

7.3.7 REVIEW OF PUBLIC TRANSPARENCY POLICY

Responsible Manager:	Amanda Sapolu, Manager Corporate Governance & Legal
Responsible Director:	Simone Wickes, Director Corporate Services

RECOMMENDATION

That Council

- 1. Adopts the Public Transparency Policy as per attachment 1.**
- 2. Revokes the previous Public Transparency Policy adopted on 28 July 2020.**

INTRODUCTION

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. The *Public Transparency Principles* are set out below.

- Council decision making processes must be transparent, except when Council is dealing with information that is confidential by virtue of the Act or any other Act;
- Council information must be publicly available, unless:
 - o the information is confidential by virtue of the Act or any other Act; or
 - o public availability of the information would be contrary to the public interest;
- Council information must be understandable and accessible to the members of the municipal community;
- Public awareness of the availability of Council information must be facilitated.

COUNCIL PLAN STRATEGIC OBJECTIVES

A council with good governance, strong leadership and community involvement in decision making

A Council that provides governance and leadership for the benefit of our community through community engagement, advocacy, decision making and action.

BACKGROUND

Council must adopt and maintain a Public Transparency Policy under section 57 of the *Local Government Act 2020* (the Act).

Council is committed to the principles of public transparency, good governance, open and accountable conduct and making council information publicly available, except where that information is confidential under the provisions of the Act or contrary to the public's interest.

DISCUSSION

The draft Policy has been reviewed in line with the Monash Policy Framework and legislative requirements.

FINANCIAL IMPLICATIONS

There are no financial implications to this report.

POLICY IMPLICATIONS

This Policy outlines guidelines and procedures for public transparency. It is essential for Council to have this policy in place to ensure good governance, ensures efficiency and highlights the importance of open and accountable conduct and is in accordance with the *Local Government Act 2020*.

CONSULTATION

Community consultation was not required.

SOCIAL IMPLICATIONS

There are no social implications to this report.

HUMAN RIGHTS CONSIDERATIONS

We confirm that this policy has been carefully reviewed to ensure it does not affect human rights. We are committed to respecting human rights and will continue to monitor the policy to ensure it remains compliant.

Section of the Charter	Impact and Justification
s 13 – Privacy and Reputation	Through the publication of Council Information, Council must ensure that a person must not have their privacy interfered with.
s 18 – Taking part in public life	This policy enables people to participate in the conduct of Council affairs and have access to Council and Council Information in a consistent and transparent manner.

Council considers that this Policy promotes the right to privacy while balancing competing statutory obligations, transparency requirements and operational responsibilities.

Any limitation on rights is considered reasonable, necessary, justified and proportionate in the circumstances.

Council will continue to monitor this Policy to ensure it remains consistent with applicable human rights obligations.

GENDER IMPACT ASSESSMENT

A GIA was not completed because this policy/program/service does not have a 'direct' and 'significant' impact on the community.



CONCLUSION

That Council adopts the revised Public Transparency Policy and revokes the previous Public Transparency Policy adopted in 2020.

ATTACHMENT LIST

1. DRAFT - Public Transparency Policy [**7.3.7.1** - 13 pages]
2. CURRENT - public-transparency-policy [**7.3.7.2** - 13 pages]

Public Transparency Policy

COUNCIL POLICY

Corporate Governance & Legal (Corporate Services)

OVERVIEW:

This Policy outlines guidelines and procedures for public transparency. It is essential for Council to have this policy in place to ensure good governance, ensures efficiency and highlights the importance of open and accountable conduct.

RESPONSIBLE MANAGER:

Manager, Governance & General Counsel for the corporate implementation, review, and interpretation of this policy.

