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# **PUBLIC TRANSPARENCY POLICY 2020**

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This policy, which incorporates the statutory requirements prescribed for a Public Transparency policy in accordance with Clause 57 and 58 of the *Local Government Act 2020*, was adopted by resolution of Darebin City Council on 29 June 2020.

<b>Version</b>	<b>Date Adopted by Council</b>	<b>Amendment</b>
1.0	Presented to Council Meeting on 29 June 2020	Version updated from 15 June Briefing 2020

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## COMMITMENT

Council is committed to being accountable to the community through transparency of our information, service data, performance and decision making.

Council will empower the community through easy access to information and community engagement to inform decision making and strengthen good governance.

This policy also recognises the importance of open and accountable conduct.

### 1. INTRODUCTION

Transparency enables the community to hold Council to account. Council also seeks to be transparent with its decisions, actions and information in order to:-

- demonstrate good governance;
- improve performance;
- reassure the community that Council is spending public monies wisely; and
- increase the confidence and trust of the community.

Council is committed to embedding the principles of good governance, including public transparency, throughout its decision making, corporate governance and democratic governance. It demonstrates this commitment through high quality processes to ensure people have access to information that informs its decision making processes.

The Public Transparency Policy will ensure that Council provides stakeholders across Darebin with access to information and the opportunity to participate in public life and inform decision making, consistent with Section 18 of the Victorian Charter of Human Rights and Responsibilities.<sup>1</sup>

The work of Council will be conducted with transparency. Information is made readily and proactively available to the community and stakeholders, with specific exceptions clearly articulated.

Council will strive to strike an appropriate balance between the need to ensure transparency and the need to preserve the integrity of its own deliberative processes, whilst protecting the confidentiality of certain information.

This Public Transparency Policy (Policy) outlines what Council will do to maximise transparency in Council decision making, access to and availability of information and commits Council to key principles in how it will achieve this to deliver on its commitment to public transparency.

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<sup>1</sup> **Section 18** - Taking part in public life

(1) Every person in **Victoria** has the **right, and** is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.

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This policy also seeks to promote the Public Transparency Principles as set out in section 58 of the Act, namely:-

- 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.

## 2. CONTEXT

There are various ways in which Council works to ensure that residents are informed about key areas of Council's business. These include the quarterly reporting of financial performance data, capital works and project delivery updates and progress on actions in the Council Plan.

### 2.1. ORGANISATIONAL CONTEXT

- Community Engagement Policy
- Freedom of Information Part II Statement
- Governance Rules
- Information Privacy Policy
- Health Privacy Policy
- Records Management Policy

### 2.2. LEGISLATIVE CONTEXT

**Local Government Act 2020** – transparency, integrity and accountability are central principles and requirements that underpin local government democracy, accountability, conduct and enable the community to hold Council to account.

**Local Government Act 1989** –some provisions continue to apply through the staged implementation of the Local Government Act 2020.

**Equal Opportunity Act 2010** - providers of services have a duty to take reasonable and proportionate steps to eliminate discrimination as far as possible; must not discriminate when they deliver services; and must make reasonable adjustments for people with disabilities so that they can participate or access a service, including when providing information.

**Victorian Charter of Human Rights and Responsibilities Act 2006** –Council is required to ensure the consideration of relevant human rights in making decisions. Section 13 protects an individual's right not to have their privacy unlawfully or arbitrarily interfered with and Section 18 recognises a person's right to participate in the conduct of public affairs. Actions that are incompatible with human rights are illegal.

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### 3. SCOPE

This policy covers:-

- Documentary information,
- Process information including the basis upon which decisions are made; and
- How information will be made available to the public.

This policy applies to Councillors, Council staff and other personnel (including contractors) of the Council.

### 4. OBJECTIVES

To:-

- Articulate Council's understanding of public transparency and commit to the public transparency principles that will guide its approach.
- Ensure availability of information that informs decision making by Council to the community to foster openness, transparency and accountability.
- Provide consistency in Council's approach to making information available.
- Improve organisational performance and community trust by supporting Council in good decision making, effective governance, integrity, compliance, responsible use of resources, and the achievement of its goals and objectives.

