

## Governance

# Public Transparency Policy

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<b>Approved by</b>	Council
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<b>Date of last revision</b>	
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<b>Responsible Manager</b>	Executive Manager Governance, Communications and Engagement

\*Unless replaced, this policy will still apply beyond the review date.

<b>Related internal policies, procedures and guidelines</b>	<ul style="list-style-type: none"><li>• Governance Rules</li><li>• Public Transparency Principles</li><li>• Community Engagement Policy</li><li>• Information Privacy Policy</li><li>• Health Records Policy</li></ul>
<b>Related legislation</b>	<ul style="list-style-type: none"><li>• <i>Charter of Human Rights and Responsibilities Act 2006</i></li><li>• <i>Freedom of Information Act 1982</i></li><li>• <i>Local Government Act 2020</i></li><li>• <i>Privacy and Data Protection Act 2014</i></li><li>• <i>Equal Opportunity Act 2010</i></li></ul>

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## 1. Purpose

This policy supports Council in its ongoing drive for good governance and the importance of open and accountable conduct and how council information is to be made publicly available. Council must adopt and maintain a public transparency policy under section 57 of the *Local Government Act 2020* (the Act). This policy gives effect to the *Public Transparency Principles* outlined in section 58 of the Act.

## 2. Objectives

The objective of Council's Public Transparency Policy is to formalise its support for transparency in its decision-making processes and the public awareness of the availability of Council information. As a result, this policy seeks to promote:

- a) Greater clarity in Council's decision-making processes;
- b) Increased confidence and trust in the municipal community through greater understanding and awareness;
- c) Enhanced decision making by the municipal community;
- d) Improve Council's performance;
- e) Access to information that is current, easily accessible and disseminated in a timely manner;
- f) Reassurance to the municipal community that Council is spending public monies wisely.

A transparency policy covers both documentary information, process information and how information will be made available to the public and is an integral part of council's good governance framework.

## 3. Scope

This policy applies to Councillors and Council staff of the Council.

## 4. Definitions

For the purposes of this policy, Council adopts the following definitions:

Type	Description
<b>Consultation</b>	The process of seeking input on a matter.
<b>Public Participation</b>	Encompasses a range of public involvement, from simply informing people about what government is doing, delegating decisions to the public and municipal community activity addressing the common good.

<b>Closed Meetings</b>	When Council resolves to close the meeting to the general public, in order to consider a confidential matter regarding issues of a legal, contractual or personnel nature and other issues deemed not in the public interest.
<b>Municipal community includes</b>	<ul style="list-style-type: none"> <li>• people who live in the municipal district of the Council; and</li> <li>• people and bodies who are ratepayers of the Council; and</li> <li>• traditional owners of land in the municipal district of the Council; and</li> <li>• people and bodies who conduct activities in the municipal district of the Council.</li> </ul>
<b>Transparency</b>	A lack of hidden agendas or conditions, and the availability of all information needed in order to collaborate, cooperate and make decisions effectively. Importantly, “transparency” is also human rights issue: the right to have the opportunity, without discrimination, to participate in public affairs (s.58 of The Act).

## 5. Council Transparency

### 5.1. Decision Making at Council Meetings

- Will be undertaken in accordance with the Act and the Governance Rules.
- Will be conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules.
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- Will be made fairly and on the merits, and where any person whose rights will be directly affected by a decision of the Council, that person will be entitled to communicate their views and have their interests considered.

### 5.2. Council Information

A list of available information is provided in the Part II Statement published in accordance the *Freedom of Information Act 1982* (FOI Act). Part II of the FOI Act requires government agencies and local councils to publish a number of

statements designed to assist members of the public in accessing the information it holds. This information includes but is not limited to:

- **Documents** such as:
  - Plans and Reports adopted by Council;
  - Policies;
  - Project and service plans;
  - Grant application, tenders and tender evaluation material;
  - Service agreements, contracts, leases and licences;
  - Council leases, permits and notices of building and occupancy; and
  - Relevant technical reports and / or research that informs decision making.
- **Process information** such as:
  - Practice notes and operating procedures;
  - Application processes for approvals, permits, grants, access to Council services;
  - Decision making processes;
  - Guidelines and manuals;
  - Community engagement processes;
  - Complaints handling processes.
- **Council records** will, at a minimum, be available on Council's website:
  - Council meeting agendas;
  - Reporting to Council;
  - Minutes of Council meetings;
  - Reporting from Advisory Committees to Council through reporting to Council;
  - Audit and Risk Committee Performance Reporting;
  - Terms of reference or charters for Advisory Committees;
  - Registers of gifts, benefits and hospitality offered to Councillors or Council Staff;
  - Registers of travel undertaken by Councillors or Council Staff;

- Registers of Conflicts of Interest disclosed by Councillors or Council Staff;
  - Submissions made by Council;
  - Registers of donations and grants made by Council;
  - Registers of leases entered into by Council, as lessor and lessee;
  - Register of Delegations;
  - Register of Authorised officers;
  - Register of Election campaign donations.
  - Summary of Personal Interests
  - Any other Registers or Records required by legislation or determined to be in the public interest.
- Consistent with the Part II statement, Council will make available the following records for inspection. Examples include but are not limited to:
    - Summary of Personal Interests ('Register of interests' until 24 October 2020); and
    - Submissions received under section 223 of the *Local Government Act 1989* until its repeal or received through a community engagement process undertaken by Council.

