



Maribyrnong
CITY COUNCIL

Public Transparency Policy

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REVISION RECORD

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Table of Contents

Introduction	3
Purpose	3
Scope	3
Definitions	3
Policy	4
1. Council's Decision Making Processes.....	4
2. Accessibility of Council Information.....	4
3. Procedural Guidelines.....	5
4. Other Ways to Access Information.....	5
5. Privacy.....	6
6. Information Not Available	6
7. Contrary to Public Interest.....	7
8. Non-Compliance with This Policy and Complaints	7
9. Availability of Council Information	8
10. Human Rights Charter	8
Roles and Responsibility	8
Key Stakeholders.....	9
Related Legislation	9
Related Documents	9
Review of Policy.....	9

Introduction

This policy has been developed under section 57 of the Local Government Act 2020 (Vic), to provide an overview on how, and the circumstances in which Council information will be made publically available and in which circumstances certain information will remain confidential and will not be made publicly available. This Policy gives effect to the Public Transparency Principles as outlined in section 58 of the Act.

Purpose

This policy is intended to formalise Council's 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; and
- d) Access to information that is current, easily accessible and disseminated in a timely manner and in accordance with existing legislative frameworks.

Scope

The Policy applies to Councillors and Council Officers of the City of Maribyrnong.

Definitions

Term	Definition
Act	means the Local Government Act 2020 (Vic) (the Act).
Closed Meetings	means a Meeting that is closed to members of the public
Confidential Information	means confidential information as defined in section 3(1) of the Act.
Consultation	means the process of seeking input on a matter.
Council	means the Maribyrnong City Council.
Councillor	means a person elected to a vacant chair of the Maribyrnong City Council at any Victorian Local Government Election, or the most recent by-election as applicable.
Council Officer	means a person employed by the Maribyrnong City Council and includes the Chief Executive Officer.
Delegated Committee	means any Delegated Committee established under section 63 of the Local Government Act 2020 (Vic).
Personal Information	means personal information as defined in section 3(1) of the Privacy and Data Protection Act 2014.

Public Transparency Principles

means the public transparency principles under section 58 of the Local Government Act 2020 (Vic).

Policy

Council is committed to the principles of public transparency and commits to making all Council information publicly available, except where the information is:

- a) 'Confidential Information' as defined under section 3(1) of the Act, unless Council has determined by resolution that the information should be made publicly available;
- b) Confidential by virtue of any other Act; or
- c) Is such that making it publicly available would be contrary to the public interest.

1. Council's Decision Making Processes

1.1. Council is committed to ensuring that all Council decisions are made transparently, in accordance with the Act and open to the community so that the community is provided with an opportunity for meaningful engagement with Council and its decision-making processes unless Confidential Information is being considered.

1.2. Decisions made by Council will:

- a) Be made in accordance with the Act and Governance Rules as they apply;
- b) Reflect the processes outlined in related Council policy in connection with the subject matter being discussed and in accordance with the practices and principles prescribed by the Act;
- c) Be made fairly and on the merits, will disregard any actual or implied biases and will be made in the best interests of the City of Maribyrnong as a whole;
- d) Be made in consultation with, and participation of, a group, or a section or subset of a group, that would be directly affected by a Council decision.

1.3. Further details of Council's decision-making process can be found in Chapter 1 of the Governance Rules.

2. Accessibility of Council Information

2.1. Council will endeavour to make available all Council information that is publicly available on its website and ensure all such information is regularly reviewed, updated, understandable and accessible.

2.2. Council will facilitate the awareness of access to Council information through its website and through community engagement opportunities.

2.3. Council will ensure all information as prescribed under Part II of the Freedom of Information Act 1982 - Publication of Certain Documents and Information, is made publicly available on its website.

- 2.4. Council will assist the community in accessing its publicly available information and will inform the community of their right to make an application under the Freedom of Information Act 1982 for information which is not considered publicly available information.
- 2.5. Council will, to the extent possible, facilitate access to Council Information by endeavouring to make Council information accessible electronically and in hard copy, where requested.
- 2.6. Council will endeavour to convert Council Information to different accessible formats where necessary for members of the Community for whom either English is their second language or their disability requires an alternative means of access to be provided.

