

Strathbogie Shire Council Public Transparency Policy

September 2022



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Public Transparency Policy

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PART 1 POLICY

1. PURPOSE

Council must adopt and maintain a public transparency policy under section 57 of the *Local Government Act 2020* (the Act). Section 57(2) states:

A public transparency policy must

- (a) give effect to the public transparency principles
- (b) describe the ways in which Council information is to be made publicly available; and subject to section 58(b)
- (c) specify which Council information must be publicly available, including all policies, plans and reports required under this Act or any other Act
- (d) include any other matters prescribed by the regulations.

This policy has been developed with these requirements in mind, along with giving effect to the Public Transparency Principles outlined in section 58 of the Act.

The public transparency measures outlined in this document support Council's ongoing efforts to achieve the highest standards of good governance and underlines our commitment to be open and accountable to our community.

2. POLICY STATEMENT

Council is committed to transparent decision making and involving our community in making those decisions.

We understand that our community needs access to a wide range of information so enable people to participate in the wide range of decision making and community engagement processes we undertake.

We also know that promoting awareness across the community as to the availability of Council information is an important part of this engagement process.

The objectives of this policy are to promote:

- accountability around how Council is allocating and spending public money
- increased confidence and trust in the community through greater understanding and awareness
- enhanced involvement in Council's decision-making process by the community in line with our Community Engagement Strategy and Policy
- greater clarity in Council's decision-making processes
- improved Council's performance and service delivery to our community
- access to information that is current, reliable, easily accessible and disseminated in a timely manner
- the protection of information that is identified as being sensitive or confidential under the Act and other legislation.

3. APPLICATION OF THIS POLICY

The **2021 - 25 Council Plan** highlights the need for openness, the highest ethical standards and transparency. Accordingly, this policy applies to Councillors and Council staff of the Council.

Having ease of access to a broad range of Council information is a key way in which we will support all sections of our community in being part of our decision making and engagement processes.

Council will, through this policy, abide by and implement the following public transparency principles, as outlined by section 57(2) of the Act:

- (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 under the 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. ACCOUNTABILITY AND RESPONSIBILITIES

It is everyone's role within Council to promote and facilitate access to council information in accordance with the public transparency policy, as outlined by the table below:

Party	Roles and Responsibilities
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.
Audit and Risk Committee	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.
Executive Leadership Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.
Management Team	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.
Director People and Governance	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.
All Staff	Public transparency is the responsibility of all employees as appropriate to their role and function. All staff are to respond to requests for information and facilitate provision of information in consultation with their manager and in alignment with the Policy. All staff to ensure all corporate records are saved on Council's electronic document management system in accordance with the Chief Executive Officer's Directive – Records Management.

5. HOW WE WILL BE TRANSPARENT

5.1 Decision Making at Council Meetings

- will maximise opportunities for public participation and the expression of all viewpoints on a matter, particularly from those whose rights will be directly affected by Council's decision, to assist Council in making informed decisions
- will be undertaken in accordance with the Act, Council's Meeting Procedures Local Law 2014 or Governance Rules
- will be conducted in an open and transparent forum, unless in accordance with the provisions in the Act and the local law or Governance Rules
- will be informed through community engagement, in accordance with the Act's Community Engagement Principles, our Community Engagement Strategy and Communications and Engagement Policy
- will ensure decisions are made fairly and on the individual merits of the matter.

5.2 Being open about what information we store

A list information retained by Council is outlined in our Part II Statement, as required by the *Freedom of Information Act 1982*. The Statement is designed to help our community understand the broad range of information it holds and how it can be accessed and can be accessed through Council's website using the following link:

https://www.strathbogie.vic.gov.au/images/Documents/20130105v2_Strathbogie_Shire_Part_II_Statement.pdf

In summary, the information Council holds includes (but is not limited to):

Documents such as:

- plans and reports adopted by Council such as the Council Plan and Annual Report
- Council Policies and Chief Executive Officer Directives
- draft and adopted budgets
- asset management plans
- project and service plans
- emergency management plans
- planning strategies, reports and studies
- grant application, tenders and tender evaluation material
- service agreements, contracts, leases and licences
- council leases, permits and notices of building and occupancy
- relevant technical reports and / or research that informs decision making
- general correspondence and documents submitted by third parties
- building and planning applications and associated documents
- local law permit applications and associated documents
- databases for roads, rates, contacts, customer service requests and mailing lists

Process information such as:

- operating procedures and forms
- application processes for approvals, permits, grants, access to Council services
- decision making processes
- guidelines and manuals
- community engagement processes
- public interest disclosure processes
- complaints handling processes.

Council records such as

- Council and Committee minutes and agendas
- registers required under various Acts
- information relating to allowances, salaries and interests of Councillors and our Executive Leadership Team
- delegation instruments for decision making powers by the Council and Chief Executive Officer

- details of Council appointed committees.

5.3 Making it easy for our community to access information

We want to facilitate public access to the information we hold that is not subject to confidentiality under the Act or other Acts. To achieve this, we will maximise the information provided through our website or that can be obtained by an informal request to inspect the information held by Council.

