

4.3 Confidential Information

Policy Title:	Confidential Information
Date Adopted:	24/04/97
Date Revised:	24/9/98; 22/05/97; 26/02/04; 26/02/09; 25/03/14
Minute Book Reference:	Council Minutes
	24/04/97 Item 4.1.2, Page 7
	22/05/97 Item 4.1.2 Page 20
	24/09/98 Item 4.6.1, page 48 (refer Audit & Finance Committee Minutes Item 5.4, page 36 of attachment)
	26/02/04 Item 4.10.1(a) page 24 (refer Audit & Finance Committee Minutes 12/02/04 item 4.1 pages 5-9)
	26/02/09 Item 4.10.1(c) page 30 (refer Audit & Finance Committee Minutes 12/02/09, item 4.3 page 7)
	25/03/14 Item 4.10.5(a) page 19 (refer Governance Committee Minutes 11/03/14, item 4.1.1, pages 5-6)
Next Revision Due:	November 2017

PURPOSE

To protect confidential information held by Council.

POLICY

1. The Council operates in an environment of public accountability and scrutiny. The organisation seeks to comprehensively inform the public of issues under consideration and the nature of the decisions made by Council and its Special Committees.
2. In order to contribute to the environment of open decision making, Council aims to ensure that the number of matters which are considered by committee or Council *in camera* (closed meeting) are kept to a minimum.
3. It is necessary to balance the need for Council to consider certain matters in closed meetings against the fundamental principle of open decision making. Items classified as confidential generally relate to legal advice and commercial in confidence information, which has been provided to Council by tenderers, contractors, developers or subsidiary companies or confidential information which is confidential prior to a public announcement.

Objectives of this Policy

1. The objectives of this policy are to:
 - 1.1 Balance a Councillor's right and duty to be informed, (and to inform and consult with constituents), about the business before the Council with the interest the Council has in preventing disclosure of confidential information; and
 - 1.2 Assist the Council to make decisions under Section 89 of the *Local Government Act 1989* (the "Act") as to which matters may be considered in camera (closed meeting).
2. This policy does not override:

2.1 A Councillors obligations under the Golden Plains Councillor Code of Conduct, "Councillor behaviours";

2.2 The Local Government Act 1989, Section 77, "Confidential Information";

2-12.3 An individual Councillor's statutory obligations in respect of the use of information and the necessity of disclosing any direct or indirect interest in a matter under consideration by a Special Committee or by Council (sections 77 and 79 of the *Local Government Act 1989*);

2-22.4 The Council's obligations under the *Freedom of Information Act 1982* which gives members of the public rights of access to information in the possession of the Government

and its agencies. These rights are limited to protect essential public interests and private and business affairs of persons in respect of whom information is held. (Under competitive tendering guidelines, until contracts are awarded, Council maintains confidentiality of price and other information submitted by tenderers. Unsuccessful tenderers are notified of the name of successful tenderers, a general description of the relevant contract and the price. Release of additional information regarding the successful Tender is at the discretion of Council and is assessed on a case by case basis. No information is released regarding unsuccessful tenders);

[2.32.5](#) The Council's obligations under the Information *Privacy Act* 2000 and *Health Records Act* 2001; and

[2.42.6](#) The Council's obligations under the Local Government Regulations or any other legislation or subordinate legislation to disclose or publish information required by law to be disclosed or published.

Source and Categorisation of Confidential Information

1. "Information" includes commercially sensitive tender information, letters, reports, documents, facsimiles, email, attachments, tapes, electronic media and all other forms of information.
2. Information ~~that may be derived from outside the~~ by Council including:
 - 2.1 Commercial in confidence information provided by contractors or tenderers and developers;
 - 2.2 Confidential information from Government Departments or Ministers;
 - 2.3 Financial and legal analyses where the disclosure of that information may prejudice the Council's position.
 - [2.4](#) Information pertaining to Council Service Activity Costs (including corporate overheads), personnel records, the personal hardship of any resident or ratepayer, industrial disputes, security of Council property or any other matter which the Council or a Special Committee considers would prejudice the Council.
 - [2.42.5](#) Information provided at Council Briefings, Workshops and other Assemblies of Councillors.
3. Confidential information shall not be:
 - 3.1 Disclosed to any third party without the Council's consent;
 - 3.2 Incorporated in the agenda or minutes of any Council or Council Committee meeting (except by reference or in the agenda or minutes of an in camera (closed) meeting).
4. Preparation of confidential material – the following procedures will apply to the preparation of confidential material:
 - 4.1 Senior Management (Chief Executive Officer/ Directors), in conjunction with the Mayor, will make a recommendation as to the categorisation of confidential material;
 - 4.2 The material will be clearly identified as confidential;
 - 4.3 The reason for confidentiality will be set out on the front page of each document/set of documents that are categorised as confidential.
 - 4.4 Any report dealing with a matter which might become the subject of a claim against the Council shall be endorsed as follows:
"Confidential – Prepared solely for the purposes of obtaining legal advice and for submission of material to Council's insurers."
 - 4.5 Where legal proceedings have been issued against the Council or where the Council is dealing with its solicitors in proceedings in which the Council is a party, documents shall be endorsed as follows:
"Confidential – Prepared solely for the purposes of considering and obtaining legal advice or for use in the course of legal proceedings."
5. Limitations on Period of Confidentiality
 - 5.1 Confidential information shall, where possible, be subject to a sunset provision, which provides that the information is no longer subject to the restrictions set out in this policy.

5.2 Where it is not possible to stipulate a date after which the information is no longer confidential it may be possible to specify a particular event, the occurrence of which removes the confidentiality restrictions.