



14.4 LIFTING OF THE CONFIDENTIALITY STATUS OF
INFORMATION CONSIDERED BY COUNCIL IN CLOSED
MEETINGS OF COUNCIL

EXECUTIVE MEMBER: KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND
ORGANISATIONAL CAPABILITY

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1. PURPOSE

- 1.1 For Council to consider passing a resolution to make public certain confidential information in relation to decisions made by Council during parts of meetings that were closed to members of the public due to confidentiality reasons under the Local Government Acts 1989 and 2020.

2. EXECUTIVE SUMMARY

- 2.1 Council receives reports to enable it to consider whether certain information currently designated confidential can now be made not confidential pursuant to section 77(2) of the Local Government Act 1989 and consequently be made public and placed on Council's website.
- 2.2 This report covers all decisions made by the previous Council at Council and Planning Committee meetings from 1 August 2019 to 24 October 2020 (being the last day of the previous Council term). This report recommends making public further confidential resolutions together with reports and attachments where appropriate.
- 2.3 Council's current practice of lifting confidentiality by way of these reports and including in some confidential resolutions the requirement for officers to make public certain confidential information once specific conditions have been met, significantly reduces the overall number of confidential resolutions.
- 2.4 If the recommendation in this report is adopted, Council will have a total of 45 remaining confidential resolutions out of a total of 1164 resolutions carried during the last term which equates to 3.86%, (i.e. 96.14% of Council / Planning Committee resolutions will be publicly available on Council's website).

3. RECOMMENDATION

That Council:

- 3.1 Resolves that the confidential information, as contained in Attachment 1, be deemed to be not confidential pursuant to the Local Government Acts 1989 and 2020, and that this information be publicly released on Council's website.

4. KEY POINTS/ISSUES

- 4.1 Legislation allows in specific circumstances for Council and its Planning Committee, by resolution, to close a meeting to members of the public so that it can consider and determine matters designated as confidential.
- 4.2 As part of a 2019 Governance Review a process was developed to enable Council to consider whether confidential information can now be made public.
- 4.3 The process involves Governance developing and maintaining a list of all confidential information that was considered by the Council and its Planning Committee at



meetings that were closed to members of the public. This confidential information is then examined by officers and the relevant Executive Leadership Team member with a view to determining which information currently designated as confidential can now be recommended to Council to be made public either in full or in part. Officers writing confidential reports are also, where applicable, including in confidential resolutions that the resolution be made public subject to specified conditions being satisfied.

- 4.4 If the recommendation in this report is adopted, there will be a remaining 45 confidential resolutions considered by the previous Council (November 2016-October 2020) that cannot be made public at this stage as they relate to:
- 4.4.1 matters that are live issues where Council is still in negotiation with other parties; information that may compromise council | future negotiations; matters that are subject to confidentiality agreements; or information that is commercially sensitive and disclosure may prejudice the Council and / or other parties; or
 - 4.4.2 matters which were subject to compulsory conferences conducted under the Victorian Civil and Administration Tribunal (VCAT) Act 1998 which prohibits the release of information discussed at a compulsory conference. To increase transparency whilst maintaining compliance with the VCAT Act, all VCAT decisions in relation to these items have been made publicly available on Council's website.
- 4.5 The details of information proposed to be made public is provided for council's consideration at confidential attachment 2.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 This list of all confidential items compiled by Governance was analysed by management to determine legally what confidential information could now be recommended to Council to be made not confidential pursuant to legislation.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The Local Government Act states that any meeting of a Council or a Delegated Committee (e.g. Planning Committee) must be open to members of the public unless certain provisions apply.
- 6.2 The VCAT Act 1998 prohibits the public release of any information that was subject to a VCAT compulsory conference. The VCAT Act states that this information must remain private and this has been confirmed by legal advice.

7. FINANCIAL IMPACT

- 7.1 This report has no financial impacts on Council.

8. ENVIRONMENTAL IMPACT

- 8.1 This report has no environmental impacts on Council.

9. COMMUNITY IMPACT

- 9.1 The intent of this report is to, where Council is legally able, make public as many of Council and Planning Committee decisions that were made in closed meetings of Council and or the committee.



10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The public transparency of decisions made by Council is a key ingredient in achieving a financially sustainable, high performing, well governed organisation that puts the community first.
- 10.2 This releasing of confidential information aligns with and supports the Council's Public Transparency Policy.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE AND COMMUNICATION

- 11.1.1 Where Council has determined that certain confidential information is now no longer confidential, this information will be made available to the public on Council's website under Council's 'Meetings and Agendas' pages at the relevant meeting that the matter was discussed. Text will be placed on the website stating that the resolution, report or attachment that was previously confidential has now been made public.

12. OFFICER DIRECT OR INDIRECT INTEREST

- 12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

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ATTACHMENTS

- 1. Release table - to 24 October 2020
- 2. *Confidential*- Detail of information to be released