

PUBLIC TRANSPARENCY

Policy Number:	2.4.9
Approved by:	Council
Date Approved:	1 September 2020
Date Effective:	1 September 2020
Date of Next Review:	1 September 2021
Related Policies:	Privacy and Data Protection Policy Freedom of Information Policy Records Management Policy Community Engagement Policy
Applicable to Unit(s):	Organisation
Responsible Officer:	General Manager Corporate Services
Statutory Reference:	<i>Freedom of Information Act 1982</i> <i>Local Government Act 1989</i> <i>Local Government Act 2020</i> <i>Privacy and Data Protection Act 2014</i>

OVERVIEW

The Public Transparency Policy is a requirement of section 57 of the *Local Government Act 2020* ('the Act') and has been developed to ensure Wellington Shire Council gives effect to the public transparency principles in the Act. This policy describes what, and how, Council information is publicly and freely available to the community.

THE POLICY

1. POLICY STATEMENT

- 1.1. Council is committed to the principles of public transparency and commits to making all Council information publicly available, except where the information is:
- 'Confidential Information' as defined under section 3(1) of the Act, unless Council has determined by resolution that the information should be made publicly available;
 - Confidential by virtue of any other Act; or
 - Such that making it publicly available, would be contrary to the public interest.

A definition of 'Confidential Information' under the Act and examples of where the public availability of information would be contrary to the public interest are provided in Appendix 1.

2. POLICY INITIATIVES

- 2.1. Council will make available all Council information that is publicly available on its website and ensure all such information is regularly reviewed, updated, understandable and accessible.
- 2.2. Council will use social and/or digital media to publish or stream appropriate Council content, such as Council Meetings, and other online tools to publish Council information and encourage community engagement and consultation on project and community related matters.

- 2.3. Council will ensure all information and statements as required under Section 7 of the *Freedom of Information Act 1982* are included in its Part 11 Statement and published on its website.
- 2.4. Council will facilitate the awareness of access to Council information through its website and through community engagement opportunities.
- 2.5. Council will apply a presumption of openness to information and adopt a proactive publication position within the parameters outlined in this policy.
- 2.6. Council will strive, where possible, to provide the community with access to Council's publicly available information free of charge.
- 2.7. Council will assist the community in accessing its publicly available information and will inform the community of their right to make an application under the *Freedom of Information Act 1982* for information which is not considered publicly available information.

3. PUBLICLY AVAILABLE INFORMATION

- 3.1. Under the Act (and, in some cases, the *Local Government Act 1989*), there are specific provisions for certain information to be made publicly available, namely:
 - 3.1.1. Council and Delegated Committee Meeting Agendas and Minutes
 - 3.1.2. Local Laws and any documents incorporated
 - 3.1.3. Council Plan
 - 3.1.4. Strategic Resource Plan
 - 3.1.5. Budget
 - 3.1.6. Annual Report
 - 3.1.7. Councillor Code of Conduct
 - 3.1.8. Procurement Policy
 - 3.1.9. Register of Interests
 - 3.1.10. Council Policy Manual
 - 3.1.11. Summary of Election Campaign Donation Returns
- 3.2. Council will also make the following Council information available on request to ensure the community are informed and can benefit from access to information regarding Council's functions and operations:
 - 3.2.1. Authorised Officers
 - 3.2.2. Council Meeting Agendas and Minutes
 - 3.2.3. Councillor Code of Conduct
 - 3.2.4. Councillor Reimbursement Policy
 - 3.2.5. Delegations
 - 3.2.6. Election Campaign Donation Returns Register