### 5. POLICY DETAILS

#### 5.1. WHAT IS PUBLIC TRANSPARENCY

Transparency and accountability go hand in hand. Openness, accountability, and honesty define local government transparency and Council's obligation to share information with the community.

Transparency is central to the ability of the community to hold its elected and appointed officials accountable. Public transparency, in the local government context, requires that the work of the Council is:-

- Conducted openly.
- Accompanied by information made freely and proactively available to the community and stakeholders; and
- Supportive of participation in decision making.

Exceptions should be minimal and in accordance with law. An explanation should always be provided as to why information will not be released or why a decision cannot be made with full transparency.

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## **5.2. PRINCIPLES FOR TRANSPARENCY**

Council commits to the following principles for Public Transparency as detailed 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 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.

## **5.3. WHAT WILL COUNCIL BE TRANSPARENT WITH?**

### **5.3.1. DECISION MAKING AT COUNCIL MEETINGS**

- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- Will be informed by:
  - A Council Report that details factual and evidence-based information that has guided the Officer Recommendation provided in the agenda for a Council meeting;
  - Council debate during the meeting which is open to the community or can be viewed on the livestream (and available as a recording).
- Will be conducted in open meetings, unless closed in accordance with the provisions of the Act and the Governance Rules.
- Will be undertaken in accordance with the Act, including the Governance Rules, and other legislation.

### **5.3.2. DECISION MAKING BY COUNCIL OFFICERS**

- Will be undertaken in accordance with the Act, including the Governance Rules, and other legislation.
- Will be open and transparent, including in regard to the considerations upon which decisions are based.
- Will be in keeping with the documented accountabilities of the organisation, including delegations or authorisations.
- Will be made fairly and based on merit.

### **5.3.3. 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 them available upon request.

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A schedule of the:-

- Documents
- Process information; and
- Council Records

available for inspection is set out in Appendix 1.

Also, Part II of the *Freedom of Information Act 1982* requires government agencies, including local Councils to publish prescribed advice to assist members of the public in accessing the information it holds. The information contained in the Statement includes the following, as required under the *Freedom of Information Act 1982*:

- Statement 1 – Organisation and Functions of Council  
Section 7(1) (a) (i) (vii) and (viii)
- Statement 2 – Categories of Documents  
Section 7(1) (a) (ii)
- Statement 3 – FOI Arrangements  
Section 7(1) (a) (iii) (v) (vi)
- Statement 4 – Publications  
Section 7(1) (a) (iv)
- Statement 5 – Rules, Policies, and Procedures  
Section 8

*The Part II Statement under the Freedom of Information Act 1982 is available on Council's website*

#### **5.3.4. PUBLICATIONS**

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to Council.

These materials can generally be accessed as follows:

- By downloading from [www.darebin.vic.gov.au](http://www.darebin.vic.gov.au)
- By telephoning the Council on (03) 8470 8888

Some of these publications are available at Council's Libraries.

#### **5.4. WHEN WILL WE BE TRANSPARENT?**

Public transparency will guide the work that we do, the decisions we make and the information we share.

There will be circumstances where information cannot be shared, and these are outlined in 5.5.



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## 5.5. WHEN WILL WE BE LIMITED IN OUR TRANSPARENCY?

Some Council information that informs decision making by Council 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

### 5.5.1. CONFIDENTIAL INFORMATION

“Confidential information” is defined in section 3 of the Local Government Act 2020. It includes the following types of information:-

- Council business information - that would prejudice the Council's position in commercial negotiations if prematurely released.
- Security information - that is likely to endanger the security of Council property or the safety of any person if released.
- Land use planning information - that is likely to encourage speculation in land values if prematurely released.
- Law enforcement 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 - to which legal professional privilege or client legal privilege applies.
- Personal information - which would result in the unreasonable disclosure of information about any person or their personal affairs if released.
- Private commercial 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 - relating to internal arbitration about an alleged breach of the councillor code of conduct.
- Councillor Conduct Panel confidential information - relating to a Councillor Conduct Panel matter.
- Confidential information under the 1989 Act - 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 the release is:-

- Contrary to law;
- In breach of contractual requirements; or
- Releasing the information is likely to cause harm to any person or is not in the public interest to do so.

