



Ararat Rural City

# Public Transparency Policy

## DOCUMENT CONTROL

Category Type: Policy

Type: Council

Responsible Officer: Governance and Administration Coordinator

Last Review Date: New Policy

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Revision No: New

Stakeholder Engagement:

Councillors

Chief Executive Officer

Community

## 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. 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 and as provided in Appendix 1.

## 2. OBJECTIVES

The objective of Council's Public Transparency Policy is to formalise its 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 through greater understanding and awareness;
- c) Enhanced decision making by the community;
- d) Improved 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 wisely.

A transparency policy needs to cover both documentary information, process information and how information will be made available to the public and is an integral part of Council's Governance Framework.

## 3. SCOPE

This policy applies to Councillors and Council staff.

## 4. WHAT WILL COUNCIL BE TRANSPARENT WITH

### 4.1 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.
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- Will be made fairly and on the merits.
- 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.

### 4.2 Council Information

A list of available information is provided in the 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.

This information includes but is not limited to:

**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.

**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.

**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;
- Terms of Reference or charters for Advisory Committees;
- Registers of gifts, benefits and hospitality offered to Councillors or Council Staff;
- Registers of 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.

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

- Summary of Personal Interests ('Register of interests' until 24 October 2020); and
- Submissions received under section 223 of the *Local Government Act 1989* until its repeal or received through a community engagement process undertaken by Council.

**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 Library.

## 5. ACCESS TO INFORMATION

Information will be made available on the Council website, open data, 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*.

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.

## 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	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy and 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
Governance Unit	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 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 decision, this can be reported to the Governance Unit on 5355 0261.

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 a person 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.

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

## 11. MONITORING, EVALUATION AND REVIEW

Council commits to monitoring processes, information sharing and decision making to understand the overall level of success of the implementation of this Policy.

A periodic 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. DEFINITIONS

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

TERM	DEFINITION
<b>Closed Meetings</b>	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.
<b>Community</b>	People of a municipality generally, 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 individual identity and location
<b>Consultation</b>	The process of seeking input on a matter.
<b>Public Interest</b>	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.
<b>Public Participation</b>	Commitment to engaging the community to support Council deliberation and decisions around issues affecting the municipality now and into the future.
<b>Stakeholder</b>	An individual or group with a strong interest in the decisions of Council and are directly impacted by their outcomes.
<b>Transparency</b>	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 human rights issue: the right to have the opportunity, without discrimination, to participate in public affairs (s.58 of The Act).

## 13. ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

## 14. RELATED POLICIES & LEGISLATION

### **Council:**

Governance Rules  
Governance Framework (refer Chapter 2 Governance Rules)  
Community Engagement Policy  
Privacy and Data Protection and Health Records Policy

### **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*

## 15. APPENDIX 1 – THE PUBLIC TRANSPARENCY PRINCIPLES (s58)

The following are the public transparency principles—

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