

Reference: AF11/877 FM  
Enquiries to: Mr Mark McShane

## **MAYOR MEMBERS**

NOTICE is hereby given that I have called a Special Meeting of the Council to be held at the Council Chamber, Civic Centre, 10 Watson Terrace, Mount Gambier on the following date and time:

Friday, 2<sup>nd</sup> December, 2016 - Council Chamber – Civic Centre (commencing at 12.00 p.m.)

For the purpose of:

1. A Presentation, In Confidence, on matters relating to the Flytower.

An Agenda for the meeting to be held on the 2<sup>nd</sup> December, 2016 to be held at 12.00 p.m. is attached to this notice.



**Andrew LEE**  
MAYOR

1st December, 2016

## CONFLICT OF INTEREST DISCLOSURE FORM

I \_\_\_\_\_,  
(insert name)

have received a copy of the agenda for the  ordinary  special meeting of the

\_\_\_\_\_  Council  Committee  Board  
(insert full name of Committee/Sub-Committee/Board)

to be held on: \_\_\_\_\_  
(insert date of meeting)

### CONFLICT OF INTEREST DISCLOSURE

I consider that I have a:

**material** conflict of interest pursuant to section 73 (complete and sign below)

**actual** or  **perceived** conflict of interest pursuant to section 74 (complete and sign overleaf)

of the *Local Government Act 1999* ("the LG Act") in relation to the following agenda item:

\_\_\_\_\_  
(insert details - include Agenda Item No, Report Number, Item/Report Subject Title)

which is to be discussed at that meeting.

## MATERIAL

The nature of my **material** conflict of interest is as follows [*ensure sufficient detail is recorded, including the reasons why you (or a person prescribed in section 73(1) of the LG Act) stands to obtain a benefit or suffer a loss depending on the outcome of the consideration of the matter at the meeting of the Council in relation to the agenda item described above*]:

In accordance with section 74(1)(b) I will be leaving the meeting room while the matter is being discussed and voted on.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

In accordance with section 75A(2)(b) I propose  to  not to participate in the meeting in relation to the matter.

## ACTUAL

The nature of my **actual** conflict of interest is as follows *[ensure sufficient detail is recorded, including the reasons why the conflict between your interests and the public interests might lead to a decision that is contrary to the public interest in relation to the agenda item described above]:*

Where I have proposed to participate in the meeting I intend to deal with my **actual** conflict of interest in the following transparent and accountable way *[ensure sufficient detail is recorded as to the manner in which you intend to deal with the actual conflict of interest in a transparent and accountable way].*

OR

## PERCEIVED

The nature of the **perceived** conflict of interest is as follows *[ensure sufficient detail is recorded, including the reasons why you consider that an impartial fair-minded person could reasonably consider that you have a perceived conflict of interest in the matter].*

Where I have proposed to participate I intend to deal with the **perceived** conflict of interest in the following transparent and accountable way *[ensure sufficient detail is recorded as to the manner in which you intend to deal with the perceived conflict of interest in a transparent and accountable way].*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

CITY OF MOUNT GAMBIER

Special Meeting of Council to be held Friday 2<sup>nd</sup> December 2016 at 12.00 p.m.

AGENDA

PRESENT Mayor Andrew Lee, Cr Christian Greco, Cr Josh Lynagh, Cr Sonya Meziniec, Cr Frank Morello, Cr Des Mutton, Cr Steve Perryman, Cr Hanna Persello, Cr Penny Richardson, Cr Ian Von Stanke

COUNCIL OFFICERS: Director – Operational Services - Mr D Sexton

APOLOGIES: moved that the apology(ies) from Cr Lovett be received.