RESPONSIBLE DEPARTMENT:

Corporate Services

ADOPTED BY:

COUNCIL

DATE:

28 July 2026

EDNA NO:

[insert EDNA reference number]

REVIEW DATE:

June 2030



Index

1	Introduction	3
2	Scope	3
3	Background	3
4	Legislative Context and Governance Statement	3
5	Definitions	4
6	Responsibilities and Roles	5
7	Public Transparency.....	6
7.1	Council Decision Making Processes	6
7.2	Council Information, Publications and Confidential Information	6
7.2.1	Publications.....	6
7.2.2	Confidential Information	6
7.2.3	Information Contrary to Public Interest	7
8	Accessibility of Council Information	7
9	Dissatisfaction with the handling of requests	7
10	Gender Impact Assessment.....	7
11	Human Rights Considerations	8
12	Administrative Amendments.....	8
13	Review	8
14	Superseded Policies.....	8
15	Document Version	9
16	Contact	9
17	Appendices	10
	Appendix A - Public Transparency Principles	10
	Appendix B – Council Information.....	11
	Appendix C – Confidential Information as defined in section 3(1) of the Act.....	13



1. Introduction

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. The *Public Transparency Principles* are set out in **Appendix A** of this Policy.

This Policy aims to formalise Council's commitment to transparent decision-making processes and freely available public access to Council information. It supports and promotes:

- a. increased community confidence and trust in Council through greater understanding and awareness;
- b. improved Council visibility and performance; and
- c. access to information that is current and easily accessible.

This Policy includes all forms of Council information and how it will be made available to the public and is an integral part of Council's governance framework.

2. Scope

This Policy applies to all Councillors, delegated committees under the Act and council staff of Monash City Council.

3. Background

Council must adopt and maintain a Public Transparency Policy under section 57 of the *Local Government Act 2020* (the Act).

Council is committed to the principles of public transparency, good governance, open and accountable conduct and making council information publicly available, except where that information is confidential under the provisions of the Act or contrary to the public's interest.

4. Legislative Context and Governance Statement

- *Privacy and Data Protection Act 2014* (Vic) – Governs the handling of personal information within the Victorian public sector.
- *Freedom of Information Act 1982* (Vic) – Provides individuals with the right to request access to documents.
- *Charter of Human Rights and Responsibilities Act 2006* (Vic) – Requires Council to act compatibly with human rights in all decisions and practices.
- *Local Government Act 2020* (Vic) – Outlines Council's responsibilities, powers, and governance obligations.
- *Public Records Act 1973* (Vic) – Establishes requirements for the creation, maintenance, and lawful disposal of public records.
- *Equal Opportunity Act 2010* (Vic) – aims to make public life free from discrimination, sexual harassment, vilification and victimisation.
- *Planning & Environment Act 1987*
- *Building Act 1993*
- *City of Monash, Governance Rules* – govern the conduct of Council meetings and meetings of any delegated committee the Council may establish.

This Policy aligns with Council's governance principles, and equity obligations. Decisions made under this Policy must balance operational needs, safety, law enforcement requirements and individual rights.

In generating this Policy, Council confirms that its development, implementation, and review comply with the overarching governance principles outlined in the Act. This Policy has considered the importance of engagement, strategic planning, financial management, transparency, and service performance.

5. Definitions

Word	Definition
Act	means the <i>Local Government Act 2020</i>
Chief Executive Officer	means person appointed to the role Chief Executive Officer, including person Acting in the role.
Closed Meeting	means a meeting of Council that is closed to members of the public.
Community	means the residents and ratepayers of, and visitors to the municipality
Confidential Information	means confidential information as defined in section 3(1) of the Act.
Contrary to Public Interest	means whether making certain Council Information publicly available would cause, or risk causing detriment to the community or future decisions made by Council.
Council	means Monash City Council
Council Information	means all documents and other information held by Council.
Council Offices	means the offices of Council located at 293 Springvale Road, Glen Waverley.
Council Website	means Council's website www.monash.vic.gov.au
Freedom of Information (FOI) Request	means a formal application seeking access to documents under <i>the Freedom of Information Act 1982</i> , allowing individuals to request access to documents.
Governance Rules	means the governance rules adopted by Council under section 60 of the Act.
Health Information	means health information as defined in section 3 (1) of the <i>Health Records Act 2001</i>
Meeting	means a meeting of Council or a Delegated Committee.
Municipal District	means the municipal district of Council.
Officer	means a member of Council staff and includes the Chief Executive Officer.



