



Public Transparency Policy

Adopted – 12 August 2020

Commencement – 1 September 2020

OUR COMMITMENT

Council is committed to being accountable to the community through transparency of information, service data, performance and decision making. Council will provide easy access to information, inform decision making through community engagement and harness new technologies to strengthen governance.

1 INTRODUCTION

Transparency, integrity and accountability are central to the *Local Government Act 2020*, to underpin local government democracy, accountability, conduct and enable the community to hold Council to account. Council will establish and maintain high quality processes to ensure people have access to the information that informs its decision making processes.

The work of Council will be conducted with transparency. Information will be 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.

Council seeks to be transparent in order to:

- Ensure the transparency of Council decisions, actions and information;
- Demonstrate good governance;
- Improve performance;
- Reassure the community that Council is spending public monies wisely; and
- Increase the confidence and trust of the community.

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.

2 CONTEXT

There are various ways in which Council works to ensure that residents are informed about key areas of Council's operations. For example, Council publishes accurate and timely performance information in the Quarterly Performance Report incorporating Financial Performance, Project Delivery Performance and progress against the annual Council Action Plan.

2.1 Organisational Context

This policy should be read in the context of (and in conjunction with):

The Governance Rules;

Freedom of Information Part II Statement;

The Moreland Governance Framework;

Community Engagement and Public Participation Policy;

Information Privacy and Health Records Policy;

Records and Information Management Policy;

Open Government Partnership Australia.

2.2 Legislative Context

Local Government Act 2020 – provides the overarching governance principles and under which 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 – under which some provisions continue to apply through the staged implementation of the Local Government Act 2020.

Equal Opportunity Act 2010 - under which, 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 – under which Council is required to ensure the consideration of relevant human rights in making decisions. Section 13 provides protection of an individual's right not to have their privacy unlawfully or arbitrarily interfered with and Section 18 recognises a person's right to have the opportunity, without discrimination, to participate in the conduct of public affairs. Actions that are incompatible with human rights illegal.

3 OBJECTIVES

- To articulate Council's understanding of public transparency and commit to public transparency principles that will guide its approach.
- To ensure availability of information that informs decision making by Council to foster openness, transparency and accountability.
- To provide consistency in Council's approach to making information available.
- To support Council's Good Governance Framework, which supports Council in good decision making, effective governance, integrity, compliance, responsible use of resources, achievement of goals and objectives to improve organisational performance and community trust.

4 POLICY DETAILS

4.1 What is Public Transparency

Openness, accountability, and honesty define transparency and Council's obligation to share information with the community. Transparency is central to the ability of the community to hold Council accountable. Transparency and accountability go hand in hand.

Public transparency, requires that the work of the Council be conducted openly with information made freely and proactively available to the community and stakeholders and participation in decision making is encouraged. The only exceptions should be minimal and in accordance with legal requirements. An explanation should always be provided as to why information will not be released or why a decision cannot be made with full transparency.

4.2 Principles for Transparency

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

4.3 When will we be transparent?

Public transparency is a driving principle that will guide the work that we do, the decisions we make and the information we share – in everything that we do. This applies within both the political and administrative context of Council.

There will be circumstances where information cannot be shared, and these are outlined in 4.1.4.

4.4 What will Council be transparent with?

4.4.1 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 information that has guided the Officer Recommendation provided in the agenda for a Council meeting;
 - background and Council officer comments on a Notice of Motion included 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 in the Governance Rules.
- Will be undertaken in accordance with the Governance Rules.

4.4.2 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 available upon request.

Documents such as:

- Plans and Reports adopted by Council;
- Policies;
- Project and service plans;
- Grant application, 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;
- 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 Advisory Committees and Community Asset Committees in accordance with the Governance Rules;
- Audit and Risk Committee Performance Reporting;
- Details of Advisory Committees, Delegated Committees and Community Asset Committees;
- Terms of reference for Advisory Committees and Audit and Risk Committee Charter;
- Registers of gifts, benefits and hospitality offered to Councillors or Council Staff;
- Registers of Councillor attendance at Council Meetings, Delegated Committee Meetings and meetings arranged to brief Councillors
- Registers of travel undertaken by Councillors or Council Staff;
- Registers of Conflicts of Interest disclosed by Councillors or Council Staff;

- Submissions made by Council to State or Federal processes;
- Details of any Memorandum of Understanding entered into by Council that are not subject to confidentiality clauses;
- 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 Election campaign donations;
- Summary of Personal Interests; and
- Any other Registers or Records required by legislation or determined to be in the public interest.

Council will make available the following records for inspection:

- Register of interests' until 24 October 2020;
- Written submissions to Council when invited through an engagement process in accordance with the Community Engagement Policy. These submissions, following the redaction of personal information, may also be made available on Council's website or attached to a Council report.
- Planning Permit Applications as required by the *Planning and Environment Act 1987* up until the time that decision is made or any time for a review of a decision expires;
- Objections and submissions to planning permit applications up until the time that decision is made or any time for a review of a decision expires; and
- Objections and Submissions to planning scheme amendments up until the time the Amendment is finalised; and
- Summary of submissions received under Section 223 of the Local Government Act 1989 until its repeal.

