

Policy – Council – Public Transparency

Date created: June 2020
Date of next review: June 2021
Adopted by: Council
Date adopted:
Responsible officer: Director Corporate & Community Services

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 public 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.

2 OBJECTIVES

The objective of Council's Public Transparency Policy is to formalize 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) Improve Council's 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 Good Governance Framework.

3 SCOPE

This policy applies to Councillors and Council staff of the Pyrenees Shire Council.

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4 DEFINITIONS

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

Community	<p>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 municipality.</p> <p>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.</p>
Consultation	The process of seeking input on a matter.
Public Participation	Public participation encompasses a range of public involvement, from simply informing people about what Council is doing, seeking feedback from members of the community on a proposed decision, delegating decisions to a public committee or group or community activity addressing the common good.
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 public to consider a confidential matter regarding issues of a legal, contractual or personnel nature; and other issued deemed not to be in the public interest.
Transparency	A lack of hidden agendas or conditions, and the availability of all information needed 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).

5 WHAT WILL COUNCIL BE TRANSPARENT WITH

5.1 Decision making at Council meetings

Decision making at Council meetings will be:

- Undertaken in accordance with the Act and the Governance Rules,
- Conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules,

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- Informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy, and
- 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.

5.2 Council information

A list of available information is provided in the Part II Statement published in accordance with the *Freedom of Information Act 1982* (the FOI Act). Part II of the FOI Act requires government agencies and local councils to publish, or make available upon request, 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 and Strategies,
 - Project and service plans,
 - Service agreements, contracts, leases and licences,
 - Council leases, permits and notices of building and occupancy; and
- **Process information** such as:
 - Practice notes and operating procedures,
 - Application processes for approvals, permits, grants and access to Council services,
 - Decision making processes,
 - Guidelines and manuals,
 - Community engagement processes,
 - Complaints handling processes.
- **Council records** such as:
 - Council ordinary and special meeting agendas,
 - Minutes of Council meetings (excluding in-camera),
 - Reporting from Advisory Committees to Council through reporting to Council,
 - Audit & 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 by Council, as lessor and lessee,
 - Register of Delegations,
 - Register of Authorised officers,
 - Register of Election campaign donations,

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- Summary of Personal Interests,
- Any other Registers or Records required by legislation or determined to be in the public interest.

5.3 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 also available at Council's libraries.

6 ACCESS TO INFORMATION

Information will be made available on the Council website, at Council offices or by request, as deemed appropriate for the type of material.

Members of the public can make different kinds of requests for access to information (e.g. informal requests for documents and information, or formal FOI requests). Consideration will be given to accessibility and cultural requirements.

Council will respond to requests for information in alignment with the Act, including the Public Transparency Principles, the FOI Act, this Policy, and in accordance with the Part II Statement made under the FOI Act.

6.1 Freedom of Information (FOI) Applications

The FOI Act gives you right of access to documents that Council holds. If you cannot find the document you require, call us before you make an FOI application as we may be able to make it available outside of that process.

7 INFORMATION NOT AVAILABLE

Some Council information may not be made publicly available. This will only occur if the information is confidential information, if its release would be contrary to the public interest or would not be in compliance with the *Privacy and Data Protection Act 2014*.

"Confidential information" is defined in section 3 of the Act. 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.

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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> .

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, 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.

7.1 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 Act. When considering public interest, Council will apply the test that exists in the FOI Act. Council may refuse to release information if it is satisfied that the harm to the community likely to be created by releasing the information will exceed the public benefit in it being released.

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.

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.

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8 RESPONSIBILITIES

It is everyone's role to promote and facilitate access to Council information in accordance with the public transparency policy.

Party	Roles and responsibilities
Council	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 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 the policy.

9 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 Council's FOI Officer – Manager Governance Risk & Compliance.

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.

10 MONITORING, EVALUATION AND REVIEW

Council commits to monitoring processes, information sharing and decision making to understand the overall level of success in the policy's implementation. 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.

The next scheduled review of this policy will be within four years, or earlier if considered appropriate.

10.1 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

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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 REFERENCE & RELATED DOCUMENTS

Council's

- Governance Rules
- Public Transparency Principles
- Governance Framework
- Community Engagement Policy
- Information Privacy Policy

Local Government Act 2020

Charter of Human Rights and Responsibilities Act 2006

Freedom of Information Act 2020

Privacy and Data Protection Act 2014

Equal Opportunity Act 2010

12 VERSION HISTORY

Version Number	Issue date	Description of change
1.0	August 2020	Initial release

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