Word	Definition
Personal Information	means personal information as defined in section 3(1) of the <i>Privacy and Data Protection Act 2014</i> .
Public Transparency Principles	means the public transparency principles set out in section 58 of the Act and reproduced in section 1 of this Policy.
Requestor	means a person making a request to access Council information under and in accordance with this Policy.

Table 1 – Definitions

6. Responsibilities and Roles

Who	Role
Council/ Councillors	Upholding the commitment and principles of public transparency through decision-making, leadership and conduct.
Chief Executive Officer	Responsible for the application and operation of this Policy. Approve or reject the release of Council Information, in accordance with this Policy. Authorise another Officer or Officers to fulfil any of the Chief Executive Officer's functions and duties under this Policy.
Executive Leadership Team	Promotes the behaviours that foster transparency and embeds the principles through policy, process and leadership. Monitors the implementation of this Policy.
Governance Team	Provides support and advice to the community regarding the FOI Act.
Manager, Governance & General Counsel	Monitors the implementation of this Policy, ensuring the periodic reviews are undertaken to maintain relevancy.
Staff	Responsible for public transparency for their respective role. Responsible for the timely response to requests for information for the provision of information with this Policy and the <i>Freedom of Information Act 1982</i> .

Table 2 – Responsibilities and Roles



7. Public Transparency

7.1 Council Decision Making Processes

Council will ensure that the decision-making processes it adopts are transparent and open to the community, to ensure that the community is provided with an opportunity for meaningful engagement with Council and its decision-making processes.

Council's decision-making processes will be informed by:

- a. Views of those members of the community whose rights and interests will be directly affected by the decision; and
- b. Responses, if any, to any process of community engagement conducted by Council in respect of the decision, whether in accordance with its Community Engagement Policy or otherwise.

Further details of Council's decision-making processes are documented in section 2 of Council's Governance Rules (Chapter – 1 Governance Framework) and Council's Community Engagement Strategy.

7.2 Council Information, Publications and Confidential Information

Council will publish information relating to Council services and administrative functions on Council's website to ensure that they are accessible by the public or will provide this information upon request. All Council Information will be made available to the public unless the:

- Council Information is confidential information; or
- release of the Council Information is assessed by the Chief Executive Officer as being contrary to the public interest.

A list of categories of Council information which will generally, subject to this Policy, be made available either on Council's Websites, at the Council Offices or on request is set out in **Appendix B** to this Policy.

7.2.1 Publications

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to the municipal district. These publications are available on the Council Website, the Council Offices or on request to Council.

7.2.2 Confidential Information

Not all Council Information is made publicly available.

This applies to information:

- described under section 3(1) of the Act as Confidential Information.
- if released would be contrary to the public interest.
- if its release does not comply with the *Privacy and Data Protection Act 2014* or
- if it is exempt material under the *Freedom of information Act 1982*.

A list of all Council Information that constitutes Confidential Information is set out in section 3(1) of the Act and is attached as **Appendix C** to this Policy.

In the interests of transparency, Council may decide to release information to the public, even though it is confidential under the Act. However, in the instance that releasing the information is contrary to law, in breach

of contractual requirements, is likely to cause harm to any person or is not in the public interest to do so., information will not be released.

7.2.3 Information Contrary to Public Interest

Council Information will not be made publicly available if doing so would be contrary to the public interest.

When assessing whether making certain Council Information publicly available would be contrary to the public interest, the Chief Executive Officer will consider, among other things:

- a. the sensitivity of the Council Information;
- b. whether the Council Information comprises a draft, or otherwise is no longer current; and
- c. any adverse effect that releasing the Council Information would have on the effectiveness of Council's decision-making processes.

8. Accessibility of Council Information

Council Information will be made available on the Council Website, at the Council Offices and/or on request in accordance with this Policy.

Council will use plain English and limit technical language, where possible, when communicating with our community to ensure that our communications are understood.

Monash Council is an inclusive organisation and seeks to provide information to our community in a way that is suitable to their needs including but not limited to the translation of information and providing information in different forms.

