



Public Transparency Policy

August 2020



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Policy governance

Responsible Service/Department:

Governance

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Council

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Freedom of Information Act 1982

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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:

58 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.

Outcomes

The City of Port Phillip will ensure that its decision making, policy making processes as well as information and data used to support these activities, are wherever possible, made publicly available for the benefit of the community (exceptions are outlined in part 2.4 of this policy).

The objectives of the Public Transparency Policy are to: -

- a) Make available Council information unless it is confidential by virtue of legislation or would be contrary to the public interest;
- b) Raise awareness of the information held by Council and the ways this information can be accessed by our community to increase community confidence and trust in the Council;
- c) Ensure information is made available to our community to help them understand and fully participate in civic life including monitoring the progress and performance of the Council;
- d) Acknowledge that public sector information is an important community asset that wherever possible should be available for access and use by our community;
- e) Ensure privacy of individuals is maintained in line with relevant legislative requirements.

Definitions

Table 1: Definitions of terms

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 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 to individual identity and location
Consultation	The process of seeking input on a matter.

Public	General term used to broadly describe community and other external stakeholders or groups.
Participation	Public participation encompasses a range of public involvement, from simply informing people about what government is doing, involving the public in the decision-making process and community activity addressing the common good.
Stakeholder	An individual or group with an interest in or ability to influence the outcomes of a project or initiative and are directly involved in or impacted by a decision.
Closed Meetings	When Council resolves to close a meeting to the general public, in order to consider a confidential matter in line with the requirements of the Local Government Act 2020.
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).
Public Interest Test	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.

Responsibilities

It is everyone’s role to promote and facilitate access to council information in accordance with the Public Transparency Policy. *Table 2: Responsibilities of roles*

Role	Responsibility
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.
Leadership Network	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	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.

Scope

This policy applies to Councillors and Council staff.

This Policy supports Strategic Direction 6 in the Council Plan, which outlines the organisation's aspiration to be a financially sustainable, high performing and well governed organisation that puts the community first.

Policy

1. Information Available

1.1. Council Decision Making

- 1.1.1. Will be undertaken in accordance with the Act and the Governance Rules.
- 1.1.2. Will be conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules.
- 1.1.3. Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- 1.1.4. 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.
- 1.1.5. To assist with good governance and transparent decision making, Council Meeting reports will be written with clear context, plain language where possible and will make crucial information available.
- 1.1.6. To ensure our community are able to track progress against the delivery of Council plans and priorities, regular performance reports will be prepared and made publicly available including the monthly CEO report, the annual report and a quarterly report of progress against Council decisions.
- 1.1.7. To ensure wherever possible information that has previously been considered in confidence, is made publicly available when appropriate to do so, through the process outlined in Part 2.5.1 of this policy.

1.2. Council Information

A list of available information is provided in the Part II Statement published in accordance 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:

- 1.2.1. **Documents** such as:
 - Plans and Reports adopted by Council;
 - Policies and Strategies adopted by Council;
 - Project and service plans;
 - Grant application, tenders and tender evaluation material (excluding confidential information);
 - 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.

1.2.2. **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.

1.2.3. **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;
- Council Plan and Budget;
- Annual Report;
- Long Term Financial Strategy;
- Strategic Resource Plan;
- High level Organisation Structure;
- CEO reports;
- 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;
- Register of donations and grants made by Council;
- Register of leases entered into by Council, as lessor and lessee, (excluding confidential information);
- 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:

- 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.

1.2.4. **Data Sets Available**

A range of City of Port Phillip data sets are available such as:

- Business precincts; Neighbourhood boundaries
- Location of biohazards;
- Community bus routes;
- Car share schemes;
- Dog walking zones;
- Immunisation sites;
- Location of street trees;
- Location of drinking fountains;
- Notices and orders issued for properties
- Hard / green waste bookings
- Dumped rubbish – footpaths and laneways
- Community gardens
- Accessible parking
- Council buildings
- Maternal child health centres
- Syringe disposal
- Street sweeping zones
- Park and open space sites managed by Council

- 1.2.5. Supported by the Policy Architecture Framework, newly approved documents will be made publicly available on a single location on Council's website. Historically approved documents will also be relocated to the single location on Council's website to ensure availability and transparency.

1.3. **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 available at Council's Libraries.

2. Access to information

2.1. Information requests

2.1.1. Information will be made available on:

- Council website <http://www.portphillip.vic.gov.au/>
- Open Data www.data.gov.au
- at Council offices
- or by request.

2.1.2. Members of the public can make different kinds of information requests to the council (e.g. informal requests for documents and information or formal FOI requests).

Council will respond to requests for information in alignment with:

- the Act including the Public Transparency Principles, and this policy,
- Part II statement made under the *Freedom of Information Act 1982*.

2.1.3. Accessibility

Consideration will be given to accessibility and cultural requirements in accordance with the *Charter of Human Rights and Responsibilities Act 2006*. Assessment will follow the requirements of the [City of Port Phillip Access and Inclusion Plan](#). The City of Port Phillip website aims to be as inclusive and accessible as possible. Information published on the website will, where possible, be provided in formats compliant with the Web Content Accessibility Guidelines (WCAG) 2.1.

2.2. Local Government Performance Reporting Framework (LGPRF)

The LGPRF is a key initiative of the State Government to improve the transparency and accountability of council performance to ratepayers and to provide a more meaningful set of information to the public. The framework is made up of 58 measures and a governance and management checklist of 24 items which together build a comprehensive picture of council performance.

Mandatory performance reporting became a requirement for local government from the 2014-15 local government annual budgeting and reporting cycle onwards. The State Government publishes this information on the Know Your Council website <https://knowyourcouncil.vic.gov.au>.

2.3. Freedom of information (FOI) applications

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.

2.4. 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 not 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>

2.5. Releasing of Confidential Information

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.

2.5.1. Releasing Confidential Decisions of Council

Council will receive twice yearly (as a minimum) a report listing all decisions made by Council during parts of meetings that were closed to members of the public due to confidentiality reasons under the Local Government Acts 1989 and 2020.

The list of items will be compiled by Governance and analysed by management to determine legally what confidential information could now be recommended to Council to be made publicly available.

Council can consider through this report passing a resolution to make public certain information in relation to those decisions.

Where Council has determined to make information available to the public, it will be placed on Council's website under Council's 'Meetings and Agendas' pages at the relevant meeting that the matter was discussed. Text will be placed on the website stating that the resolution, report or attachment has now been made public

2.6. Public interest test

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.

3. 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.

4. 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 the:

Governance Team
governance@portphillip.vic.gov.au
(03) 92096589

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.

5. 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.

6. Relevant policy, regulations or legislation

- Governance Rules
- Public Transparency Principles
- Community Engagement Policy
- Information Privacy Policy
- Health Records Policy
- Information Security Framework
- Open Data Policy
- Policy Architecture Framework

Charter of Human Rights and Responsibilities Act 2006

Freedom of Information Act 1982

Local Government Act 2020

Privacy and Data Protection Act 2014

Equal Opportunity Act 2010.

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