

<b>Title</b>	<b>Public Transparency Policy</b>
<b>Description</b>	A policy to give effect to the public transparency principles in the Local Government Act 2020 by specifying which Council information is made publicly available and explaining how it may be accessed.
<b>Category</b>	Governance
<b>Type</b>	Policy
<b>Approval authority</b>	Council
<b>Responsible officer</b>	Senior Governance Advisor
<b>Approval date</b>	18 August 2020
<b>Review cycle</b>	Every four years
<b>Review date</b>	18 August 2024
<b>Document Reference</b>	
<b>Human Rights compatibility</b>	This policy has been assessed and is compatible with the Victorian Charter of Human Rights and Responsibilities

## 1. Purpose

This policy gives effect to the public transparency principles as set out in the Local Government Act 2020, which provide that decision-making processes be transparent wherever possible and that Council information generally be available and accessible to members of the public.

The policy specifies what Council information must be publicly available and describes the ways in which it can be accessed.

## 2. Policy

Yarra City Council shall be transparent in its decision making processes and provide access to Council information in accordance with this policy and relevant legislation.

In fulfilling this commitment, Council will ensure that information is publicly available in accordance with this policy (including all policies, plans and reports required under the Local Government Act 2020 or any other Act), unless the information is confidential or the public availability of the information would be contrary to the public interest.

Further, Council will endeavour to ensure that information is understandable and accessible to members of the municipal community and will facilitate the public awareness of the availability of Council information.

## 3. Accessing Information

Council information may be accessed in a number of ways, depending on the type of information sought. The information classifications are:

- Information that is freely and proactively published;
- Information that is available on a public register or similar;
- Information that is available under administrative release;
- Information that is available under the Freedom of Information Act.

### 3.1. Information that is freely and proactively published

Council will establish and maintain a public transparency page on its website which includes information which is freely available and enables any person to access it anonymously and without needing to request it.

At a minimum, the public transparency page will include copies of, or links to, the following:

Document	Details
<b>Councillors</b>	
<b>Councillor details</b>	Names and contact details of all serving councillors, details of the wards they represent and their appointments to advisory committees and external bodies.
<b>Councillor oaths and affirmations</b>	The written oath or affirmation of office taken by each Councillor and administered by the Chief Executive Officer; and dated and signed before them as required by section 30 of the Local Government Act 2020.
<b>Declarations of councillor induction training</b>	The written declarations made by each Councillor before the Chief Executive Officer after completing Councillor induction training as required by section 32 of the Local Government Act 2020.
<b>Election campaign donation summary</b>	The summary of election campaign donation returns required to be made available by section 307 of the Local Government Act 2020.
<b>Councillor expense reports</b>	A quarterly record of Councillor expenses published in accordance with the Council Expenses Policy.
<b>Personal interest return summaries</b>	Summaries of the Personal Interest Returns submitted by Councillors as required to be made available by section 135 of the Local Government Act 2020.
<b>Councillor Gift Policy</b>	The Councillor gift policy required to be adopted by section 138 of the Local Government Act 2020.
<b>Councillor code of conduct</b>	The Councillor code of conduct required to be adopted by section 139 of the Local Government Act 2020.
<b>Council and Committees</b>	
<b>Governance Rules</b>	The rules in respect of the conduct of meetings, election of the Mayor and Deputy Mayor and the management of conflicts of interests, among other things, as required by section 60 of the Local Government Act 2020.
<b>Council Meetings Operations Policy</b>	The policy adopted by Council to guide the administrative arrangements for the conduct of meetings of the Council and its delegated committees.
<b>Meeting Schedule</b>	A schedule of all council meetings endorsed by Council at the commencement of each year.
<b>Agendas</b>	Agendas of council meetings and meetings of delegated committees containing officer reports and recommendations as set out in accordance with Council's Governance Rules.
<b>Minutes</b>	Records of proceedings of council meetings and meetings of delegated committees set out in accordance with Council's Governance Rules.
<b>Meeting recordings</b>	Audiovisual recordings of all council meetings held in the previous twelve months.
<b>Instruments of delegation to delegated committees</b>	The instruments of delegation adopted by Council under section 11 of the Local Government Act 2020 for any delegated committees.
<b>Council Committees Policy</b>	A policy adopted by Council to provide a framework for the establishment of Council Advisory Committees.