Where information has not been made publicly available on Council's website, members of the public have the right to contact Council for access to documents. Council will respond to requests for information or documents in alignment with the Act, the *Public Transparency Principles* of the Act, the *Freedom of Information Act 1982*, and the *Privacy and Data Protection Act 2014*.

Where Council Information is subject to other legislation such as the *Planning & Environment Act 1987* and *Building Act 1993*, the requirements under the relevant Act, in relation to the access of information will take precedence and be adhered to where any request is made.

9. Dissatisfaction with the handling of requests

If a requestor is dissatisfied with Council's application of, or believes that Council has acted in contravention of this Policy, they can report their dissatisfaction to the Director, Corporate Services by email to mail@monash.vic.gov.au or by calling the Governance team on 03 9518 3509.

If the requestor believes that the matter remains unresolved following their initial contact with Council, they can contact the Victorian Ombudsman by making a complaint online, www.ombudsman.vic.gov.au/complaints.

10. Gender Impact Assessment

Council has a legislative responsibility under the *Gender Equality Act 2020* to conduct a Gender Impact Assessment (GIA) on all new policies, programs and services (and those that are up for formal review) which have a direct and significant impact on the community.

This Policy does not have a direct and significant impact on the community and therefore no GIA was considered necessary.

11. Human Rights Considerations

Council must give proper consideration to human rights when making decisions. Proper consideration to human rights must be undertaken before a decision is made and may impact on people's rights.

We confirm that this policy has been carefully reviewed to ensure it does not affect human rights. We are committed to respecting human rights and will continue to monitor the policy to ensure it remains compliant.

Section of the Charter	Impact and Justification
s 13 – Privacy and Reputation	Through the publication of Council Information, Council must ensure that a person must not have their privacy interfered with.
s 18 – Taking part in public life	This policy enables people to participate in the conduct of Council affairs and have access to Council and Council Information in a consistent and transparent manner.

Council considers that this Policy promotes the right to privacy while balancing competing statutory obligations, transparency requirements and operational responsibilities.

Any limitation on rights is considered reasonable, necessary, justified and proportionate in the circumstances.

Council will continue to monitor this Policy to ensure it remains consistent with applicable human rights obligations.

12. Administrative Amendments

From time to time, circumstance may require minor amendments be made to this Policy. Where this does not materially alter the Policy, such amendments may be made administratively by the Chief Executive Officer.

Any amendment which materially alters the Policy must be approved by Council.

13. Review

This Policy will be reviewed by Manager Governance and General Counsel every four years, or earlier if required due to legislative or operational change.

14. Superseded Policies

Upon adoption by Council, this Policy supersedes and replaces the following policies:

- Public Transparency Policy – 2020.

Any requirements previously contained within the superseded policy relating to public transparency are now governed by this Policy.



15. Document Version

Version Number	Date	Author	Reviewed By	Approved By	Comments
1.0	28/07/2020	Coordinator Governance	Manager, Corporate Governance & Legal	Chief Executive Officer	
2.0	22/04/2026	Strategic Projects Support Officer	Manager, Governance & General Counsel	Executive Leadership Team	Administrative review in line with Monash Policy Framework.

16. Contact

If you have any questions about this Policy, please contact Council:



By emailing: mail@monash.vic.gov.au



By calling the Governance Team, on 03 9518 3509.



17. Appendices

Appendix A - Public Transparency Principles

The Public Transparency Principles are set out in section 58 of the *Local Government Act 2020* as follows:

- Council decision making processes must be transparent, except when Council is dealing with information that is confidential by virtue of the Act or any other Act;
- Council information must be publicly available, unless:
 - the information is confidential by virtue of the Act or any other Act; or
 - public availability of the information would be contrary to the public interest;
- Council information must be understandable and accessible to the members of the municipal community;
- Public awareness of the availability of Council information must be facilitated.