Council's website will provide easy access to the following, as a minimum:

- public agendas and minutes of ordinary and special Council meetings
- public reports from Advisory Committees to the Council (through Council minutes and agendas)
- Audit and Risk Committee Performance Reporting (through Council minutes and agendas)
- terms of reference or charters for delegated Council Committees and the Audit Committee (to be known as the Audit and Risk Committee by 1 September 2020)
- quarterly reports on reimbursements to Councillors
- quarterly reports on any expenditure on the Chief Executive Officer's corporate purchasing card
- register of Election campaign donations
- details of current allowances fixed for the Mayor and Councillors
- details of total annual remuneration for all senior officers in respect of the current and previous financial year, including ranges set out as specified and the number of senior officers within those ranges
- details of overseas or interstate travel (excluding interstate travel by land for less than three (3) days) undertaken in an official capacity by Councillors or any member of Council staff in the previous 12 months, including name, date, destination, purpose and total cost of the travel
- names of Councillors who submitted returns of interest during the financial year and the dates the returns were submitted
- a list of special committees, delegated committees or community asset committees established by Council under the Act, and the purpose for which each committee was established
- a list of all special committees established by Council which were abolished or ceased to function during the financial year
- minutes of public meetings of special committees established by Council and held in the previous 12 months
- registers of Delegations and Authorised Officers
- details of all property, finance and operating leases involving land, buildings, plant or vehicles entered into by the Council as lessor or lessee, including the name of the other party to the lease, the terms and the value of the lease
- a register of Authorised Officers
- a list of the names of the organisations of which the Council was a member during the financial year and details of all membership fees and other amounts and services provided during that year to each organisation by the Council

- a list of contracts for services and goods valued at \$150,000 or more and contracts for works valued at \$200,000 or more, which Council has entered into without first engaging in a formal competitive process and which are not contracts which are referred to in section 186(5) of the Act.

Informal requests to inspect other information can be made by:

 email to info@strathbogie.vic.gov.au



a letter posted to PO Box 177, Euroa VIC 3666



calling our office toll free on 1800 065 993

Calling in at our Customer Service Centres:

Euroa

Open: 9am to 5pm Monday to Friday

109a Binney Street, Euroa

Nagambie

Open: 10am to 4pm Monday to Friday

293 High Street, Nagambie

In providing access to our information, consideration will be given to accessibility and cultural requirements. We will also respond to requests for information in alignment with the Act including the Public Transparency Principles, this policy and in accordance with our Part II statement made under the *Freedom of Information Act 1982*.

Information which can be requested for inspection includes:

- names of Council officers who were required to submit a return of interest during the financial year and the dates the returns were submitted
- submissions received in accordance with section 223 of the Act during the previous 12 months
- agreements to establish regional libraries
- a list of donations and grants made by the Council during the financial year, including the names of persons or bodies which have received a donation or grant and the amount of each donation or grant
- registers of Conflicts of Interest disclosed by Councillors or Council staff
- registers of donations and grants made by Council
- planning permit and building permit registers
- submissions made by Council to various authorities and bodies
- summary of Personal Interests of Councillors and the Executive Leadership Team
- register of Authorised Officers
- any other Registers or Records required by legislation or determined to be in the public interest.
- a summary of Personal Interests for Councillors and the Executive Leadership Team ([known as](#) 'Register of interests' until 24 October 2020)

- Submissions received under section 223 of the *Local Government Act 1989* until its repeal or received through a community engagement process undertaken by Council
- Council published newsletters, reports and handbooks for residents, businesses and visitors to council.

Formal requests for information under the *Freedom of Information Act 1982* can also be lodged with us using the following form from our website
https://www.strathbogie.vic.gov.au/images/Media_Releases/FOI_Request_Form_-_01.07.17.pdf .

The *Freedom of Information Act 1982* gives our community right of access to documents that we hold.

If you can't find the document you require, please contact us before you make an FOI application as we will endeavour to make as much information as possible available to you without going through this formal process unless it is not in the public interest or restricted by the Act or any other Act.

6. INFORMATION THAT IS NOT AVAILABLE FOR PUBLIC VIEWING

Some Council information may not be made publicly available because it is confidential information or if its release would be contrary to the public interest or not in keeping with the requirements of the *Privacy and Data Protection Act 2014*.

"Confidential information" is defined in section 3 of the *Local Government Act 2020*. It includes the types of information listed in the following table.

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 <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.

6.1 The 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.

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.

7. WHAT TO DO IF YOU ARE UNHAPPY WITH OUR DECISION ON THE RELEASE OF INFORMATION

If you wish to question a decision about the release of information under this policy please contact the officer handling the matter in the first instance.

If you are still not satisfied with our response and would like to seek a review of the decision, please contact the Director People and Governance or, alternatively, Council's Freedom of Information Officer on 1800 065 993 or email info@strathbogie.vic.gov.au and attention the email to this officer.

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 their website www.ombudsman.vic.gov.au .

8. MONITORING AND REPORTING

Council commits to monitoring processes, information sharing and decision making to understand the overall level of success in the Policy's implementation.

