

Exclusion of the Public

Tuesday, 4 June 2024

City Community Services
and Culture Committee

Program Contact:

Anthony Spartalis, Acting
Chief Operating Officer

Approving Officer:

Michael Sedgman, Acting
Chief Executive Officer

Public

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 City Community Services and Culture Committee meeting for the consideration of information and matters contained in the Agenda.

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

10.1 Place of Courage [section 90(3) (d) of the Act]

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.
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 10.1

THAT THE CITY COMMUNITY SERVICES AND CULTURE COMMITTEE:

1. Having taken into account the relevant consideration contained in section 90(3) (d) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the City Community Services and Culture Committee dated 4 June 2024 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 10.1 [Place of Courage] 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 due to the disclosure of information in this report may adversely impact on the commercial position of the Spirit of Woman and the artists highlighted in the proposal. The Committee will discuss the value and viability of the proposed project, including analysis of the proposed approach and budget for delivery of the project. As a result of this discussion there could be impacts on the ability of the Spirit of Woman to progress the project with alternate partners, and may impede future opportunities for the artists.

Public Interest

The 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. The release of the information in this report prior to Council making a deliberation about the proposal, before the finalisation of discourse with Spirit of Woman may prejudice the reputation and future opportunities to be progressed by both Spirit of Woman and the artists and would on balance not be in the public interest.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the City Community Services and Culture Committee dated 4 June 2024 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 10.1 [Place of Courage] 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) (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 report is submitted seeking consideration in confidence.
 - 6.1 Information contained in Item 10.1 – Place of Courage
 - 6.1.1 Is not subject to an existing Confidentiality Order.
 - 6.1.2 The grounds utilised to request consideration in confidence is section 90(3) (d) of the Act
 - (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 -