

CONFIDENTIAL MEMORANDUM

TO: Council

MEETING DATE: 24 June 2019

TITLE: Release of Part II Items

DATE: 7 June 2019

PRESENTED BY: Charlotte Greig, Team Leader Governance and Legal, Strategy & Planning

APPROVED BY: Sheryl Bryant, General Manager - Strategy & Planning

It is recommended that this report be considered with the public excluded, as permitted by the Local Government Official Information and Meetings Act 1987 under clause:

s7(2)(g) Legal Privilege

REASON FOR CONFIDENTIALITY

The reason for this report to be confidential is due to the contents being subject to legal professional privilege.

RECOMMENDATION FOR PUBLIC RELEASE

Will remain in Part II.

RECOMMENDATION(S) TO COUNCIL

1. That the report dated 07 June 2019 and titled "Update of the status of Part II (public excluded) items" be received.
-

1. ISSUE

The purpose of this report is to provide a further update to Council as to the status of Part II matters

2. BACKGROUND

At the February 2019 Audit and Risk Committee, the Committee resolved the following:

- a. That the Chief Executive be instructed to report on all Committee/Council Part II matters that have been transferred to Part I (over the last 12 months), the establishment of a public register of transferred items, and a review of the process; such report to be presented to the next Council meeting AND
- b. That the balance of this term of Council (Committee/Council Part II matters to be transferred into Part I) be reported to the March 2019 Council meeting.

This memo responds to these resolutions under three headings to provide clarity:

- a. Transfer to Part I - which includes information outlining the number and nature of items transferred from Part II to Part I during this triennium.
- b. Remain in Part II – which includes information outlining the number and nature of items remaining in Part II (up to Dec 2018)
- c. New Process– which outlines the process for review and transfer of Part II items going forward.

3. ITEMS TRANSFERRED TO PART 1

The Governance Team has undertaken a review of all items which were presented under Part II during this triennium and have identified 67 items that could be transferred to Part I (in full or partially).

There are three different situations that apply to the transfer from Part II to Part I:

- (a) Decision and report transferred OR;
- (b) Full decision only transferred OR:
- (c) Partial decision only transferred.

Most of the items released came under category (a) and (b). Only one decision fell under category (c).

Category (a) are items which require confidentiality during the decision-making process but once that decision has been made, the decision and the information which informed the decision no longer required confidentiality. Council projects or grant decisions are good examples.

Category (b) are often reports in Part II which enable a decision to be made in a confidential setting on issues which are commercially sensitive or involve privacy considerations. Often, once a decision is made the need for confidentiality no longer applies to the decision,

although the requirement for confidentiality regarding the information that informed that decision remains.

Useful examples of category (b) are tender decisions. The decision to award a tender becomes public information so the decision to approve it is no longer confidential, however the commercial information that informed the process may still be commercially sensitive and must remain confidential. Another example is where an appointment is made to a Board. The decision to appoint an individual becomes public information, however the appointment process that informed the decision needs to remain confidential to uphold privacy.

Category (c) is where only part of a decision is released.

Items identified for transfer to Part I were approved for release by the CEO on 20 May 2019 and 12 June 2019. Two lists outlining which items had been transferred were emailed to elected members, on 20 May 2019 and 13 June 2019.

4. ITEMS TO REMAIN IN PART II

There are currently 24 items that will remain in Part II completely. Reasons for remaining in Part II include commercial sensitivity, negotiations, privacy and legal privilege.

This list will be reviewed regularly as a number are likely to be able to be released into Part I (fully or partially) once projects/processes are complete, however there will also be a number that will always remain in Part II.

The list of items that remain in Part II fully is attached.

5. PROCESS GOING FORWARD

The Governance Team has considered how this process can be streamlined going forward as well as what '*transferring into Part I*' looks like.

The steps taken to date are:

- a. The Part II report template now has a '*recommendation for public release*' heading which will prompt officers to provide comment as to the longevity of the Part II status, as well an indication of when it may be reviewed (if possible).
- b. Items which remain in Part II will be regularly reviewed and released where possible.
- c. The Governance Team has set up a register which will capture all Part II decisions (from 2019 onwards). This will be regularly reviewed to assess whether items can be transferred.

Steps currently being considered:

- d. Education to report writers regarding the need to acknowledge the *'recommendation for public release'* heading with useful comment and to seek advice from legal counsel if unsure.
- e. What transfer to Part I looks like. The Governance Team is actively looking into how the transferred information can be made available to the public in an easily accessible and usable manner.

6. NEXT STEPS

The Governance Team will continue to work on the release process, continue to review items in Part II regularly and will provide an update to elected members as required.

7. COMPLIANCE AND ADMINISTRATION

Does the Committee have delegated authority to decide?	Yes
If Yes quote relevant clause(s) from Delegations Manual <Enter clause>	
Are the decisions significant?	No
If they are significant do they affect land or a body of water?	No
Can this decision only be made through a 10 Year Plan?	No
Does this decision require consultation through the Special Consultative procedure?	No
Is there funding in the current Annual Plan for these actions?	Yes
Are the recommendations inconsistent with any of Council's policies or plans?	No
The recommendations contribute to Goal 5: A Driven and Enabling Council	
The recommendations contribute to the outcomes of the Driven and Enabling Council Strategy	
Contribution to strategic direction	This memo contributes to the Council's priority under the Driven and Enabling Goal of excelling at good governance.

ATTACHMENTS

- 1. Items in Part II as at 12 June 2019 - **Confidential**