

POLICY



Public Transparency Policy (Council)

1 Purpose

The purpose of this Policy is to give effect to the Public Transparency Principles outlined in section 58 of the Act and to ensure that Council is meeting its obligation in having a Public Transparency Policy under section 57 of the Local Government Act 2020 (the Act).

2 Objectives

The objective of Council's Public Transparency Policy is to give effect to the public transparency principles outlined in section 58 of the Act.

The following are the public transparency principles –

- (a) Council decision making processes must be transparent except when Council is dealing with information that is confidential by virtue of the Act or any other Act;
- (b) Council information must be publicly available unless –
 - (i) the information is confidential by virtue of the Act or any other Act;
 - (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.

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:

Community

Means the Municipal Community and includes –

- (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.¹

Confidential information has the same meaning under section 3 of the Act and is further described under clause 7(a) of this Policy

Council means Hindmarsh Shire Council

Closed Meetings when Council resolves to close the meeting to the general public under section 66(2)(a) of the Act.

Transparency a lack of hidden agendas or conditions, and the availability of all information needed in order to collaborate, cooperate and make decisions effectively.

Contrary to Public Interest Means where 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.

5 What will Council be transparent with?

(a) Council Decision Making

- will be undertaken in accordance with the Act and the Governance Rules.
- will be conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules.

(b) Council Information

This information includes but is not limited to:

TYPE	DESCRIPTION
Council records	Agendas, minutes, live stream and video recordings of Council Meetings
	Reporting from Committees to Council <ul style="list-style-type: none"> • Delegated committees • Community Asset Committees • Audit and Risk Committee
	Terms of Reference or Charter for Council committees
	Governance Rules
Local Laws	Hindmarsh Shire Municipal Local Law
	Hindmarsh Shire Meeting Procedure and Common Seal Local Law
Policies, strategies, reports	Council Plan, Annual Report, Strategies, Council Policies, Council Budget

¹Local Government Act 2020 s3

HINDMARSH SHIRE COUNCIL | PUBLIC TRANSPARENCY POLICY

TYPE	DESCRIPTION
Organisation	Organisational chart
Councillors	Councillor payment summaries
	Councillor profiles
Council Elections	Election Campaign Donation Returns
	Candidate Information (during elections)
Donations and grants	Grant programs
Planning	Development plans, reference and incorporated documents
	Development contributions
	Current planning applications
Property	How rates are calculated
Businesses	Council's Terms and Conditions
	Awarded Tenders
Council operations	Events information
	Waste management and recycling information
	Information relating to families, positive aging, childcare and pets
	Tourism and local area – variety of information
	Parks and reserves – listing
Registers	Register of Building Occupancy Permits
	Register of Building Permits
	Register of Authorised Officers
	Register of Delegations
	Register of Personal Interests (Register of Interests until 24 October 2020)
	Register of Leases
	Register of Overseas or Interstate Travel
	Register of Gifts, Benefits and Hospitality (Councillors' and Council Staff)
Process/other information	Application processes for approvals, permits, grants, access to Council services
	Community engagement processes
	Complaints handling processes
	Online payments and applications
	Employment with Council
	Lodging a request/complaint

TYPE	DESCRIPTION
	Economic and population profiles
	Information relating to access (maps and guides)

6 Accessibility of information

(a) Access to information

- Information will be available in different ways, including in hard copy, soft copy, by inspection, on the Council website, at Council offices or by request.
- Members of the public can make different kinds of information requests to the Council by contacting the Customer Service team. These requests include informal requests for documents and information or formal FOI requests depending on the nature of the request.
- Council will respond to requests for information in alignment with the Act including the Public Transparency Principles, and this Policy.
- Access to information will be in accordance with the Part II statement made under the *Freedom of Information Act 1982*.

(b) Accessibility and cultural requirements

In assessing all information requests, Council will give consideration to accessibility and cultural requirements.

(c) Freedom of information (FOI) applications

The Freedom of Information Act 1982 gives you right of access to documents that Council hold. If you can't find the document you require, call us before you make an FOI application as we may be able to make it available.

7 Information not available

Some Council information may not be made publicly available. This will only occur if:

- the information is Confidential Information under section 3 of the Act; or
- if its release would be Contrary to the Public Interest; or
- not in compliance with the Privacy and Data Protection Act 2014.

(a) Confidential Information – section 3 of the Act

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 which would be reasonably likely to prejudice the

information	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 matter
Confidential information under the 1989 Act	Information that was confidential information for the purposes of s77 of the <i>Local Government Act 1989</i>

(b) Contrary to the Public Interest

Council is not required to make publicly available information if the release would be Contrary to the Public Interest, in accordance with the Act. Council may refuse to release information if it 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.

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;
- correspondence with members of the community, where release may inappropriately expose a person's private dealings.

8 Responsibilities

All Councillors and Council Officers are responsible for facilitating access to council information in accordance with this policy.

Party/parties	Roles and responsibilities
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.
Executive	Create a working environment where transparency is fostered.

Management Team	Monitor implementation of this policy.
Senior Management Team	Manage areas of responsibility to ensure Council is maintaining its obligations relating to public transparency under the Act and 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	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.

9 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.

10 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 and Human Services.

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.

11 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.

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.

12 Communication

This Policy will be made available on Council's Website.

13 Supporting documents

Council Document	
Governance Rules Public Transparency Principles	Governance Framework Community Engagement Policy (to be developed)

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

14 Document control

Hindmarsh Shire Council Public Transparency Policy		Policy Category	COUNCIL
Version Number	01	Policy Status	APPROVED
Approved/Adopted By	COUNCIL	Approved/Adopted on:	19 August 2020
Responsible Officer	CEO	Review Date:	3 years after the date of adoption
Version History	Date	Version	Description
	19 August 2020	01	New policy required by Local Government Act 2020