Appendix B – Council Information

Type of Information	Examples of Documents
Council information required under the Act (and the Local Government Act 1989) to be made available on Council's website:	- Agendas and Minutes of Council Meetings and Delegated Committees; - Local Laws and Governance Rules; - Council Plan and Annual Plan; - Council Budget and Strategic Resource Plan; - Code of Conduct – Councillors; - Summary of Election Campaign Donation Returns; - Summary of Personal Interest Returns; and - Any other registers or records required to be published on Council's website under legislation or determined to be in the public interest.
Other Council documents and information to ensure the community is informed about Council's operations and functions may be made available on Council's website or by request:	- Adopted Council policies, plans and strategies; - Project and service plans; - Terms of Reference or Charters for Council Committees and Groups; - Consultations and community engagement processes undertaken by Council; - Reporting from Advisory Committees and Reference Groups to Council; - Audit and Risk Committee performance reporting; - Relevant technical reports and/or research that informs decision making; - Practice notes and operating procedures; - Guidelines and manuals; - Application processes for approvals, permits, grants and access to Council services; - Submissions made by Council; - FOI Part II Statement; and - Any other registers or records required to be published on Council's website under legislation or determined to be in the public interest.
Council documents and information to ensure the community is informed about Council's operations and	- Registers of delegation; - Register of gifts, benefits and hospitality offered to Council staff; - Register of overseas and interstate travel undertaken by Councillors or Council staff;



Type of Information	Examples of Documents
functions that will be made available for inspection on request:	• Register of conflicts of interest disclosed by Councillors or Council staff; • Register of donations and grants made by Council; • Register of leases entered into by Council, as lessor and lessee; • Register of authorised officers; • Submissions received under section 223 of the <i>Local Government Act 1989</i> until its repeal or received through a community engagement process undertaken by Council (if those submissions are not part of a Council report); and • Any other registers or records required to be made available for public inspection under legislation.



Appendix C – Confidential Information as defined in section 3(1) of the Act

Type of Information	Description
Council business	Information that would prejudice the Council's position in commercial negotiations if prematurely released.
Security	Information that is likely to endanger the security of Council property or the safety of any person if released.
Land use planning	Information that is prematurely released if likely to encourage speculation in land values.
Law enforcement	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 to which legal professional privilege or client legal privilege applies.
Personal	Information which would result in the unreasonable disclosure of information about any person or their
Private commercial	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 and records of meetings closed to the public under section 66(2)(a).
Internal arbitration	Information provided to, or produced by, an arbiter for the purpose of an internal arbitration process, other than the findings and reasons.
Councillor conduct panel	Information as specified in section 169 of the Act.
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> .



**PUBLIC TRANSPARENCY
POLICY**

**Adopted by Council on 28 July 2020.
Administrative Review September 2024.**

1. PURPOSE

The purpose of this Policy is to:

- 1.1 give effect to the Public Transparency Principles;
- 1.2 describe the ways in which Council Information will be made publicly available;
- 1.3 specify which Council Information will be made publicly available as of course; and
- 1.4 describe the categories of Council Information that may be unavailable to the public.

This Policy is adopted under section 57 of the Act.

2. OBJECTIVE

The objective of this Policy is to formalise Council's support for transparency in its decision-making processes and availability of Council Information and to achieve the purpose stated in Part 1 of this Policy.

3. SCOPE

This Policy applies to Councillors and Officers.

4. DEFINITIONS

In this Policy, the following words and phrases mean:

"Act" means the Local Government Act 2020.

"Chief Executive Officer" includes an Acting Chief Executive Officer.

"Closed Meeting" means a Meeting that is closed to members of the public.

"Community" means the residents and ratepayers of, and visitors to, the Municipal District and may, depending on the context, refer to all of those people or to particular subsets of those people.

"Confidential Information" means confidential information as defined in section 3(1) of the Act.

"Council" means Monash City Council.

“Council Information” means all documents and other information held by Council.

“Council Offices” means the offices of Council located at 293 Springvale Road, Glen Waverley.

“Council Website” means Council’s website at www.monash.vic.gov.au.

“Governance Rules” means the governance rules adopted by Council under section 60 of the Act, as amended from time to time.

“Health Information” means health information as defined in section 3(1) of the *Health Records Act 2001*.

“Meeting” means a meeting of Council or a Delegated Committee.

“Municipal District” means the municipal district of Council.

“Officer” means a member of Council staff, and includes the Chief Executive Officer.

“Personal Information” means personal information as defined in section 3(1) of the *Privacy and Data Protection Act 2014*.

