

<h2>PUBLIC TRANSPARENCY POLICY</h2>	Date Adopted:	12 August 2020
	Adopted By:	Council
	Review Due:	12 August 2021
	Responsible Officer:	Governance Coordinator
	Directorate:	Organisational Development, Community and Corporate Services
	EDRMS No:	D/20/77920

### PURPOSE

Council must adopt and maintain a Public Transparency Policy under section 57 of the *Local Government Act 2020* ('the Act') and has developed this policy to ensure Southern Grampians Shire Council gives effect to the public transparency principles in the Act and describes what, and how, Council information is made publicly available.

### DEFINITIONS

<b>Closed Meetings</b>	Under section 66(5) 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 deemed not in the public interest.
<b>Council</b>	means Southern Grampians Shire Council
<b>The Act</b>	means <i>Local Government Act 2020</i>
<b>Confidential Information</b>	as defined under section 3(1) of the Act
<b>Municipal Community</b>	includes people who live in the municipal district of the Council, people and bodies who are ratepayers of the Council, traditional owners of the lands in the municipal district of Council and people and bodies who conduct activities in the municipal district of the Council.
<b>Transparency</b>	<b>Transparency occurs when there is</b> 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 *Local Government Act 2020*. When considering public interest, Council will apply the test that exists in the *Freedom of Information Act 1982*. 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.

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.

## **APPLICATION AND SCOPE**

This policy applies to Councillors, Delegated Committees and Council staff of Southern Grampians Shire Council.

## **GENERAL PROVISIONS**

### **PUBLIC TRANSPARENCY PRINCIPLES**

Council is committed to the principles of public transparency.

As defined in Section 58 of the Act the following public transparency principles must be met:

- (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.

### **HOW IS COUNCIL INFORMATION MADE PUBLICLY AVAILABLE**

Information will be made available:

- (a) on Council's website;
- (b) via Council's social media platforms ;
- (c) in person at Council Business Centres;
- (d) through the public participation processes at Council Meetings;
- (e) through community engagement and consultation processes;
- (f) via Council Meeting agendas and minutes;
- (g) by publishing policies, plans and reports on the Council website;
- (h) via public registers;

- (i) in accordance with the Part II statement made under the *Freedom of Information Act 1982*.

Members of the public have the right to make any request for information or documents to Council if that information is not readily available to the public on Council's website or at Council's offices. Council will respond to requests for information or documents in alignment with the Act, the *Public Transparency Principles* of the Act, this policy, the *Freedom of Information Act 1982* and the *Privacy and Data Protection Act 2014*.

Consideration will always be given to accessibility and cultural requirements in accordance with the *Charter of Human Rights and Responsibilities Act 2006*.

In relation to Freedom of Information (FOI), the *Freedom of Information Act 1982* gives an applicant the right of access to documents that Council holds, subject to any exemptions that may apply. If documents required cannot be located on Council's website, Council's FOI Officer should be contacted prior to lodging an FOI application to check whether the document is readily available without an FOI application being necessary. Council's FOI Officer can be contacted on telephone (03) 5573 0425.

## **PUBLICLY AVAILABLE INFORMATION UNDER ACTS AND REGULATIONS**

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. A list of available information is provided in the Part II Statement published on Council's website at [www.sthgrampians.vic.gov.au](http://www.sthgrampians.vic.gov.au) under the Freedom of Information page. This information includes, but is not limited to:

**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 Report;
- 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:**

- Adopted Council policies, plans and strategies;
- Project and service plans;
- Terms of Reference or Charters for Council Committees and Groups;
- Consultations and community engagement processes undertaken by Council;
- Reporting from Advisory Committees, Delegated Committees and User Groups to Council;
- Audit and Risk Committee performance reporting;
- Relevant technical reports and/or research that informs decision making;

- 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
- Any other registers or records required to be published on Council's website under legislation or determined to be in the public interest.

**Council documents and information to ensure the community is informed about Council's operations and functions** that will be made available for inspection on request:

- 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.

**Publications**

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to Council. For more information, call Council on 03 5573 0444 for a copy.

**TRANSPARENCY AND COUNCIL DECISION MAKING**

Council will be transparent with Decision Making at Council held Meetings:

- 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.
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy (to be developed prior to 1 March 2021).
- Will be made fairly and on the merits, and where any person whose rights will be directly affected by a decision of the Council, that person will be entitled to communicate their views and have their interests considered.

**CONFIDENTIALITY**

Some Council information is not made publicly available. This will only occur if the information is confidential information, if its release would be contrary to the public interest, if its release does not comply with the *Privacy and Data protection Act 2014* or if it is exempt under the *Freedom of Information Act 1982*.

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

<b>Type of Information</b>	<b>Description</b>
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	Records of a Council and/or Delegated Committee meeting that are closed to the public to consider confidential information.
Internal arbitration	Confidential information relating to internal arbitration about an alleged breach of the Code of Conduct – Councillors.
Councillor Conduct Panel	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 <i>Local Government Act 1989</i> .

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, in breach of contractual requirements or if releasing the information is likely to cause harm to any person or is not in the public interest to do so.

## **IMPLEMENTATION**

This policy will be made available on the Council website.

## **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 the member of the community is still not satisfied and would like to contest the decision, this can be reported to Council's Freedom of Information Officer on 5573 0425.

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)

## **CHARTER OF HUMAN RIGHTS COMPLIANCE**

It is considered that this policy is compatible with the relevant human rights identified in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

## **REVIEW**

The first policy under section 57 of the Act must be adopted by 1 September 2020.

This Policy must be reviewed within 12 months of adoption and a minimum of every four years thereafter.

**END**