

SCS 051 Public Transparency Policy

TRIM Reference: D20/069093 Due for Review: September 2022
 Responsible Officer: Manager Governance & Risk

1.0 Purpose

This Policy supports Council in its ongoing drive for good governance and open and accountable conduct, and sets out 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).

2.0 Policy Principles

This policy supports the Overarching Governance Principles and the supporting Public Transparency Principles listed in section 58 of the Act as follows:

- Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of the Act or any other Act;
- 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;
- Council information must be understandable and accessible to members of the municipal community.
- Public awareness of the availability of Council information must be facilitated.

3.0 Scope

This policy applies to Councillors, Delegated Committee members, and Council staff.

4.0 Definitions

Closed meetings	Where Council resolves to close the meeting to the general public in accordance with section 66 of the Act, in order to consider a confidential matter as defined in S.3 of the Act, for example issues of a legal, contractual or personal nature and other issues deemed not to be in the public interest.
Community	People of the municipality, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality.
Confidential information	As described at section 3(1) of the Local Government Act 2020 or any other Act.
Public interest	Public interest is the interest (welfare or wellbeing) of the general public as a whole, as distinct from the interest of an individual or a minority. The public interest is distinguishable from the curiosity or interest of members of the public. For release to be considered contrary to the public interest, public interest considerations against release need to outweigh public interest considerations in favour of release.
Transparency	A process of being open, honest and straightforward about Council decisions and decision making processes, financial performance, corporate strategies and their implementation, Council policies and procedures, and other activities of the Council that are not considered confidential under section 3 of the Act, or any other Act, considered to be contrary to the public interest, or considered to be personal information under the Privacy and Data Protection Act 2014.

5.0 Policy

This Policy formalises Council's support for transparency in decision-making processes and public awareness of the availability of Council information. Council is committed to promoting:

- Greater clarity in Council's decision-making processes;
- Promoting increased community confidence and trust in Council;
- Enhanced decision making by the community;
- Improve Council's performance;
- Access to information that is current, easily accessible and disseminated in a timely manner;
- Reassurance to the community that Council is spending public monies wisely.

5.1 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 section 66 of the Act, the meeting is closed to the public to discuss confidential matters.
- 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, 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:

Type	Description
Council Records	Agendas, minutes, live stream and video recordings of Council Meetings
	Reporting from Committees to Council <ul style="list-style-type: none"> • Delegated Committees • Community Asset Committees
	Terms of Reference or Charters for Council committees
Local Laws	Community Amenity Local Law
	Common Seal and Miscellaneous Penalties Local Law
	Governance Rules
Policies, Strategies, Reports	Council Plan, Annual Report, Strategies, Council Policies, Budget
Organisation	Organisation chart
Councillors	Councillor payment summaries
	Councillor profiles
Council Elections	Election Campaign Donation Returns
	Candidate Information (during elections)
Donations & Grants	Grant programs
Planning	Development plans, reference and incorporated docs
	Development contributions
	Current planning applications
Property	How rates are calculated
	Current planning applications
	Development contributions
Businesses	Council's Terms and Conditions
	Awarded Tenders
Council operations	Events information
	Waste management and recycling information
	Information relating to families, positive ageing, childcare and pets
	Tourism and local area – variety of information
	Parks and reserves - listing

Registers	Register of Building Occupancy Permits
	Register of Authorised Officers
	Register of Instruments of Delegations
	Register of Personal Interests (Register of Interests until 24 October 2020)
	Register of Leases
	Register of Overseas or Interstate Travel
	Register of Gifts, Benefits and Hospitality (Councillors' and Staff)
Process/Other Information	Application processes for approvals, permits, grants, access to Council services
	Community engagement processes
	Complaints handling processes
	Practice notes
	Online payments and applications
	Employment with Council
	Lodging a request/complaint
	Economic and population profiles
	Information relating to access (maps and guides)

Members of the public are also able to connect with Council via the following media:

- [Facebook](#)
- [Twitter](#)
- [Instagram](#)
- [LinkedIn](#)
- [YouTube](#)

Information and access to some documents is available on the Council's website www.surfcoast.vic.gov.au.

Council publishes a range of reports handbooks and newsletters (e.g. *Groundswell*), 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 libraries.

5.2 Access to Information

- Information will be made available on the Council website, 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.

A person may request information in the following ways:

Online	www.surfcoast.vic.gov.au
Email	info@surfcoast.vic.gov.au
Mail	PO Box 350, Torquay, VIC, 3228
Telephone	5261 0600
In person	1 Merrijig Drive, Torquay, VIC, 3228

Council will respond to requests for information in alignment with the Act, the Public Transparency Principles, and this policy. Council officers will continue to explore opportunities to make further documents available on Council's website or on request.

5.3 Information not Available

Some Council information may not be made publicly available. This will only occur if the information is confidential information by virtue of the Local Government Act 2020 or any other Act; or if its release would be contrary to the public interest.

“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 Local Government Act 1989

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, in breach of contractual requirements or if releasing the information is likely to cause harm to any person or is not in the public interest to do so.

Public Interest Test

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

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

Privacy and Data Protection Act 2014

Council is required to comply with the Privacy and Data Protection Act, in particular Part 3 – Information Privacy – which provides for the responsible handling of person information by Victorian public sector organisations. Where Council collects, holds, uses or discloses personal information, it must comply with the Information Privacy Principles listed in Schedule 1 of the Privacy and Data Protection Act.

This may therefore result in precluding Council from sharing certain information in such cases.

6.0 Roles and Responsibilities

Specific responsibilities include:

Roles and responsibilities	
Council and Councillors	Champion the commitment and principles of 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 Group	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.
Manager Governance & Risk	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.

It is important to note the confidentiality/privacy requirements of the Local Government Act and Privacy/Health Records Acts, and obligations under Council's staff and Councillor codes of conduct, and to seek advice if unsure whether to release a document. Penalties may apply for unauthorised release of confidential information.

7.0 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 it 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 of that Act which recognises a person's right to participate in the conduct of public affairs.

8.0 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 you are not satisfied and would like to contest the decision Council's complaints process should be followed – refer <https://www.surfcoast.vic.gov.au/About-us/Contact-Us/Make-a-complaint>.

If you are still not satisfied with Council's response, your concern can be raised directly with the Victorian Ombudsman's office on (03) 9613 6222 or via their website www.ombudsman.vic.gov.au.

9.0 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.

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.

Applications can be made by completing the form at <https://www.surfcoast.vic.gov.au/About-us/Council/Policies-plans-strategies-and-reports/Freedom-of-Information> and paying an application fee.

10.0 Monitoring, Evaluation and Review

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.

11.0 Related Procedures

- MPP 043 Freedom of Information Policy
- MPP 005 Privacy & Data Protection Policy
- Governance Rules

12.0 References

- Local Government Act 2020
- Freedom of Information Act 1982
- Privacy & Data Protection Act 2014
- Health Records Act 2001
- Charter of Human Rights and Responsibilities Act 2006
- Equal Opportunity Act 2010
- Local Government Act 2020 – Public Transparency Principles Guidelines; DEWLP
- Local Government Victoria's – Draft Public Transparency Policy

13.0 Document History

Version	Document History	Approved by – Date
1	<i>Initial development</i>	<i>Council Resolution – 7 September 2020</i>