“Public Transparency Principles” means the public transparency principles set out in section 58 of the Act and reproduced in Part 5 of this Policy.

“Requestor” means a person making a request to access Council Information under and in accordance with this Policy.

5. RESPONSIBILITY FOR THIS POLICY

- 5.1 The Chief Executive Officer is responsible for the application and operation of this Policy.
- 5.2 The Chief Executive Officer may, from time to time, authorise another Officer or Officers to fulfil any of the Chief Executive Officer’s functions and duties under this Policy.
- 5.3 Where another Officer is or other Officers are authorised under clause 5.2, any reference in this Policy to the Chief Executive Officer is to be read as a reference to that Officer or those Officers.

6. PUBLIC TRANSPARENCY PRINCIPLES

- 6.1 The Public Transparency Principles are set out in section 58 of the Act as follows:

- 6.1.1 Council decision-making processes must be transparent, except when Council is dealing with information that is confidential by virtue of the Act or any other Act.
- 6.1.2 Council Information must be publicly available, unless:
 - (a) the information is confidential by virtue of the Act or any other Act; or
 - (b) public availability of the information would be contrary to the public interest.
- 6.1.3 Council Information must be understandable and accessible to members of the Municipal District.
- 6.1.4 Public awareness of the availability of Council Information must be facilitated.
- 6.2 Council will give effect to and implement the Public Transparency Principles in accordance with this Policy.

7. COUNCIL DECISION-MAKING PROCESSES

- 7.1 Council will ensure that the decision-making processes that it adopts are transparent and open to the Community so that the Community is provided with an opportunity for meaningful engagement with Council and its decision-making processes.
- 7.2 Without limiting the generality of clause 7.1, Council's decision-making processes will:
 - 7.2.1 be conducted in accordance with the Act and the Governance Rules;
 - 7.2.2 unless considering Confidential Information, be conducted in a forum that is open to, and accessible by, the Community; and
 - 7.2.3 be informed by the:
 - (a) views of those members of the Community whose rights and interests will be directly affected by the decision; and
 - (b) responses, if any, to any process of community engagement conducted by Council in respect of the decision, whether in accordance with its Community Engagement Policy or otherwise.
- 7.3 Further details of Council's decision-making process can be found in Chapter 1 of the Governance Rules.

8. AVAILABILITY OF COUNCIL INFORMATION

- 8.1 All Council Information will be made available to the public, unless the:
 - 8.1.1 Council Information is Confidential Information; or
 - 8.1.2 release of the Council Information is assessed by the Chief Executive Officer as being contrary to the public interest.
- 8.2 A list of the categories of Council Information which will generally, subject to this Policy, be made available either on the Council Website, at the Council Offices or on request is set out at Appendix 1 to this Policy.

9. PUBLICATIONS

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to the Municipal District. These publications are available on the Council Website, at the Council Offices or on request to Council.

10. ACCESSIBILITY OF COUNCIL INFORMATION

- 10.1 Council Information will be made available on the Council Website, at the Council Offices and/or on request.
- 10.2 Council will, to the extent possible, facilitate access to Council Information by:
 - 10.2.1 making Council Information available in accordance with this Policy;
 - 10.2.2 endeavouring to make Council Information accessible electronically and in hard copy, where requested; and
 - 10.2.3 endeavouring to convert Council Information to different accessible formats where necessary for members of the Community for whom:
 - (a) English is their second language; or
 - (b) disability requires an alternative means of access to be provided.
- 10.3 Where a request is made for access to Council Information that is not on the Council Website or otherwise available at the Council Offices, the Chief Executive Officer will:
 - 10.3.1 review the request;
 - 10.3.2 assess whether the Council Information requested is Confidential Information, or its release would be contrary to the public interest; and

