

Public Transparency Policy 2020

1. PURPOSE

This policy acknowledges the importance of open and accountable government and sets out what 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 also gives effect to the *Public Transparency Principles* outlined in section 58 of the Act.

2. OBJECTIVE

The objective of the Policy is to promote openness and transparency in Council decision-making processes and to raise public awareness of the availability of Council information.

The policy seeks to achieve the objective by:

- a) Increased community confidence and trust in Council's decision-making processes by providing access to Council information;
- b) Promoting greater understanding and awareness by the community of how Council's decisions are made;
- c) Facilitating public access to information that is current, easily accessible and disseminated in a timely manner; and
- d) Reassuring the community that Council is properly managing public funds.

3. SCOPE

This policy applies to Administrators and members of Council staff.

4. DEFINITIONS

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

Municipal community	includes residents and ratepayers, traditional owners of land in the municipal district and people and bodies who conduct activities in the municipal district of Council.
Consultation	The process of seeking input on a matter.
Public Participation	Public participation encompasses a range of public involvement, from informing people about Council matters through to delegating decision making to the municipal community.
Stakeholder	An individual or group with an interest in the decisions of Council and who are directly impacted by the outcomes.

Closed Meetings	When Council resolves to close the meeting to the general public to consider confidential information including legal advice, commercial business information, contractual information and information containing personal affairs.
Transparency	The public disclosure of information to ensure Council's decision-making process are clearly understood by the community.
Public Interest Test	Council may refuse to release information if it determines that the harm likely to be created by releasing the information will exceed the public benefit in being transparent.

5. WHAT WILL COUNCIL BE TRANSPARENT ABOUT

Decision Making at Council Meetings

- Will be undertaken in accordance with the Act and Council's 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.
- 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.

Council Information

This information includes but is not limited to:

Documents such as:

- Plans and reports adopted by Council;
- Policies adopted by Council;
- Templates concerning grant applications, tenders and tender evaluation material;
- Service agreements; and
- Reports and / or research that informs decision making.

Process information such as:

- Practice notes and operating procedures;
- Application processes for approvals, permits, grants and access to Council services;

W2040 Key Direction

Date of Adoption

Directorate Responsible

More informed Council decisions based on strong advice and community consultation and engagement

1 September 2020
Version 1.02

Executive Services

- Decision making processes;
- Guidelines and manuals adopted by Council;
- Community engagement processes; and
- Complaints handling processes.

Council records will, at a minimum, be available on Council's website:

- Council meeting agendas and minutes (excluding information considered at a closed meeting);
- Terms of Reference and records relating to Council Advisory Committees Meetings;
- Registers of gifts, benefits and hospitality received by Administrators;
- Registers of travel undertaken by Administrators or members of Council Staff;
- Registers of Conflicts of Interest disclosed by Administrators;
- Submissions made by Council to other level of government;
- Registers of donations and grants made by Council;
- Registers of leases entered into by Council, as lessor and lessee;
- Register of Delegations to members of Council staff;
- Register of election campaign donations;
- Any other Registers or Records required by legislation or determined to be in the public interest;
- Summary of Personal Interests lodged by Administrators (Referred to as 'Register of interests' until 24 October 2020); and
- Submissions received through a community engagement process carried out by Council.

Refer to the Council's website for further information on documents available for public inspection:

<https://www.whittlesea.vic.gov.au/about-us/news-publications/documents-available-for-public-inspection/>

Publications

Council publishes a number of newsletters, reports and handbooks that can be download from the website. Some of these publications are available at the Council offices or Council libraries.

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6. ACCESS TO INFORMATION

- Information will be made available on the Council website, at the Civic Centre 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 accordance with the *Act* including the Public Transparency Principles and this Policy.

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 and must take into consideration the requirements of the *Freedom of Information Act 1982 (Vic)* and *Privacy and Data Protection Act 2014*.

“Confidential information” is defined in section 3 of the *Local Government Act 2020* and 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	Confidential information relating to a Councillor Conduct

Type	Description
Panel confidential information	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> .

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 occur if releasing the information is contrary to law, if releasing the information is likely to cause harm to any person or if releasing the information is not in the public interest.

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.

If a person makes a request for information, they will be referred to the relevant Council Department in the first instance who will process the request.

Council will endeavour to provide information outside of the Freedom of Information process where possible. If the information cannot be provided outside of the Freedom of Information process, Council's Governance Department can provide further advice on access to the information.

8. RESPONSIBILITIES

Party	Roles and responsibilities
Public	To respectfully engage, enquire, contribute and be heard about matters of interest and concern to assist in holding parties accountable for pursuing the objectives of this policy and assigned responsibilities.
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.
Executive Leadership Team	Champion behaviours that foster transparency and drive the transparency principles through policy, process and leadership. Monitor implementation of this Policy.
Corporate Leadership Team	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this Policy.
Manager Governance	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.
All Staff	Public transparency is the responsibility of all employees as

Party	Roles and responsibilities
	<p>appropriate to their role and function.</p> <p>Staff must respond to requests for information and facilitate provision of information in consultation with their Manager, consistent with this Policy.</p>

9. HUMAN RIGHTS CHARTER

This Policy complies with the *Charter of Human Rights and Responsibilities Act 2006* and recognises a person's right to participate in the conduct of public affairs.

10. COMPLAINTS PROCESS

If a person is not satisfied with a decision about the release of information, this should be raised directly with the officer handling the matter in the first instance. If the person is still not satisfied, the matter should be referred to the Team Leader Governance Administration for independent review. The outcome of the independent review will be referred to the Manager Governance for approval.

If the person is not satisfied with Council's response, they have the right to take their complaint to the Victorian Ombudsman's Office on (03) 9613 6222. or via the website – www.ombudsman.vic.gov.au.

11. OTHER WAYS TO ACCESS INFORMATION

The *Freedom of Information Act 1982* gives persons the right the access documents that Council hold. Council is committed, where possible, to proactive and informal release of information in accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner. See: www.ovic.vic.gov.au.

A list of available information is provided in the Part II Statement published on Council's website in accordance the *Freedom of Information Act 1982*. This Statement requires Councils to publish information designed to assist members of the public to access Council information.

12. REVIEW

Council is committed to monitoring processes, information sharing and decision making to understand the success of the Policy.

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

13. RELATED POLICIES & LEGISLATION

Council's Governance Rules

Council's Privacy and Data Protection Policy

The 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.

14. ADMINISTRATION

Responsible Manager:	Manager Governance
Date Policy Adopted:	1 September 2020
Date of Next Review of Policy:	On or before 1 September 2021