

Confidential Recommendations of The Committee - 5/3/2019

ITEM 14.1.1 12/03/2019
Council

Program Contact:
Jacki Done, AD People & Governance 8203 7256

Approving Officer:
Steve Mathewson, Director Services

2018/04062

Confidential - s 90(3) (g) breach of law, duty of confidence, obligation or duty

EXECUTIVE SUMMARY:

The Committee considered the following Items at its meeting held on 5 March 2019 and resolved to present to Council a Recommendation for Council determination in confidence:

- Item 8.1 - New Recreation Space - Quentin Kenihan Inclusive Playspace
- Item 8.2 – Strategic Property Matter
- Item 8.3 – Strategic Property Matter
- Item 8.4 – City of Music Laneway Naming
- Item 8.5 – Funding Submissions - Planning and Development Fund Projects
- Item 8.6 – Partnerships Proposals 2019-20 - State Government Partnership Proposals 2019-20

Grounds and Basis for consideration of a New Recreation Space - Quentin Kenihan Inclusive Playspace in Confidence by The Committee

Section 90(3) (b) of the *Local Government Act 1999 (SA)*

Grounds and Basis

Disclosure of the funding strategies and associated information could reasonably prejudice the commercial position of Council in its negotiations with its funding partners, which, on balance, would be contrary to the public interest as it would likely implicate the optimisation of funding opportunities council may be able to secure through its funding negotiations.

Public Interest

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances given that information release of such information may confer a commercial advantage on a third party and severely prejudice the Council's ability to influence proposals for the benefit of the Council and the community in this matter.

Grounds and Basis for consideration of a Strategic Property Matter in Confidence by The Committee

Section 90(3) (b) & (d) of the *Local Government Act 1999 (SA)*

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 of Council as it discusses land disposal options for evaluation by Council, disclosure of which at this point in time may confer a commercial advantage on a third party, prejudice the ability for Council to undertake/participate in future discussion or negotiation and prejudice the Council's commercial position and opportunity to discuss or negotiate an option yet to be determined by the Council at this point in time.

Public Interest

The Council 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 will result in release of information in relation to the land disposal matter and because the disclosure of Council's commercial position may severely prejudice Council's ability to discuss/participate or influence a proposal for the benefit of the Council and the community in this matter.

Grounds and Basis for consideration of a Strategic Property Matter in Confidence by The Committee

Section 90(3) (b) & (d) of the *Local Government Act 1999 (SA)*

Grounds and Basis

This Report details commercial information of a strategic property matter the disclosure of which could reasonably be expected to prejudice the commercial position and identity of the proponent who supplied 'commercial in confidence' information containing business directions/strategy. The disclosure of information contained in this report may prejudice the commercial position of the third party by disclosing the identity and content of the information at this point in time. Disclosure of this information may prejudice the ability to undertake/participate in any future process and or negotiations on any proposal and prejudice the Council's commercial position and opportunity for Council to participate in future like considerations or discussions.

Public Interest

Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances. The private sector may determine not to pitch new ideas and projects to Council if Council will not take into account a proponent's concerns regarding protection of its ideas and commercially sensitive information. This may have the impact that Council does not maximise private sector innovation and service delivery improvement opportunities. Disclosure of the information contained in this report may cause detriment to the third party who supplied information to Council at this point in time, and may materially and adversely affect Council's ability to discuss/participate or influence a proposal for the benefit of the Council and the community in this matter.

Grounds and Basis for consideration of a City of Music Laneway Naming in Confidence by The Committee

Section 90(3) (a) & (b) of the *Local Government Act 1999 (SA)*

Grounds and Basis

The grounds for consideration in confidence are primarily associated with the personal implications for the artist/s. There is a risk to reputation and personal brand for an artist to be placed competitively among a list of peers, and their name not be selected by Council for a City of Music laneway. Consideration in confidence seeks to protect the reputation and to minimise personal disappointment of the artist/s named in the report.

The grounds for consideration in confidence are secondly that any Council decision to name a City laneway may reasonably be expected to confer a commercial advantage of one artist/s over another, particularly as provided in a competitive arrangement through the decision-making process required by this report. There will be media and public interest in the selected artist/s. Commercial exposure and performance opportunities may reasonably be seen to be advantaged by the decision of Council to name a City laneway after the artist/s.

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 would involve the unreasonable disclosure of information concerning the personal affairs of the artist/s named in the report which could prejudice the commercial position and identity of the artist/s named through the receipt of a level of commercial advantage from the decision or disadvantage the personal and professional brand and reputation of artist/s named but not selected in the decision-making process by Council.

Grounds and Basis for consideration of Funding Submissions - Planning and Development Fund Projects in Confidence by The Committee

Section 90(3) (b) of the *Local Government Act 1999 (SA)*

Grounds and Basis

Disclosure of the funding strategies and associated information could reasonably prejudice the commercial position of Council in its negotiations with its funding partners, which, on balance, would be contrary to the public interest as it would likely implicate the optimisation of funding opportunities council may be able to secure through its funding negotiations.

Public Interest

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances given that information release of such information may confer a commercial advantage on a third party and severely prejudice the Council's ability to influence proposals for the benefit of the Council and the community in this matter.