- 10.3.3 notify the Requestor of the outcome of that assessment.
- 10.4 If the Council Information requested is assessed under clause 10.3 as not being Confidential Information, or its release is assessed as not being contrary to the public interest, the Council Information will be provided to the Requestor.
- 10.5 The Council Information will be provided to the Requestor by email unless the:
 - 10.5.1 Requestor seeks access in a different form, including by reference to the matters stated in clause 10.2.3, in which case the Council Information will be provided in that form, unless it is impracticable to do so; or
 - 10.5.2 Chief Executive Officer, having regard to the nature of the Council Information requested, determines that the Council Information should be provided in a different form, such as by inspection.
- 10.6 Council will provide such support to the Requestor as it considers reasonable to ensure that the Council Information provided is understood by them.
- 10.7 If, under clause 10.3, the Council Information requested is assessed as being Confidential Information, or its release is assessed as being contrary to the public interest, the Requestor will be advised:
 - 10.7.1 that the request has been denied;
 - 10.7.2 of the reasons for the request being denied; and
 - 10.7.3 of alternative mechanisms by which they may seek access to the Council Information (eg by making a request made under the *Freedom of Information Act 1982*).
- 10.8 Any request for access to Council Information by way of an alternative mechanism under clause 10.7.3 will be assessed according to the process applicable to it.
- 10.9 Where:
 - 10.9.1 Council Information requested is assessed under clause 10.3 as being Confidential Information, or its release is assessed as being contrary to the public interest; but
 - 10.9.2 it is practicable for that Council Information to be provided with deletions so that it is suitable for release to the Requestor; and
 - 10.9.3 the Chief Executive Officer believes that the Requestor would want the Council Information in that format,the Council Information will be provided in that format.

11. COUNCIL INFORMATION THAT IS NOT AVAILABLE

Some Council information may not be made publicly available. This will occur if the information is Confidential Information, or its release would be contrary to the public interest.

11.1 Confidential Information

11.1.1 What constitutes Confidential Information is set out in section 3(1) of the Act and includes information within the following categories:

Type	Description
Council business information	Information that would prejudice 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, if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.
Confidential meeting information	Records of Council and Delegated Committee meetings that are closed to the public to consider confidential information.
Internal arbitration information	Information provided to, or produced by, an arbiter for the purpose of an internal arbitration process, other than the findings and the reasons.

Type	Description
Councillor Conduct Panel information	Information: - provided to, or produced by, a Principal Councillor Conduct Registrar, for the purposes of an application to form a Councillor Conduct Panel; or - provided to, or produced by, a Councillor Conduct Panel for the purposes of conducting a hearing, other than a decision or reasons for a decision; or - comprising any part of a statement of reasons or other document under the control of a Councillor Conduct Panel that the Councillor Conduct Panel determines contains confidential information.
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> .

11.1.2 In the interests of transparency, Council may, by resolution, determine to release information to the public even though it is Confidential Information.

11.1.3 A decision under clause 11.1.2 will generally only be made if Council, on the advice of the Chief Executive Officer, is satisfied that releasing the Confidential Information would not:

- (a) be inconsistent with any legal or contractual obligation;
- (b) cause disadvantage to any person, including Council; and
- (c) otherwise be contrary to the public interest.

11.2 Contrary to the Public Interest

11.2.1 Council Information will not be made publicly available if doing so would be contrary to the public interest.

11.2.2 When assessing whether making certain Council Information publicly available would be contrary to the public interest, the Chief Executive Officer will have regard to, among other things:

- (a) the sensitivity of the Council Information;
- (b) whether the Council Information comprises a draft, or otherwise is no longer current; and
- (c) any adverse effect that releasing the Council Information would have on the effectiveness of Council's decision-making processes.

- 11.2.3 Without limiting clause 11.2.2, factors that might lead to a decision that the release of Council Information is contrary to the public interest might include whether release would be likely to:
- (a) disclose Personal Information or Health Information;
 - (b) disclose information or opinions of a preliminary nature such that they might:
 - (i) mislead the Community with respect to Council's position on a matter; or
 - (ii) have a substantial adverse effect on the economy of the Municipal District;
 - (c) prejudice discussions or negotiations between Council and any other party, in relation to a contract, legal proceedings or any other matter;
 - (d) impair or otherwise impact on:
 - (i) Council's ability to obtain information in future that is similar in nature to the Council Information;
 - (ii) negotiations with respect to employment arrangements for Officers; or
 - (iii) defence, prosecution and settlement of legal proceedings; or
 - (e) impact on the reasonable allocation of Council's resources, including in responding to requests for Council Information that are assessed by the Chief Executive Officer as being frivolous, vexatious or repetitious in nature.

