

Public Transparency Policy

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| Position title of responsible business unit Manager: | Corporate Counsel |
| Approved by: | Council |
| Internal external or both: | External |

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1. TITLE

Public Transparency Policy

2. OBJECTIVE

To:

- (a) embed a culture of public transparency as part of business as usual in Council;
- (b) increase transparency in Council's decision-making processes;
- (c) raise public awareness of the availability of Council information by promoting access to information that is current, easily accessible and disseminated in a timely manner; and
- (d) give effect to the public transparency principles set out in the *Local Government Act 2020* (Vic).

3. DEFINITIONS AND ABBREVIATIONS

| Term | Meaning |
|--------------------------------|--|
| Act | Local Government Act 2020 (Vic) |
| Confidential information | Information which is confidential information as defined in section 3 of the Act (a summary is provided in the Appendix to this Policy), or which is confidential under any other Act |
| Council information | All documents and other information held by Council |
| Policy | A formal statement of principle which regulates Council's activities, defines roles and responsibilities within Council, and sets an objective for staff in carrying out Council functions in line with Council values and relevant legal obligations |
| Public transparency principles | The following principles are set out in section 58 of the Act: <ol style="list-style-type: none">(a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;(b) Council information must be publicly available unless—<ol style="list-style-type: none">(i) the information is confidential by virtue of this Act or any other Act; or(ii) public availability of the information would be contrary to the public interest;(c) Council information must be understandable and accessible to members of the municipal community;(d) Public awareness of the availability of Council information must be facilitated. |

4. POLICY

4.1. Council is committed to transparency in its decision-making, and to facilitating the right of members of the community to participate in public affairs without discrimination. Council gives effect to the public transparency principles by:

- (a) embedding the public transparency principles when designing and delivering

- systems, processes and projects; and
- (b) facilitating access to information for stakeholders and members of the community as needed to make decisions effectively, except to the extent that this information is confidential or availability is contrary to the public interest.

Public transparency as part of business as usual at Council

- 4.2. Council will champion the public transparency principles through leadership, modelling and decision-making in accordance with the Act and Governance Rules.
- 4.3. Staff at Council are responsible for giving effect to the public transparency principles as follows:
 - (a) the CEO, Directors and other Executive-level staff are expected to champion behaviours which foster transparency and drive the public transparency principles through policy, process and leadership;
 - (b) Managers are expected to implement systems and processes which embed the public transparency principles, as well as relevant principles of good governance and community engagement, in their areas of responsibility;
 - (c) all staff are expected to consider and incorporate the public transparency principles when undertaking day-to-day duties at Council, and to facilitate access to information in line with Council's obligations under legislation and this Policy.

Policies

- 4.4. Council is committed to developing clear, relevant and accessible policies which ensure consistent and transparent decision-making. All policies will be made publicly available.
- 4.5. Approval authority for Council policies:
 - (a) The Chief Executive Officer may approve policies relating to day-to-day Council operations in line with his or her delegated authority.
 - (b) All policies relating to community activities, the conduct of Council meetings, or Council's investments and finances must be approved by resolution at a Council meeting.
- 4.6. Corporate Counsel is responsible for:
 - (a) developing guidelines and internal processes for staff in relation to the development, implementation and review of policies;
 - (b) reviewing draft policies before approval; and
 - (c) maintaining a register of policies.

Access to information

- 4.7. Council information will be available to the public unless it is confidential information, or public availability would be contrary to the public interest.
- 4.8. The following information must be made publicly available except to the extent of any Confidential information:
 - (a) Council meeting agendas and minutes;
 - (b) Delegated Committee meeting agendas and minutes;
 - (c) Instruments of Delegation to members of Delegated Committees;
 - (d) terms of reference for Delegated Committees (if any);
 - (e) Community Asset Committee meeting agendas and minutes;

- (f) Instruments of Delegation to members of Community Asset Committees;
- (g) terms of reference for Community Asset Committees (if any);
- (h) Advisory committee meeting agendas and minutes;
- (i) terms of reference or charters for Advisory Committees;
- (j) Audit and Risk Committee Performance Reporting;
- (k) summary of personal interests under section 135(1) of the Act;
- (l) registers of gifts, benefits and hospitality offered to Councillors or Council staff (with names removed);
- (m) registers of interstate travel undertaken by Councillors or Council staff;
- (n) registers of donations and grants made by Council;
- (o) registers of leases entered into by Council;
- (p) register of delegations;
- (q) register of authorised officers;
- (r) register of election campaign donations
- (s) any other registers or records required by the Act or any other Act.

4.9. Council information may be made available on the Council website, at the Council offices, in accordance with Council's Open Data Policy, in response to an enquiry or request made by a member of the community, or as otherwise determined by Council. Members of the community also have the right to request access to Council documents in accordance with the *Freedom of Information Act 1982 (Vic)*.

4.10. Council is not able to make information publicly available if it is confidential, or if public availability would be contrary to the public interest.

4.11 In determining whether public availability of Council information would be contrary to the public interest, regard should be had to whether the harm to the community from releasing the information is likely to exceed the public benefit in it being released. Harm to the community here means harm to one or more individuals, groups or the public generally, including any adverse effects on public funds, the efficiency or effectiveness of Council's decision-making processes, or Council's ability to perform its functions.

4.12 Without limiting the above sections, it may be contrary to the public interest to release Council information:

- i. if it would result in a breach of law or contractual requirements;
- ii. if it is internal working documents, including drafts, which have not been approved or submitted to Council, especially where the release may mislead the public;
- iii. if it is information or directions to Council staff regarding negotiations in contractual or civil liability matters, where the release may damage Council's capacity to negotiate the best outcome for the community;
- iv. in circumstances where it would cause an unreasonable strain on Council resources to collate or provide information;
- v. in circumstances where the Council information can be more appropriately accessed through alternative avenues, such as the Freedom of Information process; and

if it is correspondence with or information about members of the public or otherwise, where the release may inappropriately expose a person's personal information or private dealings with Council.

4.13 **Accessibility and awareness of information**

5. HUMAN RIGHTS CHARTER COMPATIBILITY

This Policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

6. ASSOCIATED INTERNAL DOCUMENTS

Open Data Policy

Statement of information under Part II of the *Freedom of Information Act 1982* (Vic)

Privacy Policy

Health Records Policy

7. EXTERNAL REFERENCES/RESOURCES

Freedom of Information Act 1982 (Vic)

Health Records Act 2001 (Vic)

Local Government Act 2020 (Vic)

Privacy and Data Protection Act 2014 (Vic)

APPENDIX: SUMMARY OF CONFIDENTIAL INFORMATION

| Type | Description |
|---|--|
| Council business information | Information that would prejudice the Council's position in commercial negotiations if prematurely released. |
| Security information | Information that is likely to endanger the security of Council property or the safety of any person if released. |
| Land use planning information | Information that is likely to encourage speculation in land values if prematurely released. |
| Law enforcement information | 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. |
| Legal privileged information | Information to which legal professional privilege or client legal privilege applies. |
| Personal information | Information which would result in the unreasonable disclosure of information about any person or their personal affairs if released. |
| Private commercial information | 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. |
| Confidential meeting information | Records of a Council and delegated committee meetings that are closed to the public to consider confidential information |
| Internal arbitration information | Confidential information relating internal arbitration about an alleged breach of the councillor code of conduct. |
| Councillor Conduct Panel confidential information | Confidential information relating to a Councillor Conduct Panel matter |
| Confidential information under the 1989 Act | Information that was confidential information for the purposes of section 77 of the <i>Local Government Act 1989</i> |