Grounds and Basis for consideration of Partnership Proposals 2019-20 - State Government Partnership Proposals 2019-20 in Confidence by The Committee

Section 90(3) (b) of the *Local Government Act 1999 (SA)*

Grounds and Basis

Disclosure of proposed funding strategies and associated information including anticipated capital and operating expenditure on key strategic projects could reasonably prejudice the commercial position of Council in its negotiations with its funding partners and other third parties, which, on balance, would be contrary to the public interest as it would likely undermine the optimisation of funding opportunities council may be able to secure through its funding negotiations and may result in inflated project costs.

Public Interest

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances given that information release of such information may confer a commercial advantage on a third party and severely prejudice the Council's ability to influence proposals and efficiently deliver strategic projects for the benefit of the Council and the community in this matter.

The Lord Mayor will seek a motion for each recommendation presented by The Committee below for determination by Council.

RECOMMENDATION:

- [Redacted]

3. Recommendation 2 – Strategic Property Matter

That Council:

1. Approves the selection of the four (4) shortlisted Proponents from the Stage 1 Expression of Interest (EOI) as recommended by the Eighty Eight O'Connell Evaluation Panel:
 - 1.1. C&G Development Management;
 - 1.2. Chasecrown;
 - 1.3. Starfish Developments Holding Pty Ltd;
 - 1.4. CEL Development.
2. Notes that C&G Development Management, Chasecrown, Starfish Developments Holding Pty Ltd and CEL Development will be invited to participate in a Stage 2 Request for Detailed Proposals process.
3. Authorises the City of Adelaide Chief Executive Officer to initiate the Stage 2 Request for Detailed Proposals process.
4. Notes that the Stage 2 Request for Detailed Proposals process will incorporate all of the fourteen (14) Guiding Principles as adopted by Council on 14 August 2018 and prior to the Stage 1 (Expression of Interest) phase as an advisory tool for proponents with an emphasis on the following principles, with the aim of inclusion of a civic or cultural outcome on the site:
 - 4.1. Attractor
 - 4.2. Identity
 - 4.3. Community Needs
4. Notes that the Stage 2 Request for Detailed Proposal process will include a provision for Public Realm / Open Space to be returned to Council (valued at a specified rate) and separable components for Civic Spaces and Car Parking to be assessed by the Eighty Eight O'Connell Evaluation Panel, with recommendations for inclusion (or otherwise) to be referred to a Council Meeting at a later date.
4. In accordance with Section 91(7) & (9) of the *Local Government Act 1999 (SA)* and because Recommendation 2 – Strategic Property Matter of Item 18.1.1 listed on the Agenda for the meeting of the Council held on 12 March 2019 was received, discussed and considered in confidence pursuant to Section 90(3) (b) & (d) of the *Local Government Act 1999 (SA)*, this meeting of the Council, do order that:
 - 4.1. The resolution, the report, the discussion and any other associated information submitted to this meeting and the Minutes of this meeting in relation to the matter remain confidential and not available for public inspection until 31 December 2026;
 - 4.2. The confidentiality of the matter be reviewed in December 2020; and
 - 4.3. The Chief Executive Officer be delegated the authority to review and revoke all or part of the order herein and directed to present a report containing the Item for which the confidentiality order has been revoked.

DISCUSSION

1. The deliberation of The Committee adopted the recommendations as presented in the Committee Report. The Committee Agenda with reports including the confidential component of the meeting of The Committee can be viewed here.

ATTACHMENTS

Nil

- END OF REPORT -

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Confidential Report of Committee and Advice from Adelaide Park Lands Authority

25. Item 14.1.1 – Recommendation of The Committee in Confidence – 5/3/2019 [C]

The Lord Mayor advised the meeting that each recommendation would be dealt with separately.

[REDACTED]

It was then -

Moved by Councillor Hyde,
Seconded by Councillor Moran -

Recommendation 2 – Strategic Property Matter [2018/02324]

That Council:

1. Approves the selection of the four (4) shortlisted Proponents from the Stage 1 Expression of Interest (EOI) as recommended by the Eighty Eight O'Connell Evaluation Panel:
 - 1.1. C&G Development Management;
 - 1.2. Chasescrown;
 - 1.3. Starfish Developments Holding Pty Ltd;
 - 1.4. CEL Development.
2. Notes that C&G Development Management, Chasescrown, Starfish Developments Holding Pty Ltd and CEL Development will be invited to participate in a Stage 2 Request for Detailed Proposals process.
3. Authorises the City of Adelaide Chief Executive Officer to initiate the Stage 2 Request for Detailed Proposals process.
4. Notes that the Stage 2 Request for Detailed Proposals process will incorporate all of the fourteen (14) Guiding Principles as adopted by Council on 14 August 2018 and prior to the Stage 1 (Expression of Interest) phase as an advisory tool for proponents with an emphasis on the following principles, with the aim of inclusion of a civic or cultural outcome on the site:
 - 4.1. Attractor
 - 4.2. Identity
 - 4.3. Community Needs
5. Notes that the Stage 2 Request for Detailed Proposal process will include a provision for Public Realm / Open Space to be returned to Council (valued at a specified rate) and separable components for Civic Spaces and Car Parking to be assessed by the Eighty Eight O'Connell Evaluation Panel, with recommendations for inclusion (or otherwise) to be referred to a Council Meeting at a later date.

