

Title:	Public Transparency Policy
Type of policy:	Council
Adopted:	Due for adoption in June 2024
Record No:	24/16928
Attachments:	N/A

Acknowledgement of Country

Murrindindi Shire Council is proud to acknowledge the Taungurung and Wurundjeri Woi Wurrung people as the traditional owners of the land we now call Murrindindi Shire.

We pay our respects to First Nations leaders and elders, past, present and emerging, who are the keepers of history, traditions, knowledge and culture of this land.

We commit to working in collaboration with traditional owners of this land in a spirit of reconciliation and partnership.

1. Purpose

This policy supports Council to deliver good governance, open and accountable conduct, and describes how Council information is made publicly available.

2. Rationale

Council must 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*.

3. Scope

This policy applies to Councillors and Council staff and the documents and information Council holds.

4. Definitions

Reference Term	Definition
Community	Community is a flexible term used to define groups of connected people. We use it to describe people of a municipality generally, including individuals or groups who live, work, play, study, visit, invest in or pass through the shire.
Consultation	The process of seeking input on a matter.
Public	Public refers to the general public, including community.
Stakeholder	An individual or group with a strong interest in the decisions of Council and who is impacted by their outcomes.
Closed Meetings	When Council resolves to close the meeting to the general public, in order to consider a confidential matter as defined in the <i>Local Government Act 2020</i> .
Transparency	The principle of making information freely available and accessible to the public to ensure that the activities of Council are open to scrutiny and that its decision-making processes are clear and understandable. Transparency is also a human rights issue: the right to have the opportunity, without discrimination, to participate in public affairs (s.58 of the <i>Act</i>).

5. Policy

Council seeks to be transparent and open in order to:

- engage its community in decision making
- demonstrate good governance
- reduce inefficiency and
- reassure rate payers that we are allocating and expending public funds wisely.

The objective of this policy is to ensure transparency in Council's decision-making processes and to help make the public aware of its right to access Council information. Council commits to making information publicly available unless the information is confidential or its release is not in the public interest.

5.1 *What will Council be Transparent with*

5.1.1 Decision Making at Council Meetings

All decision making will be undertaken in accordance with the *Act* and Council's Governance Rules. Council meetings are to be conducted in an open and transparent forum, unless in accordance with the provision in the *Act* and Council's Governance Rules.

Council is committed to ensuring that decisions are informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.

Decisions of Council 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.

Councillors commit their best endeavours to offer the community guidance and background to Council decisions and decision-making process.

5.1.2 Council Information

A list of information available to the public is provided in Council's Part II Statement published in accordance with the *Freedom of Information Act 1982*. Part II of the *Freedom of Information Act 1982* 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's Part II Statement is made available for the public on Council's website and is reviewed annually.

The following Council records will, at a minimum, be readily available:

- Council's adopted Governance Rules
- Council Plan, Strategic Resource Plan, Budget and Annual Report
- Council meeting agendas and minutes
- Reporting from Delegated Committees to Council
- Audit and Risk Committee Performance Reporting
- Terms of reference or charters for Delegated, Advisory and Community Asset Committees
- Registers of gifts, benefits and hospitality offered to Councillors or Council Staff as per Council's policies
- Council's adopted policies
- Council's adopted Code of Conduct

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- All Local Laws adopted by Council.

Registers of Interests may be inspected by approval of the Chief Executive Officer.

5.1.3 Publications

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors. Publications will be made available on Council's website and in hard copy format upon request. Some of these publications are available at Council's Libraries.

5.2 Access to Information

Council is committed to ensuring that information is made available on Council's website, at Council offices or by request. Council will give consideration to accessibility and cultural requirements (where possible).

Members of the public can make informal requests for documents and information or formal requests through Freedom of Information statutory processes.

Requests for information or documents that are not readily available to the public, will be assessed by the relevant Council Department and determined in accordance with relevant legislation and this policy. If the request is denied the member of the public will be provided with an explanation.

