adversely affect the financial viability of the proponent in relation to contract negotiations which on balance would be contrary to the public interest.

2. Pursuant to Clause 4.8.21 of the *Adelaide Park Lands Authority Charter* this meeting of the Board of Kadaltilla / Park Lands Authority dated 28 July 2022 orders that the public (with the exception of members of City of Adelaide staff who are hereby permitted to remain) be excluded from this meeting to enable Kadaltilla to consider in confidence Item 10.1 [North Adelaide Railway Station – Expression of Interest Results] listed in the Agenda, as the matter is of a kind referred to in s 90(3) (b) & (d) of the *Local Government Act 1999* (SA).
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Discussion

1. The *Adelaide Park Lands Act 2005 (SA)* requires Kadaltilla 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 Kadaltilla.
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 be conducted in a place open to the public except in special circumstances. These circumstances and associated considerations to exclude the public from a 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 Kadaltilla 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 10.1 - North Adelaide Railway Station – Expression of Interest Results:
 - 5.1.1 Is subject to an existing Kadaltilla / Park Lands Authority Confidentiality Order
 - 5.1.2 Is subject to an existing Council Confidentiality Order
 - 5.1.3 The grounds utilised to request consideration in confidence is s 90(3) (b) & (d) of the *Local Government Act 1999 (SA)*
 - (b) commercial advantage/prejudice commercial position of council
 - (d) commercial information of a confidential nature.

Attachments

Nil