

**Program Contact:**

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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 Council meeting for the consideration of information and matters contained in the Agenda.

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

- 24** Confidential Recommendation of the City Community Services and Culture Committee – 4 June 2024 [section 90(3) (d) of the Act]
- 25.1** Appointment of Members to the Brown Hill and Keswick Creeks Stormwater Board [section 90(3) (a) of the Act]

The Order to Exclude for Item 24 and 25.1

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.

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## ORDER TO EXCLUDE FOR ITEM 24

THAT COUNCIL:

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 Council dated 11 June 2024 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 24 [Confidential Recommendation of the City Community Services and Culture Committee – 4 June 2024] 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 Council dated 11 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 24 [Confidential Recommendation of the City Community Services and Culture Committee – 4 June 2024] 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.

## ORDER TO EXCLUDE FOR ITEM 25.1

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 11 June 2024 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 25.1 [Appointment of Members to the Brown Hill and Keswick Creeks Stormwater Board] 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 information that must be considered in confidence in order to protect the personal affairs of nominees.

The disclosure of information in this report could reasonably implicate the nominees' reputations in the business community.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this meeting of the Council dated 11 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 25.1 [Appointment of Members to the Brown Hill and Keswick Creeks Stormwater Board] 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.
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## 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 24 – Confidential Recommendation of the City Community Services and Culture Committee – 4 June 2024
    - 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
  - 6.2 Information contained in Item 25.1 – Appointment of Members to the Brown Hill and Keswick Creeks Stormwater Board
    - 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 personal affairs of any person (living or dead).

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## ATTACHMENTS

Nil

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- END OF REPORT -