<b>Advisory committee terms of reference</b>	The Terms of Reference of each council advisory committee established by Council in accordance with its Council Committees Policy.
<b>Audit and Risk Committee Charter</b>	A Charter adopted by Council to specify the functions and responsibilities of the Audit and Risk Committee as required by Section 54 of the Local Government Act 2020.
<b>Council Policies</b>	
<b>Community Vision</b>	A document describing municipal community's aspirations for the future of the municipality as required by section 88 of the Local Government Act 2020.
<b>Council Plan</b>	A document setting out the Council's strategic direction, strategic objectives, strategies, strategic indicators and the initiatives and priorities for services, infrastructure and amenity as required by section 90 of the Local Government Act 2020.
<b>Procurement Policy</b>	A policy giving effect to the public transparency principles in the Local Government Act 2020 by specifying which Council information is made publicly available and explaining how it may be accessed as required by section 108 of the Local Government Act 2020.
<b>Public Transparency Policy</b>	A policy specifying the principles, processes and procedures applying in respect of the purchase of goods and services by the Council as required by section 108 of the Local Government Act 2020.
<b>Community Engagement Policy</b>	A policy giving effect to the community engagement principles by describing the type and form of community engagement proposed, specifying a process for informing the municipal community of the outcome and including deliberative engagement practices as required by section 55 of the Local Government Act 2020.
<b>Complaints Policy</b>	A policy describing the process for dealing with complaints made to the Council as required by section 107 of the Local Government Act 2020.
<b>Privacy and Health Records Policy</b>	A policy on Council's management of personal information as required by schedule 1 of the Privacy and Data Protection Act 2014.
<b>Domestic Animal Management Plan</b>	A plan setting out a method for evaluating whether the animal control services provided by Council are adequate to give effect to the requirements of the Domestic Animals Act and the regulations as required under section 68A of the Domestic Animals Act 1994.
<b>Municipal Public Health Plan</b>	A Municipal Public Health Plan prepared under section 26 of the Public Health and Wellbeing Act 2008 or an exemption from the requirement due to the inclusion of the relevant matters in a Council Plan or a strategic plan granted under section 27 of the Public Health and Wellbeing Act 2008.
<b>Municipal Strategic Statement</b>	A statement containing the strategic planning, land use and development objectives of the planning authority, strategies for achieving the objectives and a general explanation of the relationship between those objectives and strategies and the controls on the use and development of land in the planning scheme as required by section 12A of the Planning and Environment Act 1987.
<b>Financial Planning</b>	
<b>Annual Budget</b>	A budget containing financial statements, a description of the services and initiatives to be funded, major initiatives, prescribed indicators and measures of service performance, the amount to be raised by rates and charges, and other matters as required under section 94 of the Local Government Act 2020.
<b>Financial Plan</b>	A plan including statements describing the financial resources required, the decisions and assumptions that underpin these statements and statements describing any other resource requirements as required under section 91 of the Local Government Act 2020.

<b>Asset Plan</b>	A plan information about maintenance, renewal, acquisition, expansion, upgrade, disposal and decommissioning in relation to each class of infrastructure asset under the control of the Council as required under section 92 of the Local Government Act 2020.
<b>Revenue and Rating Plan</b>	A Revenue and Rating Plan adopted by Council by the next 30 June after a general election for the following four financial years Council as required under section 93 of the Local Government Act 2020.
<b>Annual Report</b>	A report containing a report of operations of the Council ,an audited performance statement ,audited financial statements, a copy of the auditor's report on the performance statement and a copy of the auditor's report on the financial statements as required under section 98 of the Local Government Act 2020.
<b>Staff</b>	
<b>Personal interest return summaries</b>	Summaries of the Personal Interest Returns submitted by the Chief Executive Officer and officers nominated by the Chief Executive Officer as required to be made available by section 135 of the Local Government Act 2020.
<b>Staff Code of Conduct</b>	A policy providing procedures for dealing with alleged and actual breaches of conflict of interest, the taking of disciplinary action against a member of Council staff and the disclosure and recording of gifts as required under section 49 of the Local Government Act 2020.
<b>Chief Executive Officer Employment and Remuneration Policy</b>	A policy providing for the recruitment and appointment process, provisions to be included in the contract of employment, performance monitoring and an annual review of the Chief Executive Officer as required under section 45 of the Local Government Act 2020.
<b>Workforce Plan</b>	A document describing the organisational structure of the Council, specifying the projected staffing requirements and setting out measures to seek to ensure gender equality, diversity and inclusiveness as required under section 46(4) of the Local Government Act 2020.
<b>Local Laws</b>	
<b>Local Laws</b>	All local laws made by the Council under section 75 of the Local Government Act 2020.
<b>Local law incorporated documents</b>	All documents, codes, standards, rules, specifications or methods which contain any matter incorporated in a local law made by the Council under section 75 of the Local Government Act 2020.
<b>Open Data</b>	
<b>Open Data Policy</b>	A policy developed by Yarra City Council to improve the management and use of data assets in support of an open data policy which will deliver value and benefits for Council, Yarra based businesses and the Yarra community.
<b>Open Data datasets</b>	Assorted datasets made available in accordance with Council's Open Data Policy.
<b>External Documents</b>	
<b>Councillor Conduct Panel determinations</b>	Any decisions given to Council by a Councillor Conduct Panel in respect of any current Councillor following a determination under section 167 of the Local Government Act 2020.
<b>Governance Directions</b>	Any direction given to the Council by the Minister under section 175 of the Local Government Act 2020.
<b>Compliance Exemptions</b>	Any exemption from a regulatory requirement under the Local Government Act 2020 or the regulations granted to the Council the Minister under section 178 of the Local Government Act 2020.
<b>Notice of appointment of Municipal Monitor</b>	Any notice given to the Council by the Minister of the appointment of a Municipal Monitor made to the Council under section 179 of the Local Government Act 2020.