seconded

**WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.**

**1. CONSIDERATION FOR EXCLUSION OF PUBLIC**

moved that the following items be received, discussed and considered in confidence by excluding the public pursuant to Section 90 (2) of the Local Government Act 1999, and an order be made that the public (with the exception of Councillors Mayor Andrew Lee, Cr Christian Greco, Cr Josh Lynagh, Cr Sonya Meziniec, Cr Frank Morello, Cr Des Mutton, Cr Steve Perryman, Cr Hanna Persello, Cr Penny Richardson, Cr Ian Von Stanke and Council Staff Member Daryl Sexton) be excluded from the meeting in order for the item 'Contract - Design and Construction of Civic Centre Flytower Façade System - Ref. AF15/133' to be considered in confidence as the Council is satisfied that the item is a matter that can be considered in confidence pursuant to the grounds referenced in Section 90 (3) of the said Act as follows:

- S.90(3)(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.
- S.90(3)(k) - tenders for the supply of goods, the provision of services or the carrying out of works.

The information contained in the item relates to the tender for the Design and Construction of the Civic Centre Flytower Façade System.

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 information to be considered contains tender pricing from contractors including for separate components of works and that the author has given to Council as being of a Commercial in Confidence nature.

<u>Item No.</u>	<u>Subject Matter</u>	<u>S90 (3) Grounds</u>
2.	<u>FINANCIAL MANAGEMENT</u> - Contract - Design and Construction of Civic Centre Flytower Façade System - Ref. AF15/133	(d) & (k)

seconded

**IN CONFIDENCE**

**2. FINANCIAL MANAGEMENT - Contract - Design and Construction of Civic Centre Flytower Façade System - Ref. AF15/133**

The Director Operational Services reported:

- (a) Council, at its meeting of 16<sup>th</sup> August 2016 in relation to the Civic Centre Flytower Upgrade, resolved:

*“(a) The report be received;*

*(b) Council instructs Chapman Herbert Architects to negotiate with Dycer Constructions to determine fixed costs for the scaffolding system;*

*(c) Council gives authority to the Chief Executive Officer to approve a contract amount of up to \$1,017,176 (plus GST) following these negotiations to refurbish the flytower of the Civic Centre / Sir Robert Helpmann Theatre;*

*(d) Council refer any shortfall of its 50% share of the contract amount to the 2016/2017 budget review process.”*

- (b) the scaffolding costs for this project have been a major issue and since the above resolution was passed by Council a significant amount of work has been undertaken to quantify the costs of scaffolding (noting that scaffolding is complicated by the fact that the weight is to be carried on the flytower structure and the Civic Centre roof);
- (c) attached to this report is a summary of final projected project costs (less professional fees) prepared by Chapman Herbert Architects. The projected final costs exceeds the authority delegated to the Chief Executive Officer by Council's resolution of 16<sup>th</sup> August 2016;
- (d) the timing of works is critical to the final costs of the project (noting the weekly hire rate of scaffold) and also the operational needs of the Sir Robert Helpmann Theatre;
- (e) Members will note a 5% contingency has been added into the final projected cost - this is to offset the “unknowns” connected with the scaffolding and the operational requirements of the project (e.g. work will not take place in high winds);
- (f) this report recommends Council accepts the finalised project costs (noting that scaffolding may ultimately cause some variations to the final price). Professional fees estimated at \$70,000 total are additional to the contract amount - all costs to be shared equally between Council and Country Arts SA;
- (g) based on the advised new scaffolding costs, the contract value is \$1,093,901, equally shared between Council and Country Arts SA, that is \$546,950.50 each. It is also suggested that a 5% contingency be allowed to offset any ‘unknowns’ that present with the scaffold. Professional fees will be in the order of \$70,000. Council currently has \$450,000 in its 2016/2017 Budget. The shortfall in the budget (without contingencies) will be  $\$546,950 + \$35,000 - \$450,000 = \$131,950$  (plus GST);
- (h) Country Arts SA has already agreed to the projected final costs and both Country Arts SA and the Council Working Group are satisfied that a viable solution has been found for the façade upgrade and accordingly the following recommendation is put forward.

