



**14.3** **RESPONSE TO VICTORIAN OMBUDSMAN'S INVESTIGATION INTO THE TRANSPARENCY OF LOCAL GOVERNMENT DECISION MAKING**

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**1. PURPOSE**

- 1.1 To present to Council for noting, Council's response to the Victorian Ombudsman's investigation into the transparency of local government decision making.

**2. EXECUTIVE SUMMARY**

- 2.1 In December 2016, the Victorian Ombudsman released its report titled "Investigation into the transparency of local government decision making".
- 2.2 Council requested a report from officers as to how Council is tracking against recommendations made in the Victorian Ombudsman's investigation into the transparency of local government decision making and any recommendations on how to improve Council's reporting on Councillor expenses.
- 2.3 The Ombudsman's report made three recommendations to local government relating to 1. reviewing Council's Meeting Procedure Local Law; 2. reviewing Special Committee compliance with the Local Government Act; and 3. maintaining an up to date Special Committees web page.
- 2.4 Council's Meetings Procedure Local Law is currently compliant with the Act. It is intended to review this Local Law in 2019 given the current Local Law expires in late 2019. It is currently proposed by the State Government to include a specific requirement under the new Local Government Act that Councils by the end of December 2019 must develop, adopt and keep in force Governance Rules relating to the conduct of Council meetings. Given Council's current Local Law is compliant it is considered more efficient and practical to commence the review of the Local Law during the middle part of 2019 and adopt new Governance Rules by the end of 2019.
- 2.5 The delegations and associated terms of references for Council's Special Committees have all been reviewed by Council in accordance with the Act. Governance has also introduced a new process whereby it conducts a six-monthly audit of special committees to ensure that the committees are legislatively compliant with the relevant provisions of the Act. The outcome of the most recent audits was that there were no breaches of legislation.
- 2.6 A dedicated web page has been established that contains a copy of each special committee's Instrument of Delegation, Terms of Reference and links to each committee's agendas and minutes.
- 2.7 In addition to the three recommendations pertaining to local government, the Ombudsman's report made 30 observations/suggestions for Council to consider as to

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“what a transparent Council looks like”. Council’s proposed response to all of these items is included as attachment 1.

- 2.8 The 30 observations/suggestions made by the Ombudsman were in relation to: Council meetings; closed Council meetings; what happens outside of Council meetings; and Council delegations.
- 2.9 Below is a summary of the key activities that Council currently undertakes to ensure greater transparency in its decision-making processes as suggested in the Ombudsman’s report:
- 2.9.1 Council’s Meeting Procedure Local Law allows, during Public Question Time, an opportunity for members of the public to ask general questions on items that are not on the agenda. In addition, members of the public are entitled to ask specific questions or make comments on any item on the meeting agenda. Members of the public can ask questions or make comments right up to the time that Council is about to consider the item.
  - 2.9.2 Public questions and public comments are included in the minutes of Council meetings. Responses to these questions are also included in the minutes. In the event that a question is not answered at the meeting and is taken on notice, officer’s follow up after the meeting and provide a response to the member of the public. Once this response has been provided a copy of the question and the officer response is placed on Council’s website. At the start of each Council and Planning Committee meeting the Chair explains the process around asking public questions and making comment on agenda items.
  - 2.9.3 A new process is currently being introduced whereby Council receives on a quarterly basis, a status report on the implementation of resolutions carried by Council and the Planning Committee at previous meetings. This public report will itemise what resolutions have been implemented, what actions have been undertaken and what actions are still outstanding.
  - 2.9.4 Prior to Council formally debating an issue, Councillors are given the opportunity of asking questions of the officers on the report before them. This assists the public in gaining a greater understanding of the issues involved and of Council’s decision-making process.
  - 2.9.5 The agendas for Council meetings and Planning Committee meetings are available to the public on Council’s website six days prior to the meeting.
  - 2.9.6 Council meetings are advertised in a variety of ways including the local newspaper, Council’s website and twitter. On the first page of Council’s website is a “Hot Topics” section that is used to provide further information to the community and links to reports and documents regarding key issues that are coming before Council for decision of high community interest.
  - 2.9.7 Council has conducted live streaming of Council meetings since May 2017 and Planning Committee meetings since February 2018. The public has access to archived recordings of Council meetings through Council’s website and more recently through YouTube. At the start of each Council and Planning Committee meeting the Chair explains the process around live streaming of the meeting and the process for accessing archived recordings of meetings.