3. Procedural Guidelines

- 3.1. Community requests for Council information not available on Council's website are to be directed to the relevant Council Officer in the first instance who will endeavour to provide as much information as possible free of charge within the parameters of this policy.
- 3.2. Community requests for Council information may be considered by Council's Freedom of Information Officer in the second instance where requests are unable to be resolved under 3.1. The Freedom of Information Officer will also endeavour to provide as much information as possible free of charge within the parameters of this policy.
- 3.3. Assess whether the Council Information requested is Confidential Information, or its release would be contrary to the public interest
- 3.4. If, under clause 3.3, the Council Information requested is assessed as being Confidential Information, or its release is assessed as being contrary to the public interest, the Requestor will be advised:
 - 3.4.1. that the request has been denied;
 - 3.4.2. of the reasons for the request being denied;
 - 3.4.3. of alternative mechanisms by which they may seek access to the Council Information (eg by making a request made under the Freedom of Information Act 1982).
- 3.5. Community requests for information that include exempt information under the Freedom of Information Act 1982 will be processed by application under that Act.

4. Other Ways to Access Information

- 4.1. The Freedom of Information Act 1982 provides the right of access to documents that Council holds. 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.

- 4.2. A list of available information is provided in the Part II Statement (the 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.
- 4.3. Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to Council. These documents can be downloaded from the website or by contacting Council for a copy. Some of these publications are available at Council's community facilities.

5. Privacy

- 5.1. Council follows the Privacy and Data Protection Act 2014 and its Privacy Policy when releasing any documentation or information. No personal information will be released where prior consent has not been obtained and personal information shall not be used in circumstances where prior consent has not been obtained.
- 5.2. Council ensures that all Council Reports that are considered by Council comply with the Human Rights Charter and that the private information of all persons concerned with Council are protected.

6. Information Not Available

- 6.1. 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.
- 6.2. Confidential Information

"Confidential information" as defined by section 3 of the Local Government Act 2020 (Vic) includes the types of information listed below:

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
Confidential information under the 1989 Act	Information that was confidential information for the purposes of section 77 of the Local Government Act 1989

6.3. 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 occur 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. Contrary to Public Interest

7.1. Council Information will not be made publicly available if doing so would be contrary to the public interest.

7.2. Factors that may determine whether Council information that is to be made publically available would be contrary to the public interest include but is not limited to:

- a) Disclosure would prejudice or otherwise affect the conduct of investigations, audits or reviews by Council or integrity bodies.
- b) Disclosure would impair or impact contractual or other negotiations or would impair or impact legal proceedings.
- c) Information is in a draft or no longer current.
- d) The sensitivity of the information.
- e) Any adverse effect that releasing the information would have on the effectiveness of Council's decision-making processes.
- f) Disclosure of information or opinions of a preliminary nature such that they might either mislead the Community with respect to Council's position on a matter or have a substantial adverse effect on the economy of the municipality.
- g) Whether the information would impair or otherwise impact on Council's ability to obtain information in future that is similar in nature to the Council Information.
- h) The impact on the reasonable allocation of Council's resources, including in responding to requests for Council Information that are assessed as being frivolous, vexatious or repetitious in nature.

8. Non-Compliance with This Policy and Complaints

- 8.1. 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. Where a member of the community is still not satisfied and would like to seek review of the decision, this can be reported to the Coordinator Governance (governance@maribyrnong.vic.gov.au).
- 8.2. 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 Ombudsman's website – www.ombudsman.vic.gov.au.

9. Availability of Council Information

- 9.1. This Policy applies to all Council Information, except Council Information which is made available, or is otherwise accessible, under another Act (other than an Act which refers to this Policy).
- 9.2. This Policy does not apply to Council Information which is:
- required to be made available under the Planning and Environment Act 1987
 - required to be made available under the Building Act 1993
 - otherwise required to be made available on payment of a fee or charge.

10. 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.

Roles and Responsibility

Type	Description
Councillors	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.
Executive Management Team	Champion behaviours across the organisation and in a manner that upholds Council's reputation that fosters transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.
Managers, Coordinators and Team Leaders	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy. Take responsibility for responding to requests for information within the scope of 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 and Commercial Services	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.
Coordinator Governance	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.

Key Stakeholders

This policy has been developed by Council's Governance team in consultation with Local Government Victoria and other local government personal.

Related Legislation

Charter of Human Rights and Responsibilities Act 2006
 Equal Opportunity Act 2010
 Freedom of Information Act (Vic)
 Local Government Act 2020 (Vic)
 Local Government Act 1989 (Vic)
 Privacy and Data Protection Act 2014 (Vic)
 Public Records Act 1973

Related Documents

Community Engagement Policy
 Communications Policy
 Governance Rules
 Part II Statement made under the Freedom of Information Act
 Privacy Policy
 Records Management Policy

Review of Policy

This Policy will be reviewed every four years or whenever Council determines that a need for review has arisen.