

► PUBLIC TRANSPARENCY POLICY

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RESPONSIBLE OFFICER: Manager Governance and Risk

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## 1. INTRODUCTION

Transparency and access to government information is a core principle of democratic governance. Systems that are open, accountable and honest are fundamental to building trust within the community and enabling fully informed engagement in the democratic process.

Transparency and information sharing better enable Community members and organisations to contribute to policy formulation, assist regulation compliance, participate in program administration, support decision making and evaluate service delivery performance.

The *Local Government Act 2020 (Vic)* (the Act) supports Council's commitment to the principles of open, honest and accountable governance. One of the overarching principles of the Act is that the transparency of Council decisions, actions and information is to be ensured. This policy formalises the Council's commitment to Transparency in its decision making processes and the public awareness of the availability of Council information.

This policy fulfils the Council's requirement to adopt and maintain a Public Transparency Policy under section 57 of the Act and gives effect to the Public Transparency Principles outlined in section 58.

## 2. PURPOSE

The purpose of this policy is to:

- describe the ways in which information is made available to the public
- specify which council information must be made publicly available
- give effect to the 'Public Transparency Principles' set out in section 58 of the *Local Government Act 2020* (the Act).

### 3. SCOPE

This policy applies to -councillors and council officers.

### 4. OBJECTIVES

Council seeks to be transparent in order to promote:

- transparency of Council decisions and actions
- increase confidence and trust in the community through greater understanding and awareness of processes for making and implementing decisions
- enhance decision making by the community
- improve Council performance
- access to information held by the Council that is current, easily accessible and disseminated in a timely manner
- reassurance to the community that Council is spending public monies responsibly.
- compliance with legislative obligations.

### 5. DEFINITIONS

Closed meetings	Where Council resolves to close the meeting to the general public 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 defined in section 3 of the Act. (Section 6.2.2 of this document describes the various types of confidential information prescribed under the Act).

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Council	is collectively the Hepburn Shire Council’s elected body (councillors) and council administration.
Freedom of Information	<p>is an extension of freedom of speech, a fundamental human right recognised in international law, which is today understood more generally as freedom of expression in any medium, be it orally, in writing, print, through the Internet or through art forms. The Victorian Freedom of Information Act was established to extend as far as possible the right of the community to access to information in the possession of the Government of Victoria and other bodies constituted under the law of Victoria for certain public purposes by:</p> <p>(a) making available to the public information about the operations of agencies and, in particular, ensuring that rules and practices affecting members of the public in their dealings with agencies are readily available to persons affected by those rules and practices; and</p> <p>(b) creating a general right of access to information in documentary form in the possession of Ministers and agencies limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by agencies.</p>
Governance Rules	<p>are the rules adopted by Council that cover:</p> <ul style="list-style-type: none"> <li>• the conduct of Council meetings and delegated committees</li> <li>• the form and availability of meeting records</li> <li>• the election of the Mayor and the Deputy Mayor</li> <li>• the appointment of an Acting Mayor</li> <li>• an election period policy</li> <li>• the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee.</li> </ul>

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Public interest	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.
Transparency	A lack of hidden agendas or conditions and the availability of all information needed in order to collaborate, cooperate and make decisions effectively. "Transparency" is also human rights issue i.e. the right to have the opportunity, without discrimination, to participate in public affairs.

## 6. POLICY

### 6.1 What is public transparency?

#### 6.1.1 Public Transparency Principles

Council commits to the following principles for public transparency as detailed within the *Local Government Act 2020*:

- 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.

## 6.2 How will we be transparent?

### 6.2.1 Decision making at Council

Decision making at Council meetings will be:

- a) undertaken in accordance with the Act and the Governance Rules
- b) conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Council's Governance Rules
- c) informed through community engagement, in accordance with the Community Engagement Principles and Council's Community Engagement Policy
- d) 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.

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## 6.2.2 Council Information

Council information includes but is not limited to:

Type	Description
Council Records	Council Meetings agendas, minutes and live stream video recordings Reporting from Committees to Council e.g. Delegated Committees and Community Asset Committees Terms of Reference or charters for Council committees
Local Laws	Community Amenity Local Law Meeting Procedure Local Law Number 1 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 documents Development contributions Current planning applications
Property	How rates are calculated Current planning applications Development contributions

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Businesses	<ul style="list-style-type: none"> <li>Council’s Terms and Conditions</li> <li>Awarded Tenders</li> </ul>
Council operations	<ul style="list-style-type: none"> <li>Events information</li> <li>Waste management and recycling information</li> <li>Information relating to families, positive ageing, childcare and pets</li> <li>Tourism and local area – variety of information</li> <li>Parks and reserves - listing</li> </ul>
Registers	<ul style="list-style-type: none"> <li>Register of Building Occupancy Permits</li> <li>Register of Authorised Officers</li> <li>Register of Delegations</li> <li>Register of Personal Interests (Register of Interests until 24 October 2020)</li> <li>Register of Leases</li> <li>Register of Overseas or Interstate Travel</li> <li>Register of Gifts, Benefits and Hospitality (Councillor and staff)</li> </ul>
Process/Other Information	<ul style="list-style-type: none"> <li>Council newsletters</li> <li>Application processes for approvals, permits, grants, access to Council services</li> <li>Community engagement processes</li> <li>Complaints handling processes</li> <li>Practice notes</li> <li>Online payments and applications</li> <li>Employment with Council</li> <li>Lodging a request/complaint</li> <li>Economic and population profiles</li> <li>Information relating to access (maps and guides)</li> </ul>

A comprehensive list of Council information is listed in Council’s Freedom of Information Part II Statement via <https://www.hepburn.vic.gov.au/our-council/council-documents/freedom-of-information/> . This document is updated on an annual basis.