- 3.2.7. List of all Leases
 - 3.2.8. List of Donations and Grants
 - 3.2.9. Procurement Policy
 - 3.2.10. Record of Assembly of Councillors
 - 3.2.11. Travel Register
 - 3.2.12. Details of Chief Executive Officer reappointment and total remuneration.
- 3.3. Under various other Acts administered by Council, the following information will be made publicly available:
- 3.3.1. Subject to the specified requirements of the *Planning and Environment Act 1987*, the following may be inspected (note that charges may apply):
 - Approved Planning Scheme Amendments
 - Panel Reports
 - Planning Permits/Applications
 - Submissions/objections
 - Planning Register
 - Planning Scheme
 - 3.3.2. Register of Building Permits and Occupancy Permits
 - 3.3.3. Copies of Building Permits, plans and documentation (by application from the property owner or persons authorised by the property owner only, charges will apply)
 - 3.3.4. Register of Animal Registrations
 - 3.3.5. Register of Public Roads
 - 3.3.6. FOI Part II Statement

4. PROCEDURAL GUIDELINES

- 4.1. Community requests for Council information not available on Council's website are to be directed to the relevant business unit or Council's Freedom of Information Officer.
- 4.2. The Freedom of Information Officer will process all applications for documents as per the requirements of the *Freedom of Information Act* and will provide all documents which are publicly available or available for a fee, outside of the Act.
- 4.3. Community requests for information that include exempt information under the *Freedom of Information Act 1982* will be processed by application under that Act.

5. REVIEW

- 5.1. The policy will be reviewed annually unless Council determines that an earlier review is required or where legislative changes occur.
- 5.2. The policy will be reviewed in accordance with Council's Community Engagement Policy.

6. APPENDIX 1 - DEFINITIONS

Confidential Information	<p>Confidential information is defined in the Act as meaning the following:</p> <ol style="list-style-type: none">(a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;(b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;(c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;(d) law enforcement information, being 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;(e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;(f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;(g) private commercial information, being information provided by a business, commercial or financial undertaking that—<ol style="list-style-type: none">(i) relates to trade secrets; or(ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;(h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a) of the Act;(i) internal arbitration information, being information specified in section 145 of the Act;(j) Councillor Conduct Panel confidential information, being information specified in section 169 of the Act;
---------------------------------	--

	<p>(k) information prescribed by the regulations to be confidential information for the purposes of this definition;</p> <p>(l) information that was confidential information for the purposes of section 77 of the <i>Local Government Act 1989</i>.</p>
<p>Contrary to the Public Interest</p>	<p>There is no definition in the Act as to when the public availability of information would be contrary to the public interest. Council will determine this on a case by case basis. Some examples of where the public availability of information would be contrary to the public interest are as follows:</p> <p>(a) where disclosure of the information would divulge any information or matter communicated in confidence by or on behalf of a person or a government and be reasonably likely to impair the ability of Council to obtain similar information in the future; or</p> <p>(b) where its disclosure would be reasonably likely to have a substantial adverse effect on the economy of the municipal district, including but not limited to, revealing consideration of a contemplated movement in rates, fees, charges, interest charges or other levies, the sale or acquisition of land or property by the council, urban re-zoning, the formulation of land use and planning controls and the formation of imposts; or</p> <p>(c) where it would disclose instructions issued to, or provided for the use of guidance of, Council officers on the procedures to be followed or the criteria to be applied in negotiation, including financial, commercial and labour negotiation, in the execution of contracts, in the defence, prosecution and settlement of cases, and in similar activities relating to the financial property or personnel management and assessment interests of Council; or</p> <p>(d) where the information is subject to a secrecy provision in another Act; or</p> <p>(e) where its disclosure would impede the administration of justice generally, including procedural fairness; or</p> <p>(f) where its disclosure would prejudice intergovernmental relations or otherwise affect relations with other governments or agencies; or</p> <p>(g) where its disclosure would prejudice or otherwise affect the conduct of investigations, audits or reviews by Council or integrity bodies; or</p> <p>(h) where its disclosure would prejudice the deliberative process of government; or</p> <p>(i) where its disclosure would prejudice the effectiveness of testing or auditing procedures.</p>

	These are examples only and not exhaustive of the circumstances in which the public availability of information would be contrary to the public interest.
--	---

HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

RELATED DOCUMENTS

Type:	Details:
Process	Governance Rules
Guideline	Part II Statement – <i>Freedom of Information Act 1982</i>