

# Council Policy

## Public Transparency Policy

### 1.0 AUTHORITY

Local Government Act 2020, Section 57

### 2.0 INTENT

The purpose of this policy is to:

**2.1** achieve compliance with the *Local Government Act 2020* (the Act); and

**2.2** ensure that Council demonstrates and promotes transparency in its decision making by giving effect to the Public Transparency Principles as set out in Section 58 of 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 the *Local Government Act 2020* or any other Act;
- b) Council information must be publicly available unless:
  - i. the information is confidential by virtue of the *Local Government Act 2020* 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

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

### 3.0 SCOPE

This policy applies to Council, Council staff and any committee or other body making decisions under the delegated authority of Council.

### 4.0 POLICY STATEMENT

**4.1** Council is committed to the principles of public transparency. Council considers transparency a cornerstone of democratic governance. Openness, accountability and honesty are essential for fully informed engagement in the democratic process. Effective community engagement, planning, financial management and the performance of all council responsibilities are underpinned by transparent processes.

**4.2** Council demonstrates its commitment to public transparency through its organisational value of 'Openness'. "We share knowledge and learning for the benefit of all, actively engage with our community, and are transparent in our decision making".

**4.3** Council decisions are made with transparent processes that are:

- 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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- made fairly and on its merits, and where any person whose rights will be directly affected by a decision of Council, that person will be entitled to communicate their views and have their interests considered; and
- informed by community engagement, in accordance with the Community Engagement Principles and Council's Community Engagement Policy.

#### 4.4 Council information is made publicly available through:

- publication on one or more of Council's websites, social media pages and printed publications.
- documents available for inspection at one or more of Council's offices both on display and by request.
- release under the Freedom of Information Act 1982.
- key Council budget briefings open to the public
- by any other appropriate means as determined by Council, the Chief Executive Officer, or the Head of Governance and Legal.

#### 4.5 All Council information will be made publicly available unless it is confidential, or its release would not be in the public interest. Examples of Council information that is publicly available include:

- agendas and minutes of Council meetings
- adopted plans, policies and strategies
- financial and non-financial performance reports
- complaints handling processes
- community engagement processes
- Statutory Registers

A comprehensive list of all publicly available Council information is provided in Council's Part II Statement published on the Shire's website in accordance with the *Freedom of Information Act 1982*.

Where information is not already available and not confidential, Council will facilitate direct release of the information (i.e. without needing to apply under Freedom of Information) where Council considers its release to be in the public interest.

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*. Council will adopt a strict interpretation of *confidential* within the *Local Government Act 2020* to ensure that information is not inappropriately characterised as confidential, when it should be made available to the public.

#### 4.6 Council information is understandable and accessible to members of the municipal community.

##### 4.6.1 Council makes information understandable by:

- promoting the use of legible, plain, jargon free language in written materials, publications and reports
- adhering to style guides and corporate templates that are set out to enhance understanding
- training staff in effective communication, presentation and report writing skills
- providing community engagement opportunities that facilitate discussion, clarification and explanation of Council information

#### 4.6.2 Council makes information accessible by:

- publishing information in a range of formats, including via social media platforms, on Council's website and in hard copy format and printed publications distributed across the municipality
- proactively and routinely releasing information for free or low cost
- responding to individual requests for information
- responding to applications made under the *Freedom of Information Act 1982*
- complying with the *Disability Discrimination Act 1992*
- considering accessibility and cultural requirements in accordance with the *Charter of Human Rights and Responsibilities Act 2006*
- complying with the Web Content Accessibility Guidelines 2.0
- advertising the availability of interpretation services and the National Relay Service

#### 4.7 Public awareness of Council Information is facilitated by:

- promotion on Council's website, social media platforms such as 'Have Your Say', and printed publications (e.g. Peninsula Wide)
- community engagement opportunities
- publication of Council's Part II Statement in accordance with the *Freedom of Information Act 1982*
- public notices as required by legislation

## 5.0 ASSOCIATED DOCUMENTS

- *Local Government Act 2020*
- *Local Government Act 1989*
- *Privacy and Data Protection Act 2014*
- *Freedom of Information Act 1982*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Public Records Act 1973*
- *Equal Opportunity Act 2010*
- Mornington Peninsula Shire Community Engagement Strategy [pending adoption]
- Mornington Peninsula Shire Community Engagement Policy [pending adoption]
- Mornington Peninsula Shire Privacy Policy
- Governance Rules
- Governance Framework

## 6.0 DEFINITIONS

**Confidential information** has the same meaning as defined in section 3(1) of the *Local Government Act 2020*

**Information:** For the purposes of this policy and the Public Transparency Principles, information includes documents.

**Transparency:** Organisations are transparent when they enable others to see and understand how they operate. To achieve transparency, an organisation must provide information about its activities and

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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, including personal information such as client records, and 'commercial in confidence' material such as tender submissions.

**Public Interest:** Council considers a range of factors when determining if the release of information is in the public interest. These include

- the aims of the *Freedom of Information Act 1982* (such as the scrutiny of government, inform debate, promote oversight of government spending)
- public participation in government decision-making

Council is not required to make publicly available information if its release would be contrary to the public interest, in accordance with the *Local Government Act 2020*. When considering the public interest, Council will apply the test that exists in the *Freedom of Information Act 1982*. 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, Council will only concern itself with harm to the community or members of the community. Potential harm to 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 Council from performing its functions.

Information that might be withheld because it is not in 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; and
- correspondence with members of the community, where release may inappropriately expose a person's private dealings.

## 7.0 POLICY OWNER

The Policy is endorsed and approved by the Council. The Head of Governance and Legal is the responsible person for this policy.

## 8.0 DOCUMENT CONTROLS

Council will review this policy within 12 months from the date of adoption.