

# Public Transparency Policy

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<b>Related strategic documents, policies, or procedures:</b>	Local Law No.1 Meeting Procedures Governance Rules Community Engagement Policy		

Date	Version Number	Details of Version	Modified by
6/03/2020	1	Development of policy as per 2020 Act requirements	Executive Manager Organisational Capability

## 1. Purpose

Mount Alexander Shire Council must adopt and maintain a Public Transparency Policy under Section 57 of the Local Government Act 2020 (the Act). This policy gives effect to the Public Transparency Principles outlined in Section 58 of the Act.

This policy establishes our position in providing a transparent environment so that the community can access documentation and information about our administrative, regulatory, policy making and decision making processes.

## 2. Scope

This policy applies to the Councillors and employees (including full time, part time, casual employees, agency staff and students) and Community Asset Committees created under Section 65 of the Act. The policy is also applied in the management of contractors, volunteer groups and consultants of Mount Alexander Shire Council.

## 3. Policy

Council is committed to:

- Promoting confidence and trust in the community through greater understanding and awareness of its decision making processes.
- The principle that public sector information is an asset that should be available for access and use.
- Providing access to information that is current, relevant and easily accessible.
- Opportunities for communication with the community.
- Economic, social, health and wellbeing and environmental gains through better informed decision making<sup>1</sup>.

To support this commitment Council will provide access to data, documents and information in relation to administrative, regulatory, and policy making processes, unless there are specific legislative provisions, legal barriers or exemptions that restricts access to the information, and will articulate this commitment under the Public Transparency Principles.

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<sup>1</sup> Government of Western Australia, Department of Mines, Industry Regulation and Safety, Transparency Policy, March 2020, p2

## 4. Key Principles of the Policy

### 4.1. 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 (Section 58(a) of the Act).

#### 4.1.1 Formal decision making

Formal decisions of Council are made at Council Meetings held under Section 61 of the Act, and in accordance with the Council's Governance Rules<sup>2</sup>.

Section 66 of the Act (Meetings to be open to the public unless specified circumstances apply) states that Council or a delegated committee must keep a meeting open to the public unless the Council or delegated committee considers it necessary to close the meeting to the public because:

1. The meeting is to consider confidential information; or
2. Security reasons; or
3. It is necessary to do so to enable the meeting to proceed in an orderly manner.

Where a meeting is closed due to security reasons or it is necessary to enable the meeting to proceed in an orderly manner, the meeting can only be closed to the public if the Council or delegated committee has made arrangements to enable the proceedings of the meeting to be viewed by members of the public as the meeting is being held. This can include viewing via online platforms (such as the internet) or closed circuit television. If a Council or delegated committee determines that a meeting is to be closed to the public to consider confidential information, the Council or delegated committee must record in the minutes of the meeting that are available for public inspection:-

1. The ground or grounds for determining to close the meeting to the public.
2. An explanation of why the specified ground or grounds applied.

#### 4.1.2 Lead up to formal decision making

While formal decision making is undertaken at a Council Meeting, there is considerable discussion within the organisation in the lead up to community engagement and then presentation at a Council Meeting.

A matter, whether it be a decision, policy, plan, or other matter, will be reviewed by the Executive Team and presented to the Councillors at a Council Briefing for full consideration of the matter and to seek further information to ensure the Councillors have the appropriate information at the appropriate time to inform the final decision.

For many decisions community engagement will be undertaken to provide context and to inform the community view for the Councillors. We will refer to our Community Engagement Policy and Community Engagement Framework to determine the level of engagement to be undertaken for a particular matter where it is not specified in the Act.

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<sup>2</sup> Section 60(8) of the Act states: Until a Council adopts Governance Rules under this section, the Local Law Meeting Procedures made by the Council under the Local Government Act 1989 apply as if the Local Law Meeting Procedures had been adopted as Governance Rules under this section.

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These have been developed in alignment with the *IAP2 Public Participation Spectrum Framework* which articulates five levels of engagement and what that means. The following table outlines the five levels of engagement:

<b>Inform</b>	<b>Consult</b>	<b>Involve</b>	<b>Collaborate</b>	<b>Empower</b>
To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/ or solutions.	To obtain public feedback on analysis, alternatives and/or decisions	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision making in the hands of the public.

All reports provided to Council seeking a decision include a Communication and Consultation Section which will outline the IAP2 level of engagement that has been undertaken and document how we achieved this.

The Agenda for Council meetings open to the public are available and the minutes of the meetings are also available. They are published on Council's website.

Major projects will have a Community Engagement Plan documented to provide transparency in our engagement process for the project. This also incorporates a Communications Plan that outlines key timing, roles, responsibilities and actions.