12. PUBLIC AWARENESS OF AVAILABILITY OF COUNCIL INFORMATION

Council will ensure public awareness of this Policy and the availability of Council Information by:

- 12.1 publishing this Policy on the Council Website;
- 12.2 making this Policy available for public inspection at Council's offices;
- 12.3 converting this Policy to such accessible formats, having regard to clause 10.2.3, as the Chief Executive Officer determines; and
- 12.4 ensuring that all Officers:
 - 12.4.1 are aware of this Policy and its effect; and

- 12.4.2 direct members of the Community to this Policy when access to Council Information is sought.

13. HUMAN RIGHTS CHARTER

This Policy has been assessed against the *Charter of Human Rights and Responsibilities Act 2006* as being consistent with that Act and, in particular, as promoting the rights of members of the Community:

- 13.1 not to have their privacy interfered with (section 13); and
- 13.2 take part in public life (section 18), by having the opportunity to:
 - 13.2.1 participate in the conduct of Council's affairs; and
 - 13.2.2 have access to Council and Council Information.

14. DISSATISFACTION WITH THE APPLICATION OF THIS POLICY

- 14.1 If a Requestor is dissatisfied with Council's application of, or believes that Council has acted inconsistently with, this Policy, they can report their dissatisfaction to Council's Director Corporate Services by:
 - 14.1.1 email to governance@monash.vic.gov.au; or
 - 14.1.2 telephone on 9518 3521.
- 14.2 If the Requestor believes that the matter remains unresolved, it can be reported to the Victorian Ombudsman by:
 - 14.3 making a complaint online at:
<https://www.ombudsman.vic.gov.au/complaints>; or
 - 14.4 telephone on 03 9613 6222.

15. APPLICATION OF THIS POLICY

- 15.1 This Policy applies to all Council Information, except Council Information which is made available, or is otherwise accessible, under another Act (other than an Act which refers to this Policy).
- 15.2 Without limiting the generality of clause 15.1, this Policy does not apply to Council Information which is:
 - 15.2.1 required to be made available under the *Planning and Environment Act 1987*;

- 15.2.2 required to be made available under the *Building Act 1993*; or
- 15.2.3 otherwise required to be made available on payment of a fee or charge.

16. MONITORING, EVALUATION AND REVIEW

- 16.1 Council will review this Policy periodically to ensure that it continues to reflect the expectations of the Community with respect to the availability and accessibility of Council Information.

17. RESPONSIBILITY FOR THIS POLICY

Responsible Officer:	Director Corporate Services
Date Adopted:	28 July 2020
Administrative Review:	September 2024
Date of Next Review:	December 2024

Appendix 1

For the purposes of clause 8 of this Policy, the following Council Information will generally, and subject to this Policy, be made available either on the Council Website or on request by a member of the Community.

1. Documents such as:

- Plans and Reports adopted by Council;
- Council Policies;
- Project and Service Plans;
- Service Agreements, Contracts, Leases and Licences; and
- relevant technical reports and/or research that inform Council's decision-making.

2. Process information such as:

- application processes for approvals, permits, grants, access to Council services;
- decision-making processes;
- Guidelines and Manuals;
- Community Engagement Processes; and
- Complaints Handling Processes.

3. The following Council Information will be available on Council's website:

- Meeting Agendas;
- Minutes of Meetings;
- Audit and Risk Committee Charter;
- Terms of Reference for Delegated Committees;
- Gift Registers for Councillors and Council Staff;
- Travel Registers for Councillors and Council Staff;
- Registers of Conflicts of Interest disclosed by Councillors and Council Staff;
- Registers of Leases entered into by Council;
- Register of Delegations;
- Register of Authorised Officers;
- Register of Election Campaign Donations;

[8187804: 27046342_1]

page 12 of 13

- Summary of Personal Interests; and
- any other Registers or Records required by the Act or any other Act.