



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

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1. PURPOSE

- 1.1 For Council to consider passing a resolution to lift the confidentiality and make public certain confidential information in relation to decisions made by Council and its Planning Committee during parts of meetings that were closed to members of the public due to confidentiality reasons.

2. EXECUTIVE SUMMARY

- 2.1 This report is the first of, as a minimum, six-monthly reports that Council will receive, to enable Council 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 decisions made at Council and Planning Committee meetings during this Council's term for the period. from 7 November 2016 to 20 June 2018.

3. RECOMMENDATION

That Council:

- 3.1 Resolves that the confidential information, as contained in Attachment 1, be deemed to be not confidential pursuant to section 77 (2) of the Local Government Act 1989 and that this information be publicly released on Council's website.

4. KEY POINTS/ISSUES

- 4.1 The Local Government Act 1989 (the Act), allows in specific circumstances for Council, 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 the recent Governance Review a process has been 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 this 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

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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.

- 4.4 For the term of this Council up until the 20 June 2018 Council meeting, 38 confidential resolutions have been carried at Council and / or Planning Committee meetings. This equates to around 8% of resolutions carried at meetings that have been closed in part to the public which is below the state average of 9.45%.
- 4.5 Of these 38 confidential resolutions, three resolutions relating to the Melbourne Renewable Energy Project (2) and Tender 2053 Coin, collection, counting and banking services – Parking machines (1) have been released to the public in accordance with previous Council resolutions.
- 4.6 Of the remaining 35 confidential resolutions, this report recommends that confidentiality be lifted for eight of these confidential resolutions as listed in Attachment 1. These eight resolutions relate to contractual matters and in accordance with Council's standard practice can now be made public. In addition, this report recommends the releasing in full Schedule 2 of two confidential attachments relating to funding deeds for Gasworks Art Inc and Linden New Art.
- 4.7 Of the remaining 27 confidential resolutions 13 resolutions relate to matters which were / are subject to compulsory conferences conducted under the Victorian Civil and Administration Tribunal (VCAT) Act. The VCAT Act 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.
- 4.8 However, legal advice states that Council can release publicly any VCAT Orders made which contain the Order itself, reasons for the decision, what the planning permit allows and a copy of any planning permit conditions. The release of these Orders will inform the community as to the result of the planning permit application whilst still ensuring Council is not breaching any of its legal obligations. VCAT has made 11 Orders and all of these have now been made public. Any further orders made by VCAT in the future will also be made public.
- 4.9 With regards to the remaining 14 confidential resolutions, these cannot be made public due to reasons such as:
 - 4.9.1 Release of the confidential information would prejudice Council or another person's position as the issue is currently live and / or of a commercially sensitive nature.
 - 4.9.2 The information has been legally agreed to remain confidential by way of a signed confidentiality contractual agreement between Port Phillip City Council and a third party.
 - 4.9.3 The information contains legal advice.
- 4.10 Notwithstanding the previous paragraph, in the interests of transparency and with a view to keeping the community informed, Council has released public versions of the following reports which do not contain confidential information:



- 4.10.1 Victorian Pride Centre x 3.
- 4.10.2 Melbourne Renewable Energy Project
- 4.10.3 Parking Technology Transformation.
- 4.10.4 Awarding of contract for Supply, Installation and Maintenance of New Parking Technology Contract No 2119.
- 4.10.5 Peanut Farm Reserve Pavilion Upgrade and Netball / Basketball Court Upgrade tender awarding.
- 4.10.6 South Melbourne Life Saving Club Tender awarding.

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 section 77 (2) of the Act.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Section 89(1) of the Act states that any meeting of a Council or a Special Committee (e.g. Planning Committee) must be open to members of the public unless section 89(2) applies.
- 6.2 Section 89(2) of the Act allows Council and Special Committee meetings to resolve that the meeting be closed to members of the public if the meeting is discussing any of the following:
 - 6.2.1 Personnel matters;
 - 6.2.2 The personal hardship of any resident or ratepayer;
 - 6.2.3 Industrial matters;
 - 6.2.4 Contractual matters;
 - 6.2.5 Proposed developments;
 - 6.2.6 Legal advice;
 - 6.2.7 Matters affecting the security of Council property;
 - 6.2.8 Any other matter which the Council or the Special Committee considers would prejudice the Council or any person;
 - 6.2.9 A resolution to close the meeting to members of the public.



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.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

11.1.1 Upon Council resolving that certain information is now not confidential Council's website will be updated accordingly.

11.2 COMMUNICATION

11.2.1 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.

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. Proposed schedule of confidential information to be made not confidential