



# Public Transparency Policy

<b>Policy Owner</b>	Governance and Corporate Accountability Governance and Corporate Performance
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**MITCHELL SHIRE COUNCIL**



## **Purpose**

Council must adopt and maintain a Public Transparency Policy under section 57 of the *Local Government Act 2020* (the Act).

Council is committed to the principles of public transparency, good governance, open and accountable conduct and making council information publicly available, except where that information is confidential under the provisions of the Act.

This policy aims to formalise Council's commitment to transparent decision-making processes and freely available public access to Council information. It supports and promotes:

- a) increased community confidence and trust in Council through greater understanding and awareness;
- b) improved Council visibility and performance; and
- c) access to information that is current and easily accessible.

This policy includes all forms of Council information and how it will be made available to the public and is an integral part of Council's governance framework.

## **Scope**

The policy applies to Councillors and Council staff of Mitchell Shire Council.

## **Policy**

### **Principles for Transparency**

Council commits to the public transparency principles as outlined in the *Local Government Act 2020* as follows:

- 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.

## **Transparency**

**Council will be transparent with the following:**

### **Council decision making**

- 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 (to be adopted by 1 March 2021)
- 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;
- Project and service plans;
- Grant applications, details of the outcomes of tenders and requests for quotes;
- Service agreements, contracts, leases and licences;
- Advocacy;
- Council leases, permits and notices of building and occupancy; and
- Relevant technical reports and/or research and data 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 and Community Questions and Hearings Committee meeting agendas and minutes;
- Reporting from Advisory Committees to Council through reporting to Council;
- 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 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 *Freedom of Information 1982* 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 some of them from the website [www.mitchellshire.vic.gov.au](http://www.mitchellshire.vic.gov.au) or call Council for a copy. Some of these publications are available at Council's Libraries.

Council understands that people access information in many different ways. We are committed to providing information across a range of Council different digital and print platforms. It is not feasible to do this for every item published by Council but we will endeavour to provide a range of information across these platforms. Specific information is also available on request where possible.

Information will be made available and maintained on the council website in a timely matter.

Accessibility will be considered with information available in a range of formats (or alternatives) where needed.

### **Access to information**

Members of the public have the right to make any request for information or documents to Council if that information is not readily available to the public on Council's website or at Council's offices. Council will respond to requests for information or documents in alignment with the Act, the Public Transparency Principles of the Act, this policy, the *Freedom of Information Act 1982* and the *Privacy and Data Protection Act 2014*.

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

In relation to Freedom of Information (FOI), the *Freedom of Information Act 1982* gives an applicant the right of access to documents that Council holds subject to any exemptions that may apply. If documents required cannot be located on Council's website, Council's Governance and Corporate Accountability Unit should be contacted prior to lodging an FOI application to check whether the document is readily available without an FOI application being necessary. (For example, many documents may be readily available under different instruments of legislation such as the Register of Planning Permit Applications under the *Planning and Environment Act 1987* and the Register of Building Permits under the *Building Act 1993*). Council's Governance and Corporate Accountability Unit can be contacted on telephone 5734 6200.

### **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.

<b>Type</b>	<b>Description</b>
Council business information	Information that would prejudice the Council's position in commercial negotiations if prematurely released.

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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>

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.

### Definitions

*Community* - a flexible term used to define groups of connected people. We use it to describe people of a Shire generally, including individuals or groups who live, work, play, study, visit, volunteer, invest in or pass through the Shire.

More specifically, it can refer to everyone affiliated with the Shire, 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 walking groups. Communities are flexible and temporary, subject individual identity and location.

*Consultation/Engagement* - The process of seeking input on a matter and working with people to build understanding, strengthen relationships and inform decisions.

*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 a meeting to the general public in order to consider a confidential matter regarding issues of a legal, contractual or other issue.

*Transparency* - Organisations are transparent when they enable others to see and understand how they operate in an honest way. To achieve transparency, an organisation must provide information about its activities and governance to stakeholders that is accurate, complete and made available in a timely way. Transparency enables accountability.

This does not mean all information should be made publicly available. There are certain types of information that may not be provided publicly such as private information (such as client records or health records) and 'commercial in confidence' material (such as tender submissions).

## Responsibilities

<b>Party/parties</b>	<b>Roles and responsibilities</b>
Councillors	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 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.
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.
Governance and Corporate Accountability	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.

## 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.

## Non-Compliance with the 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 a member of the community is still not satisfied and would like to contest the decision, this can be reported to the FOI Officer.

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)

## Other ways to access information

The *Freedom of Information Act 1982* gives you 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 Council directly so we may assist you.

## Related Documents

- Governance Rules (to be adopted by 1 September 2020)
- Public Transparency Principles
- Community Engagement Policy (to be adopted by 1 March 2021)
- Information Privacy Policy
- Community Engagement Framework

- Governance Rules
- *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*

### **Monitoring and Evaluation**

This Policy will be reviewed by July 2024 or before as required.