Privacy

When a document contains personal information, the personal information will be redacted prior to being made available on Council's website, unless it is required to be made public in accordance with relevant legislation or the principles of natural justice. In the case that the personal information is to be disclosed, the person will be advised, usually via a privacy collection notice, before it is published.

Publications

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to Moreland. You can download them from the website or call Council for a copy. Some of these publications are available at Council's Libraries.

4.4.3 Council Data

Council data will be made available on Council's website with regular reporting of key metrics that share Council's performance on areas of community interest. This includes performance data such as:

- Biennial Local Government Performance Reporting Framework (LGPRF) data, including key service performance metrics.
- Service delivery data such as trees planted, visitations to our leisure centres and libraries and complaints.

Where data has been collected or obtained to inform service delivery or planning, we will make available the data that has guided the decision-making.

This means that if we're able to share data – factoring in commercial copyright, security and privacy concerns – we will.

We do this because we believe in being a transparent organisation that makes it simple for the community to access information. It helps foster citizen collaboration and innovation and makes it easier for innovators to develop solutions and services that are relevant to the community.

4.5 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 in compliance with the Privacy and Data Protection Act 2014.

Confidential information

“Confidential information” is defined in section 3 of the *Local Government Act 2020*. It includes the types of information listed in the table at Appendix 1.

Council may decide, 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.

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.

4.6 How will we be transparent

- **Access to information**
 - Information will be made available and maintained on the Council website in a timely manner. Documents, Process Information and Records specified in section 4.3.3 will be made available (including by being published on the website as applicable) within 14 days of being finalised.
 - 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 will be assessed with regard to confidentiality in accordance with the Act and public interest test where appropriate.
 - Ways information may be released may include providing a copy, arranging inspection or viewing or otherwise providing access to the document. An applicant may be advised that access to a document can be obtained via another method such as a statutory release scheme or for purchase.

- **Council meetings**

Decision made at Council meetings are generally informed by Council reports that are prepared by Council 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.

- **Councillor Briefings**

Councillor briefing records will be kept in accordance with Rule 10.1 of the Governance Rules and will include the topics discussed, the positions of Council officers in attendance and the organisation that people external to Council are representing.

These records will be reported to Council in the Governance Report included in the Agenda for each Council meeting.

- **Council reporting**

Council reports that require a decision will address the Overarching Governance Principles as outlined in the Governance Rules and will be published in the Council Agenda unless they contain confidential information.

- **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.

Audit and Risk Committee findings are reported to Council twice per annum in accordance with the Act and Audit and Risk Committee Charter. Summary minutes are reported in accordance with the Governance Rules and Audit and Risk Committee Charter.

- **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.

4.7 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 Freedom of Information and Governance Officer on 9240 1290.

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.

4.8 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. Read more at www.ovic.vic.gov.au.

Part II of the *Freedom of Information Act 1982* requires Council 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.

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 what documents are available for inspection and assist with getting the information you want.

5 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 Corporate Governance	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing
Unit Manager Governance and Civic Protocols	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing
Freedom of Information and Governance Officer	To receive and investigate concerns about compliance with this policy and provide recommendation and response on action.	Ongoing

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.

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.

7 DEFINITIONS

Term	Definition
Accountability	Accountability and transparency go hand in hand. Council is publicly accountable for its successes and challenges and this means demonstrating responsibility for its decision-making. This includes holding others to account and being accountable to our community.
Community	Community is a flexible term used to define groups of connected people. Council uses it to describe people of Moreland generally, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality. More specifically, it can refer to everyone affiliated with the Moreland municipality, or smaller groups defined by interest, identity or location, and not necessarily homogenous in composition or views. Different types of communities often overlap and extend beyond municipal boundaries. Communities may be structured, as in clubs or associations or unstructured, such as teens. Communities are flexible and temporary, subject individual identity and location.
Community consultation	This is a form of community engagement that relates to the tools and practices used by Council to enable public involvement in decisions and actions that shape the community.
Freedom of Information	This arises from the <i>Freedom of Information Act 1982</i> , under which a general right of access to a document in the possession of Council is established, limited only by the exemptions and exceptions necessary for the protection of essential public interests and the private and business affairs of persons.
Public Interest Test	Included in the process used to determine if Council will release information. Council may refuse to release information if it determines that the harm like to be created by releasing the information will exceed the public benefit in being transparent. 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 Council from performing its functions.
Public participation	Public participation encompasses a range of public involvement, from simply informing people about what government is doing, delegating decisions to the public and community activity addressing the common good.
Stakeholder	An individual or group with a strong interest in the decisions of Council and directly impacted by their outcomes.
Strategy	A strategy provides high level holistic directions for Council designed to bring about a desired future, such as achievement of one or more goals or outcomes.

Confidential Information defined by the Local Government Act 2020

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 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.

This Policy was adopted by Council on _____