




Policy Title:	Public Transparency Policy		
Date of Adoption:	26 August 2020		
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CEO Signature:			Date: 28 August 2020
Responsible Officer and Unit:	Manager Legal and Corporate Governance		
Nominated Review Period:	<input type="checkbox"/> Annually <input checked="" type="checkbox"/> Other: Once every Council term		
Last Review Date:	Not applicable		
Next Review Date:	To be completed prior to 26 October 2024		
Purpose/Objective:	To promote openness and transparency in Council decision-making processes and to provide guidance on access to Council information (also refer clauses of 2 and 3.)		
Background/Reasons for Policy:	Section 57 of the <i>Local Government Act 2020</i> (Vic) ('Act') requires Council to adopt and maintain a public transparency policy.		
Definitions:	Refer Schedule 1		
Related Policies:	Governance Rules Part II Statement Community Engagement Policy Councillor Code of Conduct Code of Conduct for Members of Council staff Complaints Handling Policy Live Streaming and Publishing Recordings of Meetings Policy Privacy Policy Procurement Policy		
Related Legislation:	<i>Local Government Act 2020</i> (Vic) <i>Freedom of Information Act 1982</i> (Vic) <i>Privacy and Data Protection Act 2014</i> (Vic) <i>Health Records Act 2001</i> (Vic) <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic) <i>Equal Opportunity Act 2010</i> (Vic) <i>Public Records Act 1973</i> (Vic) <i>Privacy Act 1988</i> (Cth) <i>Copyright Act 1968</i> (Cth) Other relevant legislative instruments		

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PART 1 – PRELIMINARY

1. LEGISLATIVE REQUIREMENT

- 1.1 Section 57 of the *Local Government Act 2020* (Vic) ('Act') requires a Council to adopt and maintain a public transparency policy.
- 1.2 A public transparency policy must:
- a) give effect to the public transparency principles outlined in section 58 of the *Local Government Act 2020*; and
 - b) describe the ways in which Council information is to be made publicly available; and
 - c) specify which Council information must be publicly available.

2. PURPOSE

- 2.1 The purposes of this Public Transparency Policy ('Policy') are to:
- a) provide guidance to the community about how Council is delivering and promoting the public transparency principles by being open and transparent in its decision-making processes and access to information; and
 - b) outline Council's commitment to be more engaging and accountable to the community it serves.

3. OBJECTIVES

The objectives of the Policy are to:

- 3.1 give the public access to information held by Council, other than exempt information;
- 3.2 facilitate public awareness of the availability of Council information;
- 3.3 ensure achievement of high standards of integrity, transparency and accountability in Council's decisions and actions;
- 3.4 lead, promote and advocate public participation and consultation in Council's decision- making processes;
- 3.5 ensure that Council resources are used efficiently and effectively for the benefit and wellbeing of its community;
- 3.6 achieve compliance with relevant legislative requirements and this Policy; and
- 3.7 lead and support a culture of continuous improvement in the way that Council increases openness and transparency with the community and the public at large.

4. SCOPE

- 4.1 This Policy applies to all Councillors and Council staff members, and they will be accountable for compliance with all relevant legislative requirements and requirements of this Policy.

5. POLICY STATEMENT

Council is responsible for governing Macedon Ranges Shire. Openness and transparency are essential elements of good governance and at the heart of Council's commitment to its community to be responsive to community needs and enable the community to hold Council to account.

This Policy provides a statement of Council's commitment to deliver one of the overarching governance principles where transparency of Council decisions, actions and information is to be ensured in line with the *Local Government Act 2020*.

PART 2 – PUBLIC TRANSPARENCY PRINCIPLES

6. POLICY REQUIREMENTS

- 6.1 Council is committed to comply with the following four public transparency principles outlined in section 58 of the Act, which provide a framework that Council will own and drive to achieve transparency:

Principle 1: Decision making processes must be transparent;

Principle 2: Information must be publicly available;

Principle 3: Information must be understandable and accessible to members of the community; and

Principle 4: Public awareness of the availability of Council information must be facilitated.

- 6.2 Council will be open, transparent and accountable in its decision making processes under Principle 1 and in providing access to information under Principle 2 except where Council is dealing with information that is confidential, or disclosure of information would be contrary to the public interest under section 58 (a) and (b) of the Act.