There are actions and decisions that we will not communicate on such as day to day operations and staffing matters.

## 4.1.3 Decisions not made at a Council Meeting

There are many decisions made at an operational level in everyday activities.

Staff have Position Descriptions which outline their levels of authority, and some staff are provided with delegated authority from the Council and/or the Chief Executive Officer to make decisions on behalf of the organisation which are related to specific Acts of Parliament and their supporting Regulations, as well as Council approved policies.

**4.2. Council information must be publicly available unless the information is confidential by virtue of this Act or any other Act, or public availability of the information would be contrary to the public interest (Section 58(b) of the Act).**

All requests for information not readily available will be available unless they fall under Section 5.2 Exemptions of this policy. Information that is readily available includes, but is not limited to the following:

Reference	Details
Section 55 of the Act	Annual budgets
	Annual Report which incorporates the annual financial statements
Section 55 of the Act	Council approved policies
Section 55 of the Act	Council Plan (including the Municipal Health and Wellbeing Plan and Disability Action Plan)
Section 55 of the Act	Annual Plan
Section 55 of the Act	Financial Plan
Section 55 of the Act	Asset Plan
Section 55 of the Act	Strategic plans
Local Government (General) Regulations 2015, No 119 (Documents to be made available to the public)	Council Meeting Agendas and Minutes, unless the meeting is closed to the public because of a circumstance outlined in Section 66(2) of the Act
Section 75 of the Act	Local laws
Section 76(4) of the Act	Document, code, standard, rule, specification or method which contains any matter incorporated in a local law
Section 114 of the Act	Public notice to sell land
Section 135(3) of the Act	Summary of Personal Interests
Section 307(2) of the Act	Election campaign donations
Local Government (General) Regulations 2015, No 119 (Documents to be made available to the public)	Registers of travel undertaken by Councillors or Council Staff (The Regulations require details of overseas or interstate travel (other than interstate travel by land for less than three days).
Local Government (General) Regulations 2015, No 119	Registers of donations and grants made by Council

Reference	Details
(Documents to be made available to the public)	
Local Government (General) Regulations 2015, No 119 (Documents to be made available to the public)	Registers of leases entered into by Council, as lessor and lessee
Local Government (General) Regulations 2015, No 119 (Documents to be made available to the public)	Register of Delegations
Local Government (General) Regulations 2015, No 119 (Documents to be made available to the public)	Register of Authorised officers
Section 55 of the Act	Community engagement processes – Community Engagement Policy and Community Engagement Framework
Section 107 of the Act	Complaints handling processes – Complaints Policy
	Audit and Risk Advisory Committee Charter

#### 4.3. Council information must be understandable and accessible to members of the municipal community (Section 58(c) of the Act).

We acknowledge that our diverse community includes people with disabilities, challenges with literacy, community members with culturally and linguistically diverse backgrounds, and those without technology, and will provide information in various formats to support our community.

Some of the strategies we have implemented to support our community in understanding and accessing our information are:

- Authors of Council's policies, plans, and other documents are encouraged to use our Writing Guidelines within our Design and Writing Style Guide to ensure documents use every day words, short sentences and paragraphs, get to the point, and are targeted to the end audience, which is usually our community. A number of Easy English publications have also been collated (as required).
- We undertake telephone surveys to reach those who have literacy and/or accessibility challenges (such as mobility, frailty and transport)
- We network with the Mount Alexander Disability Advisory Group who can advise us on the accessibility of our written content

- We have a mobile hearing loop available for use in our customer service centre
- We make available hard copy materials to community members without technology
- We have a screen reader on our website to support the visually impaired
- We have devices for phones to amplify volume for clients on a case by case basis
- We are registered for interpreter service
- We have provided material in a range of languages. Examples include during the COVID-19 pandemic and as part of emergency management protocols and publications.

#### 4.4. Public awareness of the availability of Council information must be facilitated (Section 58(d) of the Act).

Our website is our primary source for providing information and documents for community access, and printed documents can be requested directly from our Customer Service Team.

In addition to this we use various media channels to communicate our business, items of information, documents, events, etc. The media used currently includes:

Media	Communication
Radio	The Mayor and Chief Executive Officer (or delegates) have weekly radio interviews with local radio stations, providing them with the opportunity to promote activities in the Shire.
Print	Inserts are provided for the quarterly rates notices to provide up to date information to the community.
Electronic	The Shire News is produced quarterly, and is distributed to residents and other interested people.
Social	Current information and updates are promoted through our Facebook pages. These includes Mount Alexander Shire Council, Mount Alexander Shire Youth and Connect Mount Alexander, Castlemaine Lost and Found (animals).
Personal	Our Customer Service Team and Visitor Information Teams (Castlemaine and Maldon) provide information to customers about their particular topic of interest. Where a subject matter expert is needed, the customer's query is referred to that team.
Staff representation	Staff provide representation and/or attend local meetings to provide information about their particular area of expertise. This includes at a local, regional and state level.
Councillor representation	Councillors provide local representation to committees in their districts.