Agenda for Special Meeting of Council, Friday, 22<sup>nd</sup> December, 2016 cont'd...

moved it be recommended:

- (a) The report be received;
- (b) Council authorise the Chief Executive Officer to execute a contract with Dycer Construction for the Civic Centre Flytower Upgrade up to a final contract amount of up to \$1,100,000 (plus GST) and also authorise expenditures up to an additional 5% of this amount for any contingencies during the works;
- (c) Country Arts SA be invoiced for 50% of the works, including professional fees;
- (d) Council refer the shortfall between its current budget allocation (\$450,000) and the final contract price and professional fees to a future budget review, with the view that the increased costs be offset by reductions in expenditure within the Capital Works Program (resulting in a nil impact on the budget).

seconded

**3. CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL**

moved that an order be made pursuant to Section 91 (7) of the Local Government Act, 1999 that the document(s) in relation to the following item(s) which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Date</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
2/12/16	<u>FINANCIAL MANAGEMENT</u> - Contract - Design and Construction of Civic Centre Flytower Façade System - Ref. AF15/133	(d) & (k)	All details	12 months

seconded

Meeting closed at \_\_\_\_\_ p.m.  
FM



**Chapman Herbert Architects**  
ABN: 12 007 988 061

**Mount Gambier Office**  
The Convent  
20 Penola Road  
Mount Gambier SA 5290  
Phone (08) 8725 8366  
Email mtg@chapmanherbert.com.au

**Adelaide Office**  
6/26 the Parade West  
Kent Town SA 5067

[www.chapmanherbert.com.au](http://www.chapmanherbert.com.au)

21/11/2016

**CIVIC CENTRE FLY TOWER UPGRADE**

**TENDER ASSESSMENT REPORT / SCAFFOLDING**

Following the previous scaffolding tender process, where 3 tenders were received, the two lower tenders were requested to visit the site, and confirm their tenders to ensure adequate understanding of the complexities and practicalities of the construction were understood and allowed for.

Subsequently, ACROW FORWORK AND SCAFFOLDING, AND ALL STATE CONSTRUCTION SOLUTIONS provided revised tenders.

As described in DYCKER Constructions notes of 15 Nov, it is recommended that ACRO be engaged as the scaffolding sub-contractor, as their allowances for site visits (5) was quantified in terms of costs, whereas "All State would not provide a fixed cost; only a PC sum.

**SUMMARY AND RECOMMENDATION**

DYCKER CONSTRUCTIONS TENDER	\$1,017,176.00
Less PC sum for Scaffolding	<u>\$ 250,000.00</u>
	<u>\$ 767,176.00</u>
Plus recommended ACROW tender	<u>\$ 326,725.00</u>
	<u>\$1,093,901.00</u>

This Tender is still subject to the unknowns of any WORK SAFE SA requirements and any site issues in relation to the existing building and actual site conditions.

Thus, we suggest an additional contingency sum of 5% of the contract be allowed in the Contract Sum, to provide for any unforeseens.

i.e.	CONTRACT	\$1,093,901.00	
	+ 5%	<u>\$ 54,695.00</u>	
	TOTAL	<u>\$1,148,596.00</u>	(Ex GST)

Council's earliest acceptance of, and agreement to undertake a Contract with Dycer Constructions will enable the order of the 'Zinc Tiles' from FRANCE, which also require a \$40% deposit. This will then enable an appropriate construction programme with SRHT to be formalised, which is of significance, given the necessary scheduling of theatre events.

Regards,



**S. P. Herbert** - B Arch - FRAIA  
For Chapman Herbert Architects Pty. Ltd

MINUTES OF THE SPECIAL MEETING OF THE CITY OF MOUNT GAMBIER HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT GAMBIER ON FRIDAY 2<sup>ND</sup> DECEMBER 2016 AT 12.00 P.M.

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PRESENT Mayor Andrew Lee, Cr Josh Lynagh, Cr Frank Morello, Cr Steven Perryman, Cr Penny Richardson and Cr Ian Von Stanke

COUNCIL OFFICERS: Director – Operational Services - Mr D Sexton

APOLOGIES: Cr Perryman moved that the apologies from Cr Lovett, Cr Greco, Cr Meziniec, Cr Persello and Cr Mutton be received.