Note that some provisions of the Local Government 2020 have not been enacted at the time of the adoption of this policy, so not all of the above information may yet be available. Where this is the case, a note will appear to direct readers to equivalent information in the meantime.

### 3.2. Information that is available on a public register or similar

In addition to the information on the public transparency website, Council has an obligation to maintain a number of registers or similar records of information which is available to members of the public. Access to this information is governed by the relevant legislative or regulatory provisions and in some cases, is restricted to certain persons or is subject to payment of a fee. There may be limitations on what information can be made available, which will differ in each case, and be determined in accordance with the relevant enabling laws.

This information includes, but is not limited to:

Document	Details
<b>Planning register</b>	Section 49 of the Planning and Environment Act 1987 requires Council to keep a register containing the prescribed information in respect of all applications for permits and all decisions and determinations relating to permits and make it available for inspection.
<b>Planning permit applications</b>	Section 51 of the Planning and Environment Act 1987 requires Council to make a copy of every application for planning permit available for inspection until the end of the latest period during which an application for review may be made or, if an application to the Tribunal is made, until the application is determined by the Tribunal or withdrawn.
<b>Planning permits</b>	Section 70 of the Planning and Environment Act 1987 requires Council to make a copy of every planning permit that it has issued available for inspection.
<b>Planning scheme amendments</b>	Section 18 of the Planning and Environment Act 1987 requires Council to make the amendment, the explanatory report, any document applied, adopted or incorporated in the amendment and any accompanying agreement available for inspection until the amendment is approved or lapses.
<b>Building register</b>	Section 31 of the Building Act 1993 requires Council to keep a register of all building permits given to it and make it available for inspection.
<b>Swimming pool register</b>	Section 216D of the Building Act 1993 requires Council to maintain a register of swimming pools and spas and make it available to certain persons including owners and occupiers of properties appearing on the register.
<b>Occupancy permit register</b>	Section 74 of the Building Act 1993 requires Council to keep a register of all occupancy permits and temporary approvals and amendments given to it and make it available for inspection.
<b>Register of orders</b>	Section 126 of the Building Act 1993 requires Council to keep a register of all emergency orders, building notices or building orders given to it and make it available for inspection.
<b>Domestic animals register</b>	Section 18 of the Domestic Animals Act 1994 requires Council to keep a register of all registered dogs and cats and make it available for inspection.
<b>Land information certificates</b>	Section 121 of the Local Government Act 2020 requires Council to provide a land information certificate containing valuations of the property, rates chargeable and any rate arrears or interest to any person upon application.
<b>Staff Gift Register</b>	Section 49 of the Local Government Act 2020 requires Council to maintain a register of gifts to record gifts disclosed by Council staff. A summary of the register for the current financial year is available on application.

<b>Councillor Gift Register</b>	Section 138 of the Local Government Act 2020 requires Council to maintain a register of gifts to record gifts disclosed by Councillors. A summary of the register for the current financial year is available on application.
<b>Delegations by Council</b>	Section 11 of the Local Government Act 2020 requires Council to maintain a register of delegations made by the council to the Chief Executive Officer or members of a delegated committee. This register is available on request.
<b>Delegations by the Chief Executive Officer</b>	Section 11 of the Local Government Act 2020 requires Council to maintain a register of delegations made by the Chief Executive Officer to staff. This register is available on request.
<b>Register of public roads</b>	Section 19 of the Road Management Act 2004 requires Council to maintain a register of public roads and make it available for inspection.

Note that specific legislative requirements regarding the maintenance of registers or similar is subject to ongoing change. The list above represents Council's obligations at the time of the adoption of this policy, but it can be expected that the specific information available will change over time.

### 3.3. Accessing information by administrative release

While Council seeks to proactively publish information that has widespread community interest, it holds a significant amount of information that is available upon request. In the first instance, requests for information are assessed by the relevant Council department holding the information for their suitability for administrative release (that is, without requiring a formal application under the Freedom of Information Act). In undertaking this assessment, officers are guided by the overriding principle that Council information should be generally be available and accessible to members of the public.