Council's Audit and Risk Committee is required to monitor compliance with legislation and Council Policies and will periodically undertake an internal audit in relation to requests for information to be release through informal means, with the findings reported to Council and areas for improvement or refinement in processes identified.

9. DEFINITIONS

Term	Means
Closed Council Meetings	means when Council resolves to close the meeting to the general public to consider a confidential matter regarding issues of a legal, contractual or personnel nature and other issues deemed not in the public interest to discuss in a public forum.
Communication	means a process of reaching mutual understanding, in which participants not only exchange information, news, ideas and feelings, but also create a shared meaning.
Community	<p>means the term used to define groups of connected people. We use it to describe people of a municipality generally, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality. A real or online group of people united by at least one common characteristic such as geography, shared interests, experiences, values or attitudes.</p> <p>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.</p>
Confidential information	is defined in section 3 of the <i>Local Government Act 2020</i> and includes the types of information listed in clause 10 of this policy.
Consultation	means the process of seeking input on a matter or issue.
Engagement	means the many ways in which a council connects with community, and the community connects with a council to exchange views, ideas and information in the development and implementation of strategy, policies, programs and services.
Local Law/Governance Rules	means the Strathbogie Shire Council's Meetings Procedures Local Law No 1 2014, which is to be superseded by the adoption of Governance Rules as required by <i>the Local Government Act 2020</i> on 1 September 2020.

Public interest	means the test set out under section 36(2) of the <i>Freedom of Information Act 1982</i> , which states documents are exempt from disclosure if that the disclosure would be reasonably likely to have a substantial adverse effect on the economy of the municipal district or it would disclose instructions issued to, or provided for the use of guidance of, officers of a council on the procedures to be followed or the criteria to be applied in negotiation, including financial, commercial and labor negotiation, in the execution of contracts, in the defense, prosecution and settlement of cases, and in similar activities relating to the financial property or personnel management and assessment interests of the council.
Stakeholder	means a person, group or organisation that may be affected by, have a specific interest in, or influence over, a council decision or issue under consideration.
the Act	means the <i>Local Government Act 2020</i> .
Transparency	means a lack of hidden agendas or conditions and the availability of all information needed for the community to collaborate, cooperate and make decisions effectively. Transparency also means the right to have the opportunity, without discrimination, to participate in public affairs (s58 of The Act).

10. RELATED POLICIES AND LEGISLATION

The following Council, State, regional and national plans and policies are relevant to this policy under each subtitle.

10.1 External References

Charter of Human Rights and Responsibilities Act 2006

Equal Opportunity Act 2010.

Freedom of Information Act 1982

<https://www.legislation.gov.au/Details/C2012C00231>

Local Government Act 2020

[*Local Government Act 1989*](#)

<https://www.legislation.vic.gov.au/as-made/acts/local-government-act-2020>

Privacy and Data Protection Act 2014

<https://www.legislation.vic.gov.au/in-force/acts/privacy-and-data-protection-act-2014/025>

10.2 Related Council Documents

Communications and Engagement Policy ~~2019~~

https://www.strathbogie.vic.gov.au/images/Communications_and_Engagement_Policy.pdf

~~Community Engagement Strategy 2019 – 2022~~
~~[https://www.strathbogie.vic.gov.au/images/20190826-community_engagement_strategy-
-endorsed_august_2019.pdf](https://www.strathbogie.vic.gov.au/images/20190826-community_engagement_strategy-
-endorsed_august_2019.pdf)~~

Customer Service Charter

https://www.strathbogie.vic.gov.au/images/Plans_policies_Strategies_reports/2019%20Customer%20Service%20Charter%20FINAL.pdf

Privacy and Data Protection Policy 2018

https://www.strathbogie.vic.gov.au/images/Plans_policies_Strategies_reports/2018%20Policy-Privacy%20and%20Data%20Protection%20Policy.pdf

Part II Statement (*Freedom of Information Act 1982*) - Publication of Certain Documents and Information

https://www.strathbogie.vic.gov.au/images/Documents/20130105v2_Strathbogie_Shire_Part_II_Statement.pdf

2021-25 Council Plan

https://www.strathbogie.vic.gov.au/images/Plans_policies_Strategies_reports/Strathbogie_Shire_Council_20212025_Council_Plan.pdf

11. POLICY REVIEW

This policy will be reviewed every two years unless the Chief Executive Officer or Council determines that an earlier review is required.

Council may review this policy at any time and at least two years from the date of adoption.

Minor amendments to the policy may be authorised by the CEO at any time where such changes do not alter the substance of the policy (e.g. a change to the name of a related document, or a change in legislation).

12. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006 AND THE EQUAL OPPORTUNITY ACT 2010

The Council acknowledges the legal responsibility to comply with *the Charter of Human Rights and Responsibilities Act 2006* and the *Equal Opportunity Act 2010*. The *Charter of Human Rights and Responsibilities Act 2006* is designed to protect the fundamental rights and freedoms of citizens. The Charter gives legal protection to 20 fundamental human rights under four key values that include freedom, respect, equality and dignity.