

Additional nominees to panel for appointment to Adelaide Festival Centre Trust

Tuesday, 17 January 2023
Council

Strategic Alignment - Enabling Priorities

Public

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EXECUTIVE SUMMARY

At its meeting on 13 December 2022, Council approved the nomination of one Council Member, Cr Snape, to the Adelaide Festival Centre Trust for consideration by the Governor for appointment, in accordance with section 6(1) of the *Adelaide Festival Centre Trust Act 1971*.

It has since been advised that three nominees are required to comply with separate legislation (section 42 of the *Legislation Interpretation Act 2021*). This report seeks approval for two additional nominees to be submitted for consideration. The same legislation also requires that at least one of the nominees is a woman.

RECOMMENDATION

THAT COUNCIL

1. Notes the approval of Cr Snape as the nominee for consideration for appointment to the Adelaide Festival Centre Trust as determined by Council on 13 December 2022.
2. Approves the nomination of the following Council Members for consideration for appointment by the Governor to the Adelaide Festival Centre Trust
 - Cr _____
 - Cr _____

IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Enabling Priorities This report aligns with the Strategic Plan goal of bold leadership and strategic partnerships to meet challenges and take up new opportunities.
Policy	Not as a result of this report
Consultation	Not as a result of this report
Resource	Not as a result of this report
Risk / Legal / Legislative	As this position is remunerated, any member that accepts a nomination will need to declare a material conflict and leave the meeting before any matter relating to the Trust is discussed and voted on. For Members considering nominating for an appointment, it should be noted that, as a member of the Trust, they will need to consider how to manage future conflict of interests that arise from Council Decisions relating to that body.
Opportunities	Appointments to outside bodies provide an opportunity for Council Members to contribute to discussion and decision making on a broad range of matters relevant to the City of Adelaide
22/23 Budget Allocation	Not as a result of this report
Proposed 23/24 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report
22/23 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

DISCUSSION

1. The Adelaide Festival Centre Trust is established under the *Adelaide Festival Centre Trust Act 1971* (AFCT Act) and is responsible for encouraging and facilitating artistic, cultural and performing arts activities, as well as maintaining and improving the building and facilities of the Festival Centre complex.
2. The Trust must meet at least six times per year, with meetings generally held at the Adelaide Festival Centre. Sitting fees of \$590 per meeting are payable.
3. Section 6 of the AFCT Act provides for the Composition of the Trust as follows:
 - (1) *The Trust will consist of not more than 8 members appointed by the Governor, of whom—*
 - (a) *1 will be nominated by the Council from the members, officers or employees of the Council; and*
 - (b) *the remainder will be nominated by the Minister.*
 - (2) *If the Council fails to nominate a person within 6 weeks of a written request to do so from the Minister, the Governor may appoint a person nominated by the Minister and that person will be taken to have been duly appointed as a member.*
 - (3) *At least 2 members must be women and at least 2 must be men.*
 - (4) *The Governor will appoint 1 of the members nominated by the Minister to be the presiding member.*
4. At its meeting on 13 December 2022, Council approved the nomination of one Council Member to be put forward to the Adelaide Festival Centre Trust, in accordance with section 6(1) of the *Adelaide Festival Centre Trust Act 1971*. The relevant report can be accessed [here](#).
5. In notifying Arts SA of the nomination, we were further advised that the *Legislation Interpretation Act 2021* (LI Act) must be applied.
6. Section 42 of the LI Act states:

42—Gender balance in nomination of persons for appointment to statutory bodies

 - (1) *This section applies if an Act or a legislative instrument provides for a member of a body to be appointed by the Governor or a Minister on the nomination of a non-government entity.*
 - (2) *If the Act provides for the non-government entity to nominate a panel of persons from which the Governor or Minister is to select a person for appointment, the Act will be taken to provide that the panel—*
 - (a) *must include at least 1 woman and 1 man; and*
 - (b) *must, as far as practicable, be comprised of equal numbers of women and men.*
 - (3) *If the Act does not provide for the non-government entity to nominate a panel of persons from which the Governor or Minister is to select a person for appointment, the Act will be taken to provide that—*
 - (a) *the non-government entity must nominate a panel of persons comprised of not less than twice the number of members of the body to be appointed on the nomination of the entity plus 1; and*
 - (b) *the panel—*
 - (i) *must include at least 1 woman and 1 man; and*
 - (ii) *must, as far as practicable, be comprised of equal numbers of women and men; and*
 - (c) *the Governor or Minister must select the person for appointment from the panel.*
 - (4) *This section does not derogate from the need to properly assess merit in selecting persons for appointment.*
 - (5) *In this section—*

man *includes a person who identifies himself as a man regardless of the person's designated sex at birth;*

non-government entity *means a person or body other than an officer, agency or instrumentality (including a Minister) of the Crown in right of the State or the Commonwealth or another State or a Territory of the Commonwealth;*

woman *includes a person who identifies herself as a woman regardless of the person's designated sex at birth.*

7. To ensure compliance with the ACFT Act and the LI Act, Council is required to provide a panel of nominees. The panel must comprise of twice the number of appointments required, plus 1. Therefore Council must nominate a panel of 3.
8. Section 43(3(b) of the LI Act requires that at least one nominee on the panel is a woman.

DATA AND SUPPORTING INFORMATION

Link 1 – Item 10.8 on Agenda for Council Meeting 13 December 2022 – Legislated appointments to external bodies.

ATTACHMENTS

Nil

- END OF REPORT -