Cr Lynagh seconded

Carried

**WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.**

Pursuant to Division 3 - Conflict of Interest, Section 74 of the Local Government Act 1999, Cr Morello disclosed an actual conflict of interest in Item 2: *“I manage the Sir Robert Helpmann Theatre through my employment with Country Arts SA, co-owner of the Civic Centre building. Country Arts SA is seeking to upgrade the flytower and share the cost of the project with Mount Gambier City Council.”*

Cr Morello dealt with the actual conflict of interest in the following transparent and following way: *“I intend to participate in the discussion to add insight, but will not vote.”*

In accordance with section 75A(2)(b) Cr Morello participated in the meeting in relation to the matter.

**1. CONSIDERATION FOR EXCLUSION OF PUBLIC**

Cr Von Stanke moved that the following items be received, discussed and considered in confidence by excluding the public pursuant to Section 90 (2) of the Local Government Act 1999, and an order be made that the public (with the exception of Council Members: Mayor Andrew Lee, Cr Josh Lynagh, Cr Frank Morello, Cr Steven Perryman, Cr Penny Richardson, Cr Ian Von Stanke and Council Staff Member Daryl Sexton) be excluded from the meeting in order for the item ‘Contract - Design and Construction of Civic Centre Flytower Façade System - Ref. AF15/133’ to be considered in confidence as the Council is satisfied that the item is a matter that can be considered in confidence pursuant to the grounds referenced in Section 90 (3) of the said Act as follows:

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- S.90(3)(k) - tenders for the supply of goods, the provision of services or the carrying out of works.

The information contained in the item relates to the tender for the Design and Construction of the Civic Centre Flytower Façade System.

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 information to be considered contains tender pricing from contractors including for separate components of works and that the author has given to Council as being of a Commercial in Confidence nature.

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Cr Perryman seconded

Carried

**IN CONFIDENCE**

2. FINANCIAL MANAGEMENT - Contract - Design and Construction of Civic Centre Flytower Façade System - Ref. AF15/133

The Director Operational Services reported:

- (a) Council, at its meeting of 16<sup>th</sup> August 2016 in relation to the Civic Centre Flytower Upgrade, resolved:
  - “(a) The report be received;*
  - (b) Council instructs Chapman Herbert Architects to negotiate with Dycer Constructions to determine fixed costs for the scaffolding system;*
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- (b) the scaffolding costs for this project have been a major issue and since the above resolution was passed by Council a significant amount of work has been undertaken to quantify the costs of scaffolding (noting that scaffolding is complicated by the fact that the weight is to be carried on the flytower structure and the Civic Centre roof);
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- (h) Country Arts SA has already agreed to the projected final costs and both Country Arts SA and the Council Working Group are satisfied that a viable solution has been found for the façade upgrade and accordingly the following recommendation is put forward.

**Cr Perryman moved it be recommended:**

- (a) The report be received;
- (b) Council authorise the Chief Executive Officer to execute a contract with Dycer Construction for the Civic Centre Flytower Upgrade up to a final contract amount of up to \$1,100,000 (plus GST) and also authorise expenditures up to an additional 5% of this amount for any contingencies during the works;
- (c) Country Arts SA be invoiced for 50% of the works, including professional fees;
- (d) Council refer the shortfall between its current budget allocation (\$450,000) and the final contract price and professional fees to a future budget review, with the view that the increased costs be offset by reductions in expenditure within the Capital Works Program (resulting in a nil impact on the budget).

Cr seconded Carried Von Stanke

**3. CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL**

Cr Von Stanke moved that an order be made pursuant to Section 91 (7) of the Local Government Act, 1999 that the document(s) in relation to the following item(s) which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Date</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
2/12/16	<u>FINANCIAL MANAGEMENT</u> - Contract - Design and Construction of Civic Centre Flytower Façade System - Ref. AF15/133	(d) & (k)	All details except the details of the winning tenderer and the contract amount \$1,093,901.00	12 months

Cr Lynagh seconded

Carried

Meeting closed at 12.09 p.m.  
DS/FM