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**POLICY TITLE PUBLIC TRANSPARENCY POLICY**

**POLICY NUMBER CPOL/GOV023**

## 1. PURPOSE

This Policy supports Swan Hill Rural City Council (Council) to provide good governance and accountability. It specifies 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* (Section 58 of the Act).

## 2. OBJECTIVES

The objective of Council's Public Transparency Policy is to formalise support for transparency in decision-making processes and public awareness of the availability of Council information. 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;
- d) Improvement of 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 is an integral part of Council's Good Governance Framework.

## 3. SCOPE

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

## 4. DEFINITIONS

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

**Municipal Community:** Includes –

- (a) People who live in the municipal district; and
- (b) People and bodies who are ratepayers of the Council; and
- (c) Traditional owners of land in the municipal district of the Council; and
- (d) People and bodies who conduct activities in the municipal district of the Council.

**Consultation:** The process of seeking input on a matter.

**Closed Meetings:** When Council resolves to close the meeting to the general public, in order to consider confidential information.

**Confidential Information:** Means the following information that is not publicly available—

- Council business information** - Information that would prejudice the Council's position in commercial negotiations if prematurely released;
- Security information** - Information that if released is likely to endanger the security of Council property or the safety of any person;
- Land use planning information** - Information that if prematurely released is likely to encourage speculation in land values;
- Law enforcement information** - Information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;
- Legal privileged information** - Information to which legal professional privilege or client legal privilege applies;
- Personal information**, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- 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 *Local Government Act 1989*

**Transparency:** A lack of hidden agendas or conditions, and the availability of all information needed in order to collaborate, cooperate and make decisions effectively. Importantly, “transparency” is also human rights issue: the right to have the opportunity, without discrimination, to participate in public affairs (s.58 of the Act).

## 5. RESPONSIBILITIES

All Councillors and staff have responsibilities to promote and facilitate access to Council information in accordance with the public transparency policy.

<b>Council</b>	Champion the commitment and principles for public transparency through leadership, practice and decision-making.
<b>Executive Leadership Team</b>	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this Policy.
<b>Leadership Team</b>	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this Policy.
<b>All Staff</b>	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.
<b>Organisational Development Manager</b>	To monitor implementation of this Policy and conduct periodic reviews to drive continuous improvement.

## 6. POLICY

### 6.1. What Will Council Be Transparent With

#### 6.1.1. Decision Making at Council

- Will be undertaken in accordance with the Act and the Governance Rules.
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- Will be made fairly and on the merits, and where any person whose rights will be directly affected by a decision of the Council will be entitled to communicate their views and have their interests considered.

### **6.1.2. Council Information**

Council will provide information in accordance with the Act. A comprehensive list of information is available including all policies, plans, reports which can be found in the Part II Statement in accordance with 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 is published annually each January.

### **6.2. Access to information**

Council Information will be made available to the public, unless either the:

- Council Information is Confidential Information; or
- Release of the Council Information is assessed by the Chief Executive Officer as being contrary to the public interest.

Consideration will be given to accessibility and cultural requirements.

Council will assist people whose first language is not English, where possible, to access interpreter services to enable them to understand Council documents.

Council will respond to requests for information in alignment with the Act including the Public Transparency Principles, and this Policy.

A list of the categories of Council Information which will generally, subject to this Policy, be made available either on the Council Website, at the Council Offices or on request, is set out at Appendix 1 to this Policy.

#### **6.2.1. Freedom of information (FOI) applications**

Council will comply with the requirements of the Freedom of Information Act 1982. Council will assist people to access information without the need for a Freedom of Information request where possible. Further information can be found in the Freedom of Information section of Council's website.

### **6.3. 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* or *Health Records Act 2001*.

#### **6.3.1. Public interest test**

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

When assessing whether making certain Council Information publicly available would be contrary to the public interest, the Chief Executive Officer will have regard to, amongst other things:

- The sensitivity of the Council Information;
- Whether the Council Information comprises a draft, or otherwise is no longer current;
- Any adverse effect that releasing the Council Information would have on the effectiveness of Council's decision-making processes.

Without limiting the above, factors that might lead to a decision that the release of Council Information is contrary to the public interest might include whether release would be likely to:

- Disclose Personal Information or Health Information of an individual other than the Requestor;
- Disclose information or opinions of a preliminary nature such that they might either;
  - Mislead the Community with respect to Council's position on a matter;
  - Have a substantial adverse effect on the economy of the Municipal District;
- Prejudice discussions or negotiations between Council and any other party, in relation to a contract, legal proceedings or any other matter;
- Impair or otherwise impact on;
  - Council's ability to obtain information in future that is similar in nature to the Council Information;
  - Negotiations with respect to employment arrangements for Officers;
  - Defence, prosecution and settlement of legal proceedings;
- Impact on the reasonable allocation of Council's resources, including in responding to requests for Council Information that are assessed by the Chief Executive Officer as being frivolous, vexatious or repetitious in nature.

#### **6.4. Human Rights Charter**

This Policy has been reviewed against and complies with section 13 of the *Charter of Human Rights and Responsibilities Act 2006*.

#### **6.5. Non-Compliance With This Policy**

If a member of the community questions 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, this can be reported to the Chief Executive Officer.

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).

## 6.6. Monitoring, Evaluation and Review

Council will monitor processes, information requests and decision making to understand the overall level of success in the Policy's implementation. A summarised report will be presented at the Audit and Risk Committee meetings.

This Policy will be reviewed every four years or more frequently if relevant legislation changes.

## 7. RELATED POLICIES/PROCEDURES/DOCUMENTS

POL/GOV022 Governance Rules  
Public Transparency Principles  
Governance Framework  
POL/GOV002 Community Engagement Policy  
POL/CORP211 Privacy Policy  
POL/CORP207 Freedom of Information

## 8. RELATED LEGISLATION

Charter of Human Rights and Responsibilities Act 2006  
Freedom of Information Act 1982  
Local Government Act 1989  
Local Government Act 2020  
Privacy and Data Protection Act 2014  
Health Records Act 2001  
Equal Opportunity Act 2010

## 9. DOCUMENT HISTORY

Version Number	Issue Date	Description of Change
1.0	August 2020	Initial Release
1.1	February 2022	Review

Signed: Jade Benham

**MAYOR**

Date: 16/02/2022

## Appendix 1

For the purposes of Clause 6.2 of this Policy, the following Council Information will generally, and subject to this Policy, be made available either on the Council Website, on request by a member of the Community or by public inspection at the Council Office.

### Documents such as:

- Plans and Reports adopted by Council
- Council Policies
- Project and Service Plans
- Service Agreements, Contracts, Leases and Licences
- Relevant technical reports and/or research that informs Council's decision making

### 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

### The following Council Information will be available on Council's website:

- Meeting Agendas and Reports to Council and Delegated Committees
- Minutes of Council meetings and meetings of Delegated Committees
- Audit and Risk Committee Charter
- Terms of Reference for Delegated Committees and Advisory Committees
- Submissions received under section 223 of the *Local Government Act 1989*
- Gift Registers for Councillors
- Travel Registers for Councillors and Council Staff
- Registers of Conflicts of Interest disclosed in open session by Councillors
- Registers of Leases entered into by Council
- Register of Delegations
- Register of Donations and Grants
- Register of Election Campaign Donations
- Summary of Personal Interest Returns
- Any other Public Registers or Records required by the Act or any other Act

### The following Council Information will be available by public inspection at the Council Office

- Register of Authorised Officers
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