

# DRAFT PUBLIC TRANSPARENCY POLICY

## 1. PURPOSE

This policy fulfils Councils requirement to 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:

- Give effect to the public transparency principles contained in section 58 of the Act as follows:
  - 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;
  - Council information must be publicly available unless
    - 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;
  - Council information must be understandable and accessible to members of the municipal community;
  - public awareness of the availability of Council information must be facilitated;
- Describes the ways in which Council information is to be made publicly available; and
- Specify which Council information must be publicly available.

It is an integral part of how Council will achieve the *overarching governance principles* contained in section 9 of the Act.

## 3. SCOPE

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

## 4. HOW WILL COUNCIL APPLY THE PRINCIPLES?

### Decision Making at Council Meetings

- Will be undertaken in accordance with the Act and the Governance Rules including by way of public participation at Council Meetings.
- Will be conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules.

- Council will carefully consider and will minimise Confidential reports and only close meetings to the public in accordance with the *Local government Act 2020*.
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy as set out in section 55 and 56 of the Act.

*NB: Council is expected to adopt the first Community Engagement Policy before 01 March 2021.*

- 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.

### **Public Notices**

- Council operates under various Acts, and other Acts also include specific public notice or consultation requirements for councils.
- These include, for example, notices about planning permits under the *Planning and Environment Act 1987* and notices of road discontinuance under the *Road Management Act 2004* prior to making a decision.
- These public notices will be found on our website from time to time.

### **Publicly Available Information on Councils Website**

Council will make available as a minimum on its website the following:

- Overview of the organisation and services including the Executive Management Team and organisation structure;
- Public tender opportunities and recently awarded contracts (within three months);
- Career information including reasons why to work at Council and how to apply;
- Open Council Meeting Agendas and Minutes from 2008 onwards;
- Current Council Adopted Policies;
- A selection of Council adopted strategies;
- Governance Rules;
- Local Laws;
- Council adopted procedures that are required to be publicly available;
- The Councillor Code of Conduct;
- Register of Election campaign donations; and
- Corporate documents including Council Plan, Budget, Strategic Resources Plan and Annual Report.

Some of these documents may be available on display at Council's Libraries and Council's Service Centres.

### **Information to be Provided on Request**

- Council adopted strategies not available on Councils website;
- Information provided as part of a previous public consultation process;

- Template assessment documents for grants, tenders and expressions of interest;
- Open Council Meeting Agendas and Minutes from prior to 2008 where available;
- Historical Council Adopted Policies, Local Laws and Council adopted procedures where available;
- Reporting from Committees to Council;
- Submissions made by Council;
- Audit and Risk Committee Performance Reporting;
- Terms of reference or charters for Committees;
- Register of gifts, benefits and hospitality offered to Councillors or Council Staff;
- Register of travel undertaken by Councillors or Council Staff;
- Register of Conflicts of Interest disclosed by Councillors or Council Staff;
- Registers of donations and grants made by Council;
- Register of leases and licences;
- Register of Delegations;
- Register of building permits;
- Register of all occupancy permits and temporary approvals and amendments;
- Register of Authorised officers;
- Summary of Personal Interests; and
- With respect to the *Planning & Environmental Act 1987* a register containing:
  - all applications for permits
  - all decisions and determinations relating to permits
  - all applications for certificates of compliance under part 4A of the Act
  - all decisions and determinations relating to those certificates of compliance
  - any decision made under section 97F of the Act of which the responsible authority is notified
  - under section 97G of the Act
  - any correction or amendment of which the responsible authority is notified under section 97K of the Act
  - prescribed information in respect of all applications referred to Council under sections 55 and 57C of the Act
  - A copy of each 173 agreement including indicating any amendments made.

### **Social Media**

Council will use social media as a way to share, promote and highlight Council activities and operations.

### **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 and Service Centres.

### Your right to information

Information published on our website can be viewed or downloaded free-of-charge. Otherwise, you will be informed about any copying fees or charges should you request a hardcopy document be provided to you.

Section 4 should be read in conjunction with Section 7 below titled, 'Information Not Available'.

## 5. ACCESS TO INFORMATION

- Information will be made available in a suitable way including on the Council website, Council's Libraries and Council's Service Centres, or by request.
- Consideration will be given to accessibility and cultural requirements in accordance with the *Charter of Human Rights and Responsibilities Act 2006*.
- Consideration will be given to confidentiality in accordance with the *Act* and public interest test where appropriate.
- Council will respond to requests for information in alignment with the *Act* including the Public Transparency Principles, and this policy.

## 6. 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 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
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>

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 or if releasing the information is likely to cause harm to any person or is not in the public interest to do so.

Where information is not confidential, and not already available, Council will apply the principles of a public interest test with consideration also of the resources required to respond to the request.

## Public Interest

Council is not required to make publicly available information if the release would be contrary to the public interest, in accordance with the *Local Government Act 2020*. When considering public interest, Council will apply the test that exists in the *Freedom of Information Act 1982*. Council may refuse to release information if it is satisfied that the harm to the 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 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,

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

## 7. RESPONSIBILITIES

Party/parties	Roles and responsibilities	Timelines
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.	Ongoing
Executive Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.	Ongoing
Senior Leaders Team	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.	Ongoing
All Staff	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
Manager Governance	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing
Relevant Business Unit Manager	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing

## 8. 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.

## 9. NON-COMPLIANCE WITH THIS POLICY

If a member of the 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 still not satisfied and would like to contest the decision, this can be reported to Councils Governance Team via email on [egovernance@latrobe.vic.gov.au](mailto:egovernance@latrobe.vic.gov.au) or via phone on 1300 367 700.

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).

## 10. OTHER WAYS TO ACCESS INFORMATION

The *Freedom of Information Act 1982* gives you right of access to documents that Council hold. Council is committed to, where possible, proactive and informal release of information in accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner. Read more at [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au).

A list of available information is provided in the Part II Statement (Statement) published on Council's website in accordance the *Freedom of Information Act 1982*. This Statement 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.

Council is also required to make some information available for a specified fees and processes under other pieces of legislation. These are provided through processes outside of this policy.

If you can't find the information you require, call us directly so we may assist you.

## **11. MONITORING, EVALUATION AND REVIEW**

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

## **12. RELATED POLICIES & LEGISLATION**

Council's:

- Governance Rules
- Public Transparency Policy

*Charter of Human Rights and Responsibilities Act 2006*

*Freedom of Information Act 1982*

*Local Government Act 2020*

*Local Government Act 1989*

*Privacy and Data Protection Act 2014*

*Equal Opportunity Act 2010.*