In assessing whether information can be released in this way, officers have regard to a number of factors, including:

- Whether the applicant has a right to access the information under the Privacy and Data Protection Act or any other means;
- Whether the release of the information would breach the privacy of a third party;
- Whether the information can be provided without unreasonably impacting on organisational resources;
- Whether the release of the information would be contrary to the public interest (see below).

#### Public Interest Test

In determining whether the release of information would be contrary to the public interest, officers must identify any relevant public interest factors favouring disclosure and nondisclosure, balance the relevant factors favouring disclosure and nondisclosure; and decide whether disclosure of the information would, on balance, be contrary to the public interest.

In making a public interest assessment, the following considerations shall be regarded as irrelevant to the assessment and not be used to influence the outcome:

- Whether the information could cause embarrassment to, or a loss of confidence in, the Council,
- The extent to which the document may be misinterpreted or misunderstood by the applicant;
- The stated or suspected motives of the applicant; and
- The seniority of the individual who created the document.

Without unnecessarily restricting the information available by administrative release, where a public interest test is inconclusive or agreement about the information to be released is unable to be agreed

with the applicant, the applicant is to be referred to the Freedom of Information process in order to ensure their legal rights and independent review mechanisms are preserved.

## Examples

Examples of information that would be released administratively might include:

- Policies, plans and reports required under the Local Government Act 2020 or any other Act;
- Records requested by a client showing details of their own interactions with Council;
- Details of a neighbouring owner where permitted under the Fences Act 1968;
- Copies of previous correspondence sent by Council to the applicant;
- Copies of policies, procedures and work instructions in relation to Council's operations;
- Publications and documents that have been released publicly by Council.

In most cases, records are released electronically. Where an applicant requests documents in hard copy, printing and copying costs may be chargeable. In some cases, copies of documents cannot be made available for copyright reasons, and an applicant may be invited to personally inspect the documents rather than be provided copies of them.

The kinds of documents that could not be released administratively would include:

- Documents containing information restricted from release under the Privacy and Data Protection Act;
- Contractual or other commercially sensitive information;
- Internal working documents, such as reports and records of Councillor Briefings, advice provided by Council officers, unpublished draft documents, internal emails and file notes;
- Documents containing information about external parties where they may object to its release;
- Documents containing legal opinion or advice.

Where a request for information cannot be accommodated by way of administrative release, applicants will be referred instead to the Freedom of Information process.

### **3.4. Accessing documents under Freedom of Information**

The Freedom of Information Act 1982 provides an enabling framework for the assessment of requests for documents that are not otherwise available, and allows anyone to request to inspect Council documents or obtain copies of them. The Freedom of Information Act provides a mechanism for Council to release documents that may otherwise not be available due to privacy legislation, commercial restrictions or other reasons.

Further, Council's decisions in relation to requests submitted under the Freedom of Information process are subject to independent review by the Victorian Information Commissioner.

Applications must be made in writing and can be made on Council's website, by mail or in person at Council's Customer Service Centres.

## **4. Confidential Information**

Despite Council's commitment to transparent decision-making, certain information and documents are confidential and it is necessary to ensure they are not publicly released.

Information is classified as confidential and is prohibited under the Act from release if it is:

- Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- security information, being information that if released is likely to endanger the security of Council property or the safety of any person;
- land use planning information, being information that if prematurely released is likely to encourage speculation in land values;
- 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;
- legal privileged information, being information to which legal professional privilege or client legal privilege applies;
- personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets, or if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
- confidential meeting information, being the records of meetings closed to the public under section 66(2)(a) of the Act;
- internal arbitration information, being information specified in section 145 of the Act;
- Councillor Conduct Panel confidential information, being information specified in section 169 of the Act;
- information prescribed by the regulations to be confidential information for the purposes of this definition; or
- information that was confidential information for the purposes of section 77 of the Local Government Act 1989.

Information is also considered to be confidential by Council and is prohibited from administrative release under this policy if it is:

- personal information about an individual that is prevented from release under the privacy and Data Protection Act 2014;
- information which is exempt from release under the provisions of the Freedom of Information Act 1982;
- information which is required to be kept confidential under the Local Government Act 2020 or any other Act;
- information which is intended for an internal audience and is an opinion, advice or recommendation prepared by an officer for management, Councillors or the Council and its release would be contrary to the public interest;
- information which, if released, would prejudice Council or any other person;
- information which, if released, would be contrary to the public interest.
- Information that has been specifically designated and identified as confidential by the Chief Executive Officer or delegate.

Any person seeking access to information that is prohibited from administrative release may lodge an application under the Freedom of Information Act.



## 5. Related Documents

- Privacy and Data Protection Act (Vic) 2014
- Freedom of Information Act (Vic) 1982
- Local Government Act (Vic) 2020
- Copyright Act (Cth) 1986
- Yarra City Council Open Data Policy

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