## 5.5.2. PUBLIC INTEREST TEST

Council is not required to make publicly available information if the release would be contrary to the public interest. When considering public interest, Council must be satisfied that the harm to the community likely to be created by releasing the information will not 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 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.

The public interest determination will consider factors referenced in the *Privacy and Data Protection Act 2014* including:-

<b>Section Privacy and Data Protection Act 2014</b>	<b>The public interest in ...</b>	<b>Weighed against the public interest in ...</b>
5(a) (objects)	the free flow of information	protecting the privacy of personal information in the public sector
5(b) (objects)	promoting open access to public sector information'	protecting its security
Sections 31(1), 35(1)(a), 39(1)(a), 41(1)(a) (PIDs)	the organisation doing the act or engaging in the practice'	complying with the specified Information Privacy Principle or approved code of practice
Sections 47(3), 49(1) (Information Usage Arrangements ('IUAs') that modify the application of, or provide for non-compliance with, an Information Privacy Principle or an approved code of practice)	handling personal information under the information usage arrangement in the way specified	complying with the specified Information Privacy Principle or approved code of practice
Sections 47(4), 49(2) (IUAs for the purposes of an information handling provision)	treating the handling of personal information as being permitted	treating the handling of that information as not being permitted

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<sup>2</sup> Guidelines to Public Interest Determinations, Temporary Public Interest Determinations, Information Usage Arrangements and Certification, *Commissioner for Privacy and Data Protection*, (2014)

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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, 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.

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.

## **5.6. HOW WILL WE BE TRANSPARENT**

### **5.6.1. ACCESS TO INFORMATION**

- Information will be made available and maintained on the Council website in a timely manner. The information will be accessible in terms of plain language, format and provision of a multi-lingual interpreting service.
- Requests for information will be responded to in alignment with this policy and the Public Transparency Principles.
- Information requested to be released will be assessed with regard to confidentiality in accordance with the Act and public interest test where appropriate.
- This may include providing a copy, arranging inspection or viewing or otherwise providing access to the document. An applicant may otherwise be advised that access to a document can be obtained via another method such as a statutory release scheme or for purchase.

### **5.6.2. COUNCIL MEETINGS**

Decisions made at Council meetings are generally informed by Council reports that are prepared by officers and included in the agenda.

Council meeting agendas are made available to the community in advance of each meeting in accordance with the Governance Rules. Council meetings will be open to the public to attend or view.

The only circumstance in which the community will not be able to view a Council meeting will be if it has been closed for consideration of a confidential matter.

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### **5.6.3. ADVISORY COMMITTEES, COUNCILLOR BRIEFINGS AND INFORMAL MEETINGS**

For any meeting of an Advisory Committee established by Council attended by at least one Councillor or a scheduled or planned meeting to discuss the business of *Council* or to brief Councillors, and which is attended by at least half of the Councillors and one member of Council staff; and which is not a *Council meeting*, *Delegated Committee* meeting or *Community Asset Committee* meeting the *Chief Executive Officer* must ensure that a summary of the meeting is:-

- a) Tabled at the next convenient Council meeting; and
- b) Recorded in the minutes of that Council meeting.

The summary of the meeting will include

- c) The time, date and location of the meeting.
- d) The councillors in attendance.
- e) The topics discussed.
- f) The positions of council officers in attendance and
- g) The organisation that any attendees external to council are representing; and
- h) Any conflicts of interest declared, including the reason.

### **5.6.4. AUDIT AND RISK COMMITTEE REPORTING**

In accordance with the Overarching Governance Principles and Audit and Risk Committee Charter, any non-conformance with statutory or legislative requirements will be reported to the Audit and Risk Committee.

The Audit and Risk Committee will prepare biannual audit and risk report that describes the activities, issues and related recommendations of the Committee in accordance with the Act.

## **5.7. COMMUNITY ENGAGEMENT AND PUBLIC PARTICIPATION**

We will engage with our Community when we are developing a strategy, plan or change that impacts them. In our reporting we will tell our community how we have undertaken community engagement and public participation throughout the process, what was learned from this and how it informed the approach taken.

## **5.8. ACCESSING INFORMATION**

Information will be made available on the Council website, at Council offices, or by request.