- 2.9.8 To further assist public participation in Council decision making processes, Council meetings are rotated between the three Town Halls on a monthly basis. The first Council meeting of the month is rotated between the South Melbourne and the Port Melbourne Town Halls. The second Council meeting for the month and the Planning Committee meeting are held at the St Kilda Town Hall.
- 2.9.9 Councillor briefings (which are defined as an Assembly of Councillors under the Act), are held for the purpose of Councillors discussing reports amongst themselves and for seeking further clarification and information from the officers. No decisions are made by Councillors to officers at these briefings. The written records of Assemblies of Councillors are presented to Council for receiving and noting on a monthly basis.
- 2.9.10 Council, as a rule, does not vote en bloc.
- 2.9.11 Councillor allowances, expenses incurred by Councillors in the performance of their duties and any gifts and / or hospitality received are declared on Council's website on a quarterly basis. In addition, the declaration includes a list of committee meetings attended by each Councillor during the quarter being reported on. These public disclosures commenced for the December 2016 quarter and are over and above what is required by legislation.
- 2.9.12 Council has a dedicated web page that details all of Council delegations to the Chief Executive Officer, staff and special committees. Council's delegations to staff under the Planning and Environment Act 1987 give Councillors the ability to "call in" an application so that the matter is considered by Council. A summary of planning delegations exercised by Council staff are reported to Council's Planning Committee on a monthly basis.
- 2.9.13 Media releases of key Council decisions are published on Council's website on the day of the meeting or the day after. These media releases are also tweeted.
- 2.9.14 Council is committed to open and transparent decision making and as at 5 April 2018 Council considered 8.5% of Council resolutions in a closed meeting which is under the State average of 9.45%.
- 2.9.15 A new process is currently being introduced whereby Council receives a report on a six-monthly basis recommending where legally possible, the lifting of confidentiality from certain reports. This new process gives the opportunity for the public to be able to view certain reports and minutes that were originally considered by Council in a closed meeting.

### 3. RECOMMENDATION

That Council:

- 3.1 Notes the response to the Victorian Ombudsman's investigation into the transparency of local government decision making (attachment 1).



#### **4. KEY POINTS/ISSUES**

4.1 The terms of reference for the Ombudsman's investigation were to consider Council actions that ensure decision making is transparent and balanced against the need for efficiency and any specific obligations to maintain confidentiality.

4.2 The areas of focus were:

4.2.1 The closure of Council meetings and Special Committee meetings to the public.

4.2.2 The handling of confidential matters.

4.2.3 The nature and quality of audio and visual records of meetings and the public's ability to access records.

4.2.4 The scope and exercise of delegated council functions/powers and administrative actions; and the reporting of these to Council and to the public.

4.2.5 The nature and content of information discussed in 'Assemblies of councillors'.

4.3 Council has taken the investigation and the corresponding report by the Ombudsman in relation to transparency in its decision-making seriously and has made changes to some of its processes and / or has introduced new processes to align with the recommendations and suggestions from the Ombudsman.

#### **5. CONSULTATION AND STAKEHOLDERS**

5.1 The Victorian Ombudsman's methodology for the investigation involved consideration of current legislative requirements (e.g. Local Government Act and Regulations); submissions received; meetings with past and current Mayors, Councillors, Council staff and peak local government bodies; a survey of all Councils; and a focus group of 12 Councils to examine in further detail their transparency policies and practices.

#### **6. LEGAL AND RISK IMPLICATIONS**

6.1 Council and Special Committee meeting decision-making processes and obligations are clearly laid out in the Local Government Act 1989 and the Local Government Regulations 2015.

#### **7. FINANCIAL IMPACT**

7.1 There are minimal financial impacts in relation to implementing recommendations from the Ombudsman's report and these costs are within Council's existing budget. Live streaming annual operating costs are around \$16K and additional annual costs associated with the rotation of Council meetings of around \$5k.



**8. ENVIRONMENTAL IMPACT**

8.1 There are no environmental impacts arising from this report.

**9. COMMUNITY IMPACT**

9.1 This report details activities and initiatives that Council currently undertakes as examples of its objective of improving transparency to the community of its decision-making processes.

**10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

10.1 Reporting on the progress of the implementation of recommendations and improvement opportunities from the Ombudsman is critical for Council to deliver on Direction 6 of the Council Plan (Our Commitment to You), by providing a transparent and good governance approach to decision making.

**11. IMPLEMENTATION STRATEGY**

11.1 TIMELINE

11.1.1 New processes to improve the transparency of Council's decision-making processes were implemented in a timely manner after the Ombudsman's report was made public.

11.2 COMMUNICATION

11.2.1 Initiatives to improve the transparency of Council decision making processes are included by way of updated dedicated pages on Council's website and public reports by officers to Ordinary Council meetings.

**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.

**TRIM FILE NO:** 50/01/144

**ATTACHMENTS** 1. Response to Ombudsman report into the transparency of local government decision-making