7. PRINCIPLE 1 – DECISION MAKING PROCESSES MUST BE TRANSPARENT

7.1 Council acknowledges that raising awareness of how and why decisions are made delivers better outcomes that are more likely to be understood and supported by the community. Having both an understanding of, and opportunity to participate in, Council’s decision-making processes will increase community trust and confidence in the Council.

7.2 Therefore, Council’s decision-making processes will:

- a) be compliant with the law and Council policies that are relevant to a matter;
- b) specify the delegation that a decision maker is empowered to follow;
- c) be debated and made in a meeting open to the public unless it is closed to the public in accordance with the Act and Governance Rules;
- d) be made fairly and on the merits, and ensure that any person whose rights will be directly affected by a decision is entitled to communicate their views and have their interest considered;
- e) give priority to achieve the best outcome for the community, including future generations;
- f) be responsive to community needs and be engaged with the community in the strategic planning and decisions in accordance with Council’s community engagement policy and its principles;
- g) promote collaboration and drive economic, social and environmental sustainability, ongoing financial viability, and positive cultural changes, for the community;
- h) pursue innovation and continuous improvement, where appropriate and relevant;
- i) be robust, inclusive, respectful and clear; and
- j) be based on qualified advice from Council staff members and/or external advisers where required.

8. PRINCIPLE 2 – INFORMATION MUST BE PUBLICLY AVAILABLE

8.1 *Information to be made publicly available*

In undertaking its functions and responsibilities Council creates numerous records and documents and receives extensive information and documents from external parties, including members of the community.

Schedule 2 of this Policy provides a non-exhaustive list of documents which must be available to the public.

8.2 *Information that will not be publicly available*

As noted in clause 6 of the Policy, Council decision-making processes must be transparent except when the Council is dealing with information that is confidential under the *Local Government Act 2020* or any other Act.

8.3 Information held and managed by Council is available to the public except where:

- a) the information is confidential as defined under the *Local Government Act 2020* or any other Act; or
- b) public availability of the information would be contrary to the public interest. (see Schedule 1 – Definition of Public Interest)

Table 1 below provides types of information defined as confidential under section 3(1) of the *Local Government Act 2020*.

Type of Information	Description
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	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 if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

Confidential meeting information	Records of a Council or delegated committee meeting closed to the public to consider confidential information (Section 66(2)(a)).
Internal arbitration information	Information provided to an arbiter or produced by an arbiter for the purpose of an internal arbitration process, other than the findings and reasons, is confidential information about an alleged breach of the Councillors Code of Conduct (Section 145).
Councillor Conduct Panel confidential information	Confidential information relating to a Councillor Conduct Panel matter specified in section 169.
Confidential Information	Information that was confidential information for the purposes of section 77 of the <i>Local Government Act 1989</i>

9. **PRINCIPLE 3 – INFORMATION MUST BE UNDERSTANDABLE AND ACCESSIBLE TO THE MEMBERS OF THE COMMUNITY**

9.1 Council is committed to providing a variety of ways for the community to access timely, accurate and relevant information. Therefore, Council information will be:

- a) accessible to, and presented in a form that is understandable by, the members of the community and the public at large;
- b) up to date, relevant, objective, accurate, reliable, complete and provided in a timely manner that will provide the community with the opportunity to participate and provide informed input;
- c) provided in formats that reduce costs to individuals as far as is practicable; and
- d) provided using a wide range of tools including Council's website, social media, email and print media.

10. PRINCIPLE 4 – PUBLIC AWARENESS OF THE AVAILABILITY OF COUNCIL INFORMATION MUST BE FACILITATED

10.1 *Where the public can get information*

Members of the public have the right to access information in the following ways unless the information is confidential or disclosure is contrary to the public interest.

10.2 **Council's Website**

Council's website is the central reference point where the public can access information about Council's policies, agendas, reports, strategies, plans and a range of other information. These are available on the Council's website at www.mrsc.vic.gov.au.

10.3 **Social and Printed Media**

Council uses social media such as Facebook, Twitter, YouTube, Instagram and LinkedIn, as well as printed media such as newspapers and community newsletters to reach a wide audience in order to:

- create awareness of, and promote, the availability of Council information, services, decisions, activities and events;
- connect and engage directly with members of the community by responding to their enquires in real time and receive their feedback;
- promote community participation in Council's decisions, activities and events that affect the members of the community and other interested parties; and
- inform the public about latest news, including public notices and consultations.