Media	Communication
Councillor listening posts	Councillors hold listening posts in their districts which provide avenues of two way communication between the Councillors and their community members.
Television	The opportunity is taken to promote up to date information to the community through the local television news.
Media releases	Information is communicated to the community through regular media releases that are provided in print and through social media.
Local newspapers	A Council Column is printed in the Midland Express weekly which is a free publication distributed and available throughout the Shire and beyond.
Website	Regular updates are made to our website with current information and documents.
Direct communication	Regularly communication is made directly with clients in relation to their service, and in particular, where that service will be changed. This is usually in the form of a letter.
Community newsletters	Information is provided to our Shire's community newsletters.
Have your say	The Council website has a platform for community members to provide direct feedback to us on current matters, such as the annual budget, or a review of a policy or plan.

## 5. Access and Exemptions

### 5.1. Access

#### 5.1.1 Local Government Act requirements

There are schedules within the Act that determine how Council's information will be made publicly available. The Act states that certain documents will be:

- At the Council's office – 185 Lyttleton Street, Castlemaine Victoria
- On the Council's internet – [www.mountalexander.vic.gov.au](http://www.mountalexander.vic.gov.au)
- Published in any other manner prescribed by the regulations for the purpose of that particular section<sup>3</sup>.

#### 5.1.2 Freedom of Information Act 1982

The *Freedom of Information Act 1982* provides rights of access to documents that we hold. We are committed to, where possible, proactive and informal release of information in

<sup>3</sup> At the time of developing this policy the regulations for the Local Government Act 2020 had not been developed.



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accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner. Read more at [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au).

A list of available information is provided in the Part II Statement (Statement) published on Council's website in accordance the *Freedom of Information Act 1982*. This Statement 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.

## 5.2. Exemptions

Some Council information 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* or the *Health Records Act 2001*, or other Acts that identify information as private or confidential.

“Confidential information” is defined in Section 3 of the *Local Government Act 2020* and is provided in Section 7 of this policy. It includes the types of information listed in the following table.

Term	Definition
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 to internal arbitration of an alleged breach of the Councillor Code of Conduct.

Term	Definition
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> .

It may be decided that in the interests of transparency, to release information to the public even though it is confidential under the Act. However, this will not occur if release is contrary to law, 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.

## 6. Review of decision for release of information

If a community member wishes to question a decision regarding the release of information, this should be raised directly with the officer handling the matter in the first instance. If still not satisfied and the community member would like to contest the decision, this can be undertaken through Council's Complaints Policy.

If the community member is not satisfied with the response, 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).

## 7. Definitions of Abbreviations and Terms Used

Term	Definition
Information	For the purpose of this policy information includes documents.
Community	Community is a flexible 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.
Consultation	The process of seeking input on a matter.
Stakeholder	An individual or group with a strong interest in the decisions of Council and are directly impacted by their outcomes.

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Term	Definition
Closed Meetings	When Council resolves to close the meeting to the general public, 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.
Transparency (Section 58 of The Act).	A lack of hidden agendas or conditions, and the availability of all information needed in order to collaborate, cooperate and make decisions effectively. Importantly, “transparency” is also a human rights issue: the right to have the opportunity, without discrimination, to participate in public affairs
Public Interest Test	Council may refuse to release information if it determines that the harm likely 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 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.
Confidential information	<p>Section 3 of the Act states: “Confidential information means the following information—</p> <ul style="list-style-type: none"> <li>(a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;</li> <li>(b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;</li> <li>(c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;</li> <li>(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;</li> <li>(e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;</li> <li>(f) personal information, being information which if released would result in the unreasonable disclosure of information</li> </ul>

Term	Definition
	<p>about any person or their personal affairs;</p> <p>(g) private commercial information, being information provided by a business, commercial or financial undertaking that—</p> <ul style="list-style-type: none"> <li>(i) relates to trade secrets; or</li> <li>(ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;</li> </ul> <p>(h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);</p> <p>(i) internal arbitration information, being information specified in section 145;</p> <p>(j) Councillor Conduct Panel confidential information, being information specified in section 169;</p> <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 <b>Local Government Act 1989</b>".</p>

## 8. Human Rights Statement

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act (2006). Mount Alexander Shire Council is committed to consultation and cooperation between management and employees. Mount Alexander Shire Council will formally involve the Workplace Consultative Committee in any workplace change that may affect employees.