## 6.3 Access to Council Information

### 6.3.1 Council information access principles

- a) Information will be made available and maintained on the Council website in a timely manner.
- b) Where practicable, information will be accessible in terms of plain language, format and when requested provision of a multilingual interpreting service.
- c) Requests for information will be responded to in accordance with this policy.
- d) Information requested to be released will be assessed regarding confidentiality in accordance with legislation and public interest where appropriate. This may include providing a copy, arranging inspection or viewing or otherwise providing access to the information. An applicant may otherwise be advised that access to information can be obtained via another method such as a statutory release scheme or for purchase.

### 6.3.2 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 Act or any other legislation; or if its release would be contrary to the public interest.

“Confidential information” as 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.

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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, 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.

**Note:** Under the new Act 2020 it is an offence for a member of council staff, a councillor, or a member of a delegated committee to intentionally or recklessly disclose confidential information. The penalty in for this offence is 120 penalty units (approximately \$19,800). There are limited exceptions to this, such as where the Council determines that the information should be publicly available.

### 6.3.3 Public Interest Test

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

- a) internal working documents that have not been approved or submitted to Council, especially where their release may mislead the public
- b) 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
- c) correspondence with members of the community, where release may inappropriately expose a person's private dealings.

### 6.3.4 How to access other Council information

The *Freedom of Information Act 1982* (FOI Act) gives a person right of access to documents that Council hold. Council is committed to 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).

Part II of the FOI Act requires Council to publish a number of statements designed to assist members of the public in accessing the information it holds. A list of available information is provided in the Part II Statement published on Council's website.

Community members who cannot find the information sought are encouraged to call Council before making a Freedom of Information application. An application may not be required to get the documents. Council staff will advise what documents are available for inspection and assist with getting the information you want.

The FOI Act gives everyone the right to request access documents held by Council. If you cannot locate a particular document you are seeking via Council's website or you can request a copy from Council by emailing [shire@hepburn.vic.gov.au](mailto:shire@hepburn.vic.gov.au) or telephoning 5321 6450.

Council encourages you to make contact before lodging an FOI application. In some instances, the Council will be able to provide the information without going through the formal FOI process.

For further Information visit Council Freedom of Information webpage at <https://www.hepburn.vic.gov.au/our-council/council-documents/freedom-of-information/> or contact FOI Officer on 5321 6450 if you have any questions concerning FIO Requests.

## 7. NON-COMPLIANCE

If a member of the community wishes to question a decision about the release of information, this should be raised directly with the staff member handling the matter in the first instance. If the matter is still not resolved and the member of the public would like to contest the decision, this can be reported to Hepburn Shire Council's Director Community & Corporate Services in accordance with Council's Complaint Handling Policy by completing the Complaint form available from Council's website and emailing to [shire@hepburn.vic.gov.au](mailto:shire@hepburn.vic.gov.au) or telephoning (03) 5348 2306.

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).

## 8. MONITORING, EVALUATION AND REVIEW

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

## 9. ROLES AND RESPONSIBILITIES

Council employees	Public Transparency is the responsibility of all Council employees as appropriate to their role and function.  All Council employees will respond to requests for information within 14 days and facilitate provision of information in consultation with their manager in alignment with this policy.
Managers Coordinators Team leaders	Manage areas of responsibility to ensure public Transparency, good governance and community engagement is consistent with this policy.  Communicate this policy to their team.
Governance Officers	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement in conjunction with Manager Governance and Risk
Manager Governance and Risk	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.
Executive Management Team	Champion behaviours that foster Transparency and drive the principles through policy, process and leadership.  Monitor implementation of this policy.
Councillors	Champion the commitment and principles for public Transparency through leadership, modelling practice and decision making.

## 10. RELATED DOCUMENTS

### 10.1 Legislation

*Local Government Act 2020*

*Local Government Act 1989*

*Equal Opportunity Act 2010*

*Victorian Charter of Human Rights and Responsibilities Act 2006*

*Privacy and Data Protection Act 2014*

*Freedom of Information Act 1982*

## 10.2 Council Policy

Community Engagement Policy

Complaints Handling Policy

Freedom of Information Part II Statement (Information Available to the Public)

Governance Rules

Information Privacy Policy

Records Management Policy

## 11. ADMINISTRATIVE UPDATES

Minor administrative changes to this document that do not materially alter the document can be made as required. For example, a change of name of a Council service or department, a change to the name of a Federal or State Government 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 approved by the Chief Executive Officer and where required by resolution of Council.