10.4 **Customer Service Centres, Noticeboards and Libraries**

Council also makes a range of printed information available for inspection via its customer services centres, community noticeboards and libraries.

10.5 **Informal Requests**

Members of the public can also make informal requests to access information, including documents, if they are having difficulty downloading or finding them or do not have access to the internet. Officers will aim to provide access to information in preferred formats (including via email or hard copy) as far as is practicable.¹

Informal requests can be made as follows:

Council Office: 129 Mollison Street, Kyneton, Victoria 3444

Telephone: 5422 0333

Email: mrsc@mrsc.vic.gov.au

¹ Noting photocopying charges may apply for the provision of documents in hard copy.

10.6 Formal Requests

Council must comply with the requirements of the *Freedom of Information Act 1982* (Vic) and the *Privacy and Data Protection Act 2014* (Vic) ('PDPA').

Freedom of Information Act 1982 (Vic) ('FOI Act')

- a) Under the FOI Act members of the public have a right to access information about the operations of Council and a general right of access to documents held and managed by Council, except those which are exempt.
- b) For a list of available information and documents under Part II of the FOI Act and how to make an FOI application visit Council's website.

Privacy and Data Protection Act 2014 (Vic) ('PDP Act')

- c) Under the PDP Act Council has obligations about how it collects, stores, uses and accesses personal information that a person provides to Council.
 - d) Council's Privacy Policy provides clear information about how Council manages personal information, about the privacy principles that regulate the management of personal information and how a person can make a request for amendment or correction of their personal information.
 - e) Information about the Privacy Policy including how to make a request for access to, and request for correction or amendment of, personal information is available on Council's website.
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PART 3 – GENERAL INFORMATION

11. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

11.1 This Policy is consistent with the *Charter of Human Rights and Responsibilities Act 2006* (Vic) ('Charter').

11.2 In line with the Charter, Council is committed to promote a culture where every person's human rights are protected in the delivery of services, decision making processes and in providing access to information.

12. MONITORING, REVIEW AND EVALUATION, AND REPORTING

12.1 Council will comply with this Policy by:

Monitoring

- implementing and reinforcing the requirements of the Policy;

Review and Evaluation

- identifying any areas of non-compliance and addressing them as soon as possible;
- identifying the areas for continuous improvement to ensure openness, transparency and accountability to excel in governance;

Reporting

- reporting to Council, via the Audit and Risk Committee in line with the Audit and Risk Committee Charter, on any non-compliance with the Policy requirements;
- reporting on areas for continuous improvement and how they are implemented; and
- reporting on non-compliant areas and how they will be addressed, including ensuring non-recurrence where possible.

13. ROLES AND RESPONSIBILITIES

13.1 Councillors and all Council staff members are responsible for the implementation of, and compliance with, the requirements of this Policy at all times.

Roles	Responsibilities
Councillors	<ul style="list-style-type: none">• Lead and be a role model to excel in the transparency of, and accountability for, their decisions, actions and performance• Ensure information that is provided to them directly by external parties is passed onto the organisation for appropriate action in accordance with this policy and any legislative obligations• Approve the Policy• Comply with the Policy• Oversee the implementation and compliance with the Policy
Executive	<ul style="list-style-type: none">• Lead and support a culture of transparency and accountability• Implement and comply with the requirements of the Policy• Report to Council and Audit and Risk Committee about compliance and areas for continuous improvement
Manager, Legal and Corporate Governance	<ul style="list-style-type: none">• Monitor implementation, compliance, review, consultation and update• Provide advice, support, and training, where applicable, to Councillors and Council staff members about the implementation and compliance with the Policy• Ensure relevant procedures and processes are in place to support the implementation and compliance with the Policy• Undertake appropriate consultation with Councillors, Council staff members and the public, where applicable, during the review, and before approval, of the Policy• Ensure the currency and availability of the Policy to the public, Councillors and Council staff members• Report to the Executive on implementation, compliance, consultation and update of the Policy
All Staff	<ul style="list-style-type: none">• Implement and comply with the requirements of the Policy in consultation with their supervisors and Governance Team• Provide feedback to Governance Team for continuous improvement

14. FEEDBACK ABOUT POLICY

- 14.1 You may provide feedback about this Policy by emailing Council's Governance Team at mrsc@mrsc.vic.gov.au