Council will respond to requests for information in accordance with legislated requirements and Council's Customer Service Charter.

5.3 Freedom of information (FOI) applications

The *Freedom of Information Act 1982* gives the public the right to request access to documents that Council holds. Council will direct requests to the Freedom of Information process in specific instances where the *Act* allows for third party consultation prior to the release of the information, or in circumstances where it is deemed to be the most appropriate avenue.

Where a member of the public wishes for a request to be processed under FOI, Council will support that process.

Information regarding Council's FOI processes and how to make a request is available on Council's website.

5.4 Submissions

Members of our community will be provided with the opportunity to provide submissions on key issues in accordance with Council's Community Engagement Policy. Key issues may relate to matters within Council's control such as the development of a Council strategy or proposed implementation of a major infrastructure project.

Key issues can also extend beyond Council's own jurisdiction, where Council plays an important advocacy role on behalf our community to State and Federal levels of government, statutory authorities and other key sector agencies. Opportunities to put forward a position on behalf of the community may arise through a range of avenues including formal submission processes, committees and Council decisions to express a view, or through the professional opinion and assessment by Council officers in their area of expertise.

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5.5 Information not available

Council information may not be made publicly available if it is:

- confidential or its release would be contrary to the public interest or not in compliance with the *Privacy and Data Protection Act 2014*, or
- specifically exempt under the *Freedom of Information Act*.

Requests to release information will be determined in accordance with relevant legislation and this policy.

5.6 Confidential Information

“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 is confidential information for the purposes of section 77 of the <i>Local Government Act 1989</i>

5.7 Public Interest Test

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*. Council may refuse to release information if it is satisfied that it is not in the public’s interest as a whole.

Council will take into account possible harm to the community or members of the community when considering releasing information.

Information that might be withheld because release is contrary to the public interest might include:

- internal working documents that have not been approved or submitted to Council, especially where their release may be misleading
- directions to Council staff regarding negotiations in contractual or civil liability matters, where release may damage 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.

Council will also consider any request for information, that if granted would require a substantial diversion of Council resources or funds, as being contrary to the public interest and may refuse such a request on this basis.

5.8 Responsibilities

It is the role of Councillors and staff to promote and facilitate access to Council information in accordance with this 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	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.
Leadership Team	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.
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 this policy.
Manager Governance & Risk	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.
Audit & Risk Committee	To monitor implementation of this policy and conduct periodic reviews to ensure the policy meets the requirements of the <i>Act</i> and the governance principles.

5.9 Non-compliance with this Policy

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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 they are still not satisfied and would like to contest the decision, the matter should be reported to the Manager of Governance Risk.

If an individual is not satisfied with Council's response, the concerns can be raised directly with the Victorian Ombudsman's office on 1800 806 314 or via the website – www.ombudsman.vic.gov.au.

6. Related Policies, Strategies and Legislation

- *Charter of Human Rights and Responsibilities Act 2006*
- *Equal Opportunity Act 2010*
- *Freedom of Information Act 1982*
- *Local Government Act 2020*
- *Privacy and Data Protection Act 2014*
- Community Engagement Policy
- Governance Rules
- Privacy Policy
- Public Transparency Principles

7. Council Plan

The review of this policy is consistent with the Council Plan 2021-2025 Strategic Objective 5.1.5 'Maintain transparent, inclusive and accountable governance practices'.

8. Management and Review

The Manager Governance & Risk commits to monitoring processes, information sharing and decision-making to understand the overall level of success in implementing this policy.

The Manager Governance & Risk is responsible for ensuring that this policy is reviewed once every 4 years (at minimum) to ensure any changes required to strengthen or update the policy are made.

9. Consultation

Community consultation was not required in the development of this policy.

10. 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.

11. Gender Impact Assessment

This policy has been developed/reviewed with consideration of the criteria which inspires equality under the *Gender Equality Act 2020*.