Members of the public can make different kinds of information requests to the Council (i.e. the formality of the request, or pre-requisites for access may vary, depending on the nature of the document and the context.).

This Policy is alert to the varied capacity of members of the community to access information. Consideration will be given to accessibility and cultural requirements with reference to the Towards Equality Framework of the Council.

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Council will respond to requests for information in accordance with:-

- The Act including the Public Transparency Principles;
- With the Part II statement made under the Freedom of Information Act 1982., and
- This policy.

#### **5.9. 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 further review the decision, this can be reported to the Freedom of Information Officer at the Council.
- If still not satisfied and would like to contest the decision, this can be reported in accordance with Councils Complaints Handling Procedures.
- If not satisfied with Council's response, the concerns can be raised directly with the

##### **Victorian Ombudsman**

Level 9 North Tower  
459 Collins Street  
Melbourne 3000  
Tel: 03 9613 6222

Or, where the complaint relates to management of privacy

##### **Office of the Victorian Information Commissioner**

PO. Box 24274  
Melbourne, Vic 3000  
Telephone: 1300 00 6842  
Email: [enquiries@ovic.vic.gov.au](mailto:enquiries@ovic.vic.gov.au)  
Website: [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au)

#### **5.10. HOW TO ACCESS OTHER COUNCIL INFORMATION**

The *Freedom of Information Act 1982* gives a person right of access to documents that Council hold. Council is committed to proactive and informal release of information in accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner.

Community members who can't find the information sought are encouraged to call Council before making a Freedom of Information application. An application may not be required to get the documents. Council staff will advise know what documents are available for inspection and assist with getting the information you want.

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## 6. ROLES AND RESPONSIBILITIES

Party/parties	Roles and responsibilities	Timelines
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.	Ongoing
Executive Management Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.	Ongoing
Senior Management Team	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.	Ongoing
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.	Ongoing
Manager Governance Unit	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing
Freedom of Information Officer	To receive and investigate concerns about compliance with this policy and provide recommendations and response on action.	Ongoing

## 7. MONITORING, EVALUATION AND REVIEW

Council will monitor processes, information sharing and decision making to understand the impact of the policy.

A periodic review of this policy will be undertaken and any changes required to strengthen or update the policy will be made in a timely manner.

## 8. REVIEW

This policy will be reviewed in June 2022 unless the Council determines that an earlier review is required.

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## APPENDIX 1 – AVAILABILITY OF INFORMATION

**Council information required under the Act (and the *Local Government Act 1989*) to be made available on Council's website:-**

- Agendas and Minutes of Council Meetings and Delegated Committees;
- Local Laws and Governance Rules;
- Council Plan and Annual Plan;
- Council Budget and Strategic Resource Plan;
- Code of Conduct – Councillors;
- Summary of Election Campaign Donation Returns;
- Summary of Personal Interest Returns; and
- Any other registers or records required to be published on Council's website under legislation or determined to be in the public interest.

**Other Council documents and information to ensure the community is informed about Council's operations and functions to be made available on Council's website:-**

- Adopted Council policies, plans and strategies;
- Project and service plans;
- Terms of Reference or Charters for Council Advisory Committees and Groups;
- Consultations and community engagement processes undertaken by Council;
- Reporting from Advisory Committees and Reference Groups to Council;
- Audit and Risk Committee performance reporting;
- Relevant technical reports and/or research that informs decision making;
- Practice notes and operating procedures;
- Guidelines and manuals;
- Application processes for approvals, permits, grants and access to Council services;
- Submissions made by Council;
- Register of planning permits and applications;
- Register of Building Permits, Occupancy Permits and temporary approvals;
- FOI Part II Statement; and
- Registers of Delegation;
- Register of gifts, benefits and hospitality offered to Councillors or Council staff;
- Register of overseas and interstate travel undertaken by Councillors or Council staff;
- Register of conflicts of interest disclosed by Councillors or Council staff;
- Register of donations and grants made by Council;
- Register of leases entered into by Council, as lessor and lessee;
- Register of authorised officers;
- Submissions received under section 223 of the *Local Government Act 1989* until its repeal or received through a community engagement process undertaken by Council (if those submissions are not part of a Council report); and
- Any other registers or records required to be made available for public inspection under legislation.