15. NON-COMPLIANCE WITH POLICY

- 15.1 Council is committed to continuous improvement to maintain high standards of transparency and accountability at all times.
- 15.2 If a member of the public is of the view that Council is not complying with the requirements of this Policy, they should refer any concerns to the Governance team via mrsc@mrsc.vic.gov.au.
- 15.3 Upon receipt, the matter will be considered by Council's nominated officer and a written response will be provided within a reasonable timeframe.
- 15.4 Any complaint about non-compliance with the policy will be dealt with in accordance with Council's Complaints-Handling Policy.
- 15.5 If a complainant is not satisfied with Council's response, the matter can be raised directly with the Victorian Ombudsman by visiting their website at <https://www.ombudsman.vic.gov.au/> or by calling them on (03) 9613 6222 or 1800 806 314 (regional only).

SCHEDULE 1 – DEFINITIONS

Schedule 1 is to be read as part of this Policy.

In this Policy:

1. **Accountability** means when Council is demonstrating that it is working to clear objectives in a transparent manner, accepting responsibility for their decisions and actions, seeking to achieve best use of resources and submitting themselves to appropriate scrutiny.²
2. **Act** means the *Local Government Act 2020* (Vic).
3. **Community**³ means
 - a) people who live in the municipal district of the Council; 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.
4. **Confidential Information** means the information that is specified in clause 8 of this Policy in compliance with section 3(1) of the *Local Government Act 2020* or any other Act.
5. **Council** means Macedon Ranges Shire Council.
6. **Councillor** means a person who holds the office of member of a Council.
7. **Policy** means this Public Transparency Policy and the principles which are outlined herein.
8. **Public** means people who live, work and visit the Macedon Ranges Shire.
9. **Public Interest Test**⁴ - 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.
10. **Transparency** means unrestricted access to timely and reliable information on decisions, actions and performance⁵ of Council, subject only to confidential information, or information contrary to the public interest.

² Based on section 7(1)(d) of the *Public Administration Act 2004* (Vic)

³ Section 3(1) of the *Local Government Act 2020* (Vic)

⁴ Draft Public Transparency Policy issued by Local Government of Victoria (Version 2, dated 5 June 2020)

⁵ Based on 'A Transparent and Accountable Judiciary to Deliver *Justice for All*' United Nations Development Programme, published in 2016

SCHEDULE 2 – LIST OF COUNCIL INFORMATION

Schedule 2 is to be read as part of this Policy.

As noted above in clause 8.1, Council information to be made available includes but is not limited to⁶:

Documents such as:

- Plans, Strategies and Reports adopted by Council;
- Policies;
- Local Laws;
- Council Budget;
- Project and service plans;
- Grant application, tenders and tender evaluation material;
- Service agreements, contracts, memorandum of agreement or understanding, leases and licences;
- Council leases, permits and notices of building and occupancy; and
- Relevant technical reports and / or research that inform decision making.

Process information such as:

- Practice notes and operating procedures;
- Notes of meetings;
- Application processes for approvals, permits, grants, access to Council services;
- Cat and dog registration application and registrations
- Decision making processes;
- Guidelines and manuals;
- Community engagement processes and outcomes, and
- Complaints handling processes.

Council records which will, at a minimum, be made publicly available:

- Council meeting agendas;
- Reporting to Council;
- Minutes of Council meetings;
- Reporting from Advisory Committees to Council through reporting to Council;
- Audit and Risk Committee Performance Reporting, through reporting to Council;
- Terms of reference or charters for Advisory Committees;
- Newsletters;

⁶ Based on the 'Draft Public Transparency Policy' issued by Local Government of Victoria (Version 2, dated 5 June 2020)

- Media releases and public notices;
- Registers of gifts, benefits and hospitality offered to Councillors or Council Staff;
- Registers of travel undertaken by Councillors or Council Staff;
- Registers of Conflicts of Interest disclosed by Councillors or Council Staff;
- Submissions made by Council;
- 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;
- Register of Contracts;
- Register of Election campaign donations;
- Summary of Personal Interests;
- Any other Registers or Records required by legislation or determined to be in the public interest.

Consistent with the Part II Statement, Council will make available the following records for inspection. Examples include but are not limited to:

- Summary of Personal Interests ('Register of interests' until 24 October 2020); and
- Submissions received under section 223 of the *Local Government Act 1989* until its repealed or received through a community engagement process undertaken by Council.

NOTE: For more details about the available information including documents under Part II Statement of the FOI Act visit Council's website at www.mrsc.vic.gov.au