

Public Transparency Policy

Policy Type:	COUNCIL
Version:	1.0
Date Adopted:	5 August 2020
Service Unit	Governance
Directorate:	Customer Care and Advocacy
Review Date:	August 2024

1. Purpose

This policy supports Council in its ongoing commitment to good governance and open and accountable conduct, whilst outlining how Council information is to be made publicly available. This policy has been developed in accordance with section 57 of the *Local Government Act 2020* (the Act) and gives effect to the *Public Transparency Principles* outlined in section 58 of the Act.

2. Definitions

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

Community	People of the Moorabool Shire, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality.
Consultation	The process of seeking stakeholder input on a matter.
Public Participation	Public participation encompasses a range of public involvement, from simply informing people about what government is doing or seeking public input into decision making to community activity addressing the common good.
Stakeholder	An individual or group with a strong interest in the decisions of Council and are directly impacted by their outcomes.
Closed Meetings	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.
Transparency	A situation in which Councils business and financial activities are performed in an open way without secrets, so that people can trust that they are fair and honest; and when all the relevant information needed in order to collaborate, cooperate and make decisions effectively, is publicly available. 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).

3. Scope

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

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4. Non-Compliance

If a person 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 officer's decision, their request should be referred to Council's Freedom of Information Officer for review.

If that person is still not satisfied with Council's response, they can raise their concerns directly with the Victorian Ombudsman's office on (03) 9613 6222 or via www.ombudsman.vic.gov.au.

5. Policy

The objective of this Policy is to formalise Council's commitment to transparency in its decision-making processes and the awareness of the availability of Council information, whilst promoting:

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

As an integral part of Council's Good Governance Framework, this policy will apply to documentary information, process information and how information will be made available to the public.

5.1. What Council will be transparent with:

a) Decision Making at Council Meetings

- i) Will be undertaken in accordance with the Act and the Governance Rules.
- ii) Will be conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules.
- iii) Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- iv) Will be made fairly and based on merit.
- v) Where any individual person's rights will be directly affected by a decision of Council, that person will be entitled to communicate their views and have their interests considered prior to the decision being made by Council.

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b) Council Information

This information includes but is not limited to:

i) 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.

ii) 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.

iii) 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 to Council;
- Submissions made by Council;
- Register of Election campaign donations;
- Summary of Personal Interests.

Consistent with the Part II Statement, Council will make available the following records for inspection. Examples include but are not limited to:

- Registers of gifts, benefits and hospitality offered to Councillors or Council Staff;
- Registers of travel undertaken by Councillors or Council Staff;

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- Registers of Conflicts of Interest disclosed by Councillors or Council Staff;
- 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;
- Submissions received under section 223 of the Local Government Act 1989 (until its repeal) or received through a community engagement process undertaken by Council;
- Summary of Personal Interests ('Register of interests' until 24 October 2020);
- Terms of reference or charters for Advisory Committees;
- Any other Registers or Records required by legislation or determined to be in the public interest.

iv) **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.

5.2. Access to information

- a) Information will be made available on Council's website, at Council offices, or by request.
- b) Members of the public can make different kinds of information requests to Council (e.g. informal requests for documents and information or formal FOI requests).
- c) Consideration will be given to accessibility and diversity requirements in accordance with the Charter of Human Rights and Responsibilities Act 2006.
- d) Council will respond to requests for information in alignment with the Act including the Public Transparency Principles, and this policy.

5.3. Freedom of information (FOI) applications

The *Freedom of Information Act 1982* gives people the right of access to documents that Council holds. If a person cannot find the document they require, they should contact Council's Freedom of Information Officer before an FOI application is made, as Council may be able to make it available outside of the FOI process.

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5.4. Information Not Available

Certain Council information is not made publicly available. This information is confidential information as 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* and includes the following types of 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>

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Council may decide in the interests of transparency to release information to the public even though it may be considered confidential under the Act. However, Council will never do so, if the release of the information is in breach of contractual law or if it is likely to cause harm to any person or is not in the public interest to do so.

5.5. Public Interest Test

Council is not required to make information publicly available 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, 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 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.

5.6. 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
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.
Executive Management Team	<ul style="list-style-type: none"> • Foster transparency and drive the principles through policy, process and leadership. • Monitor implementation of this policy.
Senior Management Team	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.

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All Staff	<ul style="list-style-type: none"> 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 this Policy.
Manager Governance, Risk & Corporate Planning	To monitor and manage the implementation of this policy and oversee periodic reviews to drive continuous improvement.
Governance Coordinator	To coordinate and monitor the implementation of this policy and conduct periodic reviews to drive continuous improvement.

5.7. Human Rights Charter

This policy complies with section 13 of the *Charter of Human Rights and Responsibilities Act 2006*, as it 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.

6. Related Legislation

a) Legislation:

- Charter of Human Rights and Responsibilities Act 2006
- Freedom of Information Act 1982
- Local Government Act 2020
- Privacy and Data Protection Act 2014
- Equal Opportunity Act 2010.

b) Council's Policies:

- Governance Rules
- Public Transparency Principles
- Community Engagement Policy
- Governance Framework
- Privacy Policy
- FOI Part II Statement

7. Council Plan Reference

Objectives: Providing Good Governance and Leadership

Context: Our Business & Systems

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8. Review

Council's Executive Management Team commits to monitoring information sharing and decision-making processes to understand the overall level of success of the implementation of this Policy.

This policy will be reviewed every 4 years, or as required to reflect changes to organisational or legislative requirements.