



WARRNAMBOOL
CITY COUNCIL

Council Transparency Policy 2020

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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.

Part 2 of the Victorian Local Government Act 2020 deals with the role of Council.

Particularly pertinent to the purpose of this policy are the overarching governance principles and supporting principles enshrined in the Local Government Act guide Councils in relation to the need for and role of transparency of Governance, and the reasons why information should be made available to our community. The Council must adopt and maintain a public transparency policy in accordance with sec. 57 of the Local Government Act 2020 (the Act). This policy is to give effect to the Public Transparency

Principles set out in sec. 58 of the Act. These principles are:

- 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 –
 - (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; and
- d) public awareness of the availability of Council information must be facilitated.

The Act requires that the Council must in the performance of its role give effect to the overarching governance principles. These principles are:

- a) Council decisions are to be made and actions taken in accordance with the relevant law;
- b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted,
- d) the municipal community is to be engaged in strategic planning and strategic decision making,
- e) innovation and continuous improvement is to be pursued,
- f) collaboration with other Councils and Governments and statutory bodies is to be sought,
- g) the ongoing financial viability of the Council is to be ensured,
- h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making, and
- i) the transparency of Council decisions, actions and information is to be ensured

In giving effect to the overarching governance principles, the Council must also take into account several supporting principles:

- a) the community engagement principles, as provided in s.56 of the Act
- b) the public transparency principles, as provided in s.58 of the Act
- c) the strategic planning principles, as provided in s.89 of the Act
- d) the financial management principles, as provided in s.101 of the Act, and
- e) the service performance principles, as provided in s.106 of the Act.

This policy is guided by the overarching governance principles and supporting principles.

2. OBJECTIVES

The overarching objective of the Policy is to formalise the Council's 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 community of Council through greater understanding and awareness;
- c) enhanced decision making by the community;
- d) improved Council performance through greater accountability.
- e) access to information that is current, easily accessible and disseminated in a timely manner; and,
- f) reassurance to the community that Council is spending public monies wisely by being transparent as to its reasoning around decisions and resource allocation.

The policy covers documentary information, process information and how information will be made available to the public.

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:

Community: community is a flexible term used to define groups of connected people or all the peoples of a municipal district as a whole.

We use it to describe people of a municipality generally and separately, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality.

More specifically, it can refer to everyone affiliated with the municipality, or smaller groups defined by interest, identity or location, and not necessarily homogenous in composition or views.

Different types of communities often overlap and extend beyond municipal boundaries.

Communities may be structured, as in clubs or associations or unstructured, such as teens. Communities are flexible and temporary, subject to individual identity and location

Consultation: a two-way relationship with the Council providing information, considering feedback and providing information on an outcome.

Public participation: public participation encompasses a range of ways to garner public involvement, from simply informing people about what government is doing, to delegating decisions to the public and community activity addressing the common good. Councils Public engagement policy will define when the different levels of participation are utilised in decision - making.

Stakeholder: a person, group or system that can affect or be affected by a council action.

Closed Meetings: when the Council resolves to close a meeting to the general public in order to consider confidential information as defined under the Act.

Transparency: 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 a human rights issue: the right to have the opportunity, without discrimination, to participate in public affairs (s.58 of The Act).

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. 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.

The Act: the Victorian Local Government Act 2020

5. WHAT COUNCIL WILL BE TRANSPARENT WITH

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 they are made in a closed meeting.
- Will be informed through community engagement, in accordance with the Community Engagement Principles of The Act and the Community Engagement Policy established by Council.
- Will be made fairly and on the merits of the information available, and where a person whose rights would reasonably be thought to be directly affected by a decision of the Council, should be entitled to an opportunity to communicate their views and have their interests considered.

Council Information

This information includes but is not limited to:

- plans and reports adopted by Council;
- policies;
- project and service plans;
- grant applications, tenders and tender evaluation methodology;
- 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.
- customer service charters
- Local Laws
- Governance Rules

Council records, at a minimum, to 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 interstate and overseas 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.

Publications

In addition to formal reports Council publishes a wide 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 Library.

6. ACCESS TO INFORMATION

All publicly available information will be published on the Council website unless, by its nature, it is not amenable to electronic publication. In that event, information will be available at Council offices or by request.

Consideration will be given to accessibility and cultural requirements in accordance with the Charter of Human Rights and Responsibilities Act 2006.

Public access to Council information will be assessed against the confidentiality requirements section 58 (b) of the Local Government Act 2020.

Council will, in responding to requests for information, consider the application of all relevant Acts, 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 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 to 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>

8. RESPONSIBILITIES

Party/parties	Roles and responsibilities	Timelines
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making. Oversees the implementation and application of the policy.	Ongoing
Executive Management Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.	Ongoing
Senior Management 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
Communications Department	Monitors the currency of information on Council’s website to improve community access to pertinent information	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 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 the Councils FOI officer either by phone through our main switch numbers on 5559 4800 or 1300 003 280 or by e-mail at Contact@warrnambool.vic.gov.au.

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.

11. OTHER WAYS TO ACCESS INFORMATION

The *Freedom of Information Act 1982* gives you right of access to documents that Council holds. 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.

A list of available information is provided in the Part II Statement (Statement) published on Council's website in accordance with 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.

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

12. MONITORING, EVALUATION AND REVIEW

Council will monitor the application of this policy to ensure that it continues to meet the needs of the Council and the community it serves.

This policy will be amended as circumstances or legislative requirement demand. Notwithstanding, this policy will be reviewed every four years.

13. RELATED POLICIES & LEGISLATION

Legislation	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.
Standards And Guidelines	Public Transparency Principles Freedom Of Information Professional Standards
Council Related Policy & Procedures	Governance Rules Community Engagement Policy Privacy Policy Customer Service Charter Public Interest Disclosure Procedure

INTERNAL USE ONLY

14. REVIEW

Responsible Manager: Manager Governance & Risk

Date Adopted: August 2020

Date of Next Review: August 2024