

Public Transparency

COUNCIL POLICY NO. 141

1. POLICY PURPOSE

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.

2. OBJECTIVE

To give effect to the public transparency principles set out in the Act and promote:

- a) greater clarity in Council's decision making processes;
- b) increased confidence and trust in the community through greater understanding and awareness;
- c) access to information that is easily accessible and disseminated in a timely manner;
- d) reassurance to the community that Council is spending public monies wisely.

3. SCOPE

This policy applies to Gannawarra Shire Councillors and Council staff.

4. DEFINITIONS

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

Closed meetings	Under section 66 of the Act, Council may determine that a meeting is to be closed to the public to consider confidential information. A meeting may therefore be closed to the public if Council resolves to close the meeting, in order to consider a confidential matter regarding issues of a legal, contractual or personnel nature and other issues not deemed in the public interest.
Municipal Community	Defined under section 3 of the Act to include people who live in the municipal district of the Council; people and bodies who are ratepayers of the Council; traditional owners of land in the municipal district of the Council; and people and bodies who conduct activities in the municipal district of the Council.
Public Participation	Encompasses a range of public involvement and can include, but is not limited to, simply informing people about what Council is doing, delegating decisions to public groups, consulting with members of the community about their views on certain issues, community activities and projects addressing the common good, membership on Council reference groups or committees or volunteering activities.
Transparency	Transparency occurs when there is a lack of hidden agendas or conditions and all the information needed in order to collaborate, cooperate and make decisions effectively is available. Importantly, transparency is also a human right under the <i>Charter of Human Rights and Responsibilities Act 2006</i> , namely 'the right to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.

Public Interest test

Council is not required to make information publicly available if the release would be contrary to the public interest, in accordance with the Act. When considering public interest, Council will apply the test that exists in the *Freedom of Information Act 1982*. Information may not be released if Council 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 contrary to the public interest may include:

- Internal working documents that have not been approved or submitted to Council, particularly where their release may mislead the public;
- Directions to Council staff regarding negotiations in contractual or civil liability matters, where release may damage Council's capacity to negotiate the best outcome for the community;
- Correspondence with members of the community, where release may inappropriately expose a person's private dealings.

5. POLICY

TRANSPARENCY

Principles for Transparency

Council commits to the following principles for Public Transparency as detailed with the Act:

- (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.

What will Council be transparent with?

Decision making at Council meetings:

- Will be informed through community engagement, in accordance with the Community Engagement Principles and Council Policy No. 143 - Community Engagement.
- Will be undertaken in accordance with the Act and Council's Governance Rules.
- Will be conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules.
- Will be made fairly and on the merits of the issue at hand. 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.

Council Information

Council delivers a range of services to residents, business and visitors to the municipality and our services and functions are documented. Council will publish information about Council services and administration activities on Council's website or will make it available upon request:

Documents such as:

- Plans and reports adopted by Council;
- Council Policies;
- Project and service plans;
- Grant applications, tenders and tender evaluation material;
- 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.

Process information such as:

- Practice notes and operating procedures developed by Council
- Application processes for approvals, permits, grants, access to Council services;
- Decision making processes;
- Guidelines and manuals;
- Community engagement processes;
- Complaints handling processes.

Council records will, at a minimum, be available on Council's website:

- Council and Delegated Committee meeting agendas and minutes;
- Reporting from Community Asset Committees to Council (via Council Minutes);
- Audit and Risk Committee Performance Reporting (via Council Minutes);
- Details of Delegated and Community Asset Committees;
- Registers of gifts, benefits and hospitality offered to Councillors and Council staff;
- Registers of overseas and interstate travel undertaken by Councillors or Council staff;
- Registers of Conflicts of Interest disclosed by Councillors and Council staff;
- Submissions made by Council to State or Federal processes;
- Registers of donations and grants made by Council;
- Registers of leases entered into by Council, as lessor and lessee;
- Register of Delegations;
- Register of Authorised Officers;
- Summary of Election Campaign Donation Returns;
- Summary of Personal Interest Returns;
- Any other Registers or Records required by legislation or determined to be in the public interest.

Council will make a number of **records available for inspection**, including but not limited to:

- Summary of submissions received under Section 223 of the *Local Government Act 1989* until its repeal.

Publications

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to Council. These can be downloaded from www.gsc.vic.gov.au or by calling Council on 03 5450 9333 for a copy. Some of these publications are also available at Council's libraries and the Gateway to Gannawarra visitor centre.

ACCESS TO INFORMATION

Information will be made available:

- On Council's website, Council offices or by request.
- In accordance with the Part II statement made under the Freedom of Information Act.

Members of the public can make different kinds of information requests to Council (eg informal requests for documents and information or formal Freedom of Information requests).

Consideration will be given to accessibility and cultural requirements.

Council will respond to requests for information in accordance with the Act including the Public Transparency Principles and this policy.

Freedom of Information applications

The Freedom of Information Act gives members of the public the right to access documents that Council holds. If you can't find the document you require on our website, call us before you make an FOI application as we may be able to make it available as part of an informal release process.

Information not available

Some Council information may not be made publicly available. This will only occur if the information is confidential information or 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 Act. 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 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.

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 or if releasing the information is likely to cause harm to any person or it is not in the public interest to do so.

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.

Responsibilities

It is the responsibility of every Councillor and Council officer to promote and facilitate access to Council information in accordance with this policy and the Public Transparency Principles outlined in the Act. The following table outlines the roles and responsibilities of Councillors and Council staff.

Party/parties	Roles and responsibilities
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.
Management Team	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 this policy.
Manager Governance/Governance and Compliance Coordinator	Monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.

6. 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 Manager Governance.

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.

6. 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.

7. RELATED POLICIES AND LEGISLATION

Council policies:

- Governance Rules
- Public Transparency Principles
- Policy No. 143 - Community Engagement
- Policy No. 074 – Information Privacy and Health Records

Legislation:

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

8. POLICY REVIEW

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. In any event, the policy must be reviewed within twelve months after a general election of the Council.

This policy has been developed and reviewed against, and complies with section 13 of the *Victorian Charter of Human Rights and Responsibilities Act 2006*. The policy recognises a person's right to participate in the conduct of public affairs and takes into consideration an individual's right not to have their privacy unlawfully or arbitrarily interfered with.

9. FURTHER INFORMATION

Members of the public may inspect all policies at Gannawarra Shire Council's Kerang and Cohuna office or online at www.gannawarra.vic.gov.au.

Any enquiries in relation to this policy should be directed to the Chief Executive Officer on (03) 5450 9333.

ECM Folder: 3.000518

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To be reviewed by 24/10/2025