- **Publications**

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to council. You can download them from the website or call Council for a copy. Some of these publications are available at Council's Libraries.

## 6. Access to information

Information will be made available on the Council website, open data, at Council offices, or by request.

Members of the public can make different kinds of information requests to the council (e.g. informal requests for documents and information or formal FOI requests).

Consideration will be given to accessibility and cultural requirements.

Council will respond to requests for information in alignment with the Act including the Public Transparency Principles, and this policy.

In accordance with the Part II statement made under the FOI Act.

### 6.1. Freedom of information (FOI) applications

The FOI Act gives you right of access to documents that Council hold. If you can't find the document you require, call us before you make an FOI application as we may be able to make it available.

## 7. Information Not Available

Some Council information may not be made publicly available. This will only occur if the information is confidential information or if its release would be contrary to the public interest or not in compliance with the *Privacy and Data Protection Act 2014*.

“Confidential information” is defined in section 3 of the *Local Government Act 2020*. It includes the types of information listed in the following table.

Type	Description
<b>Council business information</b>	Information that would prejudice the Council's position in commercial negotiations if prematurely released.
<b>Security information</b>	Information that is likely to endanger the security of Council property or the safety of any person if released.
<b>Land use planning information</b>	Information that is likely to encourage speculation in land values if prematurely released.
<b>Law enforcement information</b>	Information which would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person if released.
<b>Legal privileged information</b>	Information to which legal professional privilege or client legal privilege applies.
<b>Personal information</b>	Information which would result in the unreasonable disclosure of information about any person or their personal affairs if released.
<b>Private commercial information</b>	Information provided by a business, commercial or financial undertaking that relates to trade secrets or that would unreasonably expose the business, commercial or financial undertaking to disadvantage if released.

<b>Confidential meeting information</b>	Records of a Council and delegated committee meetings that are closed to the public to consider confidential information
<b>Internal arbitration information</b>	Confidential information relating internal arbitration about an alleged breach of the councillor code of conduct.
<b>Councillor Conduct Panel confidential information</b>	Confidential information relating to a Councillor Conduct Panel matter
<b>Confidential information under the 1989 Act</b>	Information that was confidential information for the purposes of section 77 of the <i>Local Government Act 1989</i>

The Council may decide, in the interests of transparency, to release information to the public even though it is confidential under the Act. However, this will not happen if release is contrary to law in breach of contractual requirements or if releasing the information is likely to cause harm to any person or is not in the public interest to do so.

#### 7.1. Public interest test

Council is not required to make publicly available information if the release would be contrary to the public interest, in accordance with the Act. When considering public interest, Council will apply the test that exists in the FOI Act. Council may refuse to release information if it is satisfied that the harm to the municipal community likely to be created by releasing the information will exceed the public benefit in it being released.

When considering possible harm from releasing information, the Council will only concern itself with harm to the municipal community or members of the community. Potential harm to the Council will only be a factor if it would also damage the community, such as where it involves a loss of public funds or prevents the council from performing its functions.

Information that might be withheld because it is contrary to the public interest may include:

- internal working documents that have not been approved or submitted to Council, especially where their release may mislead the public;
- directions to Council staff regarding negotiations in contractual or civil liability matters, where release may damage the Council's capacity to negotiate the best outcome for the community; or

- correspondence with members of the community, where release may inappropriately expose a person's private dealings.

## 8. Responsibilities

It is everyone's role to promote and facilitate access to council information in accordance with the public transparency policy.

Party/parties	Roles and responsibilities	Timelines
<b>Council</b>	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.	Ongoing
<b>Executive Management Team</b>	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.	Ongoing
<b>Senior Management Team</b>	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.	Ongoing
<b>All Staff</b>	Public transparency is the responsibility of all employees as appropriate to their role and function. All staff respond to requests for information and facilitate provision of information in consultation with their manager and in alignment with the Policy.	Ongoing
<b>Executive Manager Governance</b>	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing
<b>Unit Manager Governance</b>	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing

## 9. Human Rights Charter

This policy has been reviewed against and complies with section 13 of the *Charter of Human Rights and Responsibilities Act 2006*, as this Policy aligns with and provides for the protection of an individual's right not to have their privacy unlawfully or arbitrarily interfered with. It is also in line with section 18 which recognises a person's right to participate in the conduct of public affairs.

## **10. Non-Compliance with This Policy**

If a member of the municipal community wishes to question a decision about the release of information, this should be raised directly with the officer handling the matter in the first instance. If the member is still not satisfied and would like to contest the decision, this can be reported to Council's Freedom of Information Officer.

If not satisfied with Council's response, the concerns can be raised directly with the Victorian Ombudsman's office on (03) 9613 6222 or via the website – [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au).

## **11. Monitoring, Evaluation and Review**

Council commits to monitoring processes, information sharing and decision making to understand the overall level of success in the Policy's implementation.

A periodic review of this policy will be undertaken to ensure any changes required to strengthen or update the policy are made in a timely manner.