



Public Transparency Policy

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Purpose

The purpose of the Public Transparency Policy (the Policy) is to ensure the transparency of Council decisions, actions and information and to enable public awareness of the availability of East Gippsland Shire Council (Council) information in accordance with section 58 of the *Local Government Act 2020* (the Act). The Policy supports the overarching governance principles set out in section 9 of the Act and describes the type of Council information that is publicly available and the methods by which the community can access this information.

Scope

The Policy applies to decisions, actions and information of Councillors, delegated committee members, Council staff and Council as an organisation.

Policy Context

The Act assumes that all matters should be public except in very specific and limited circumstances. It establishes overarching governance principles for Council performance to ensure that Council is an open and transparent organisation. Section 9 (2)(i) of the Act mandates the *transparency of Council decisions, actions and information*.

Council must adopt and maintain a Public Transparency Policy under section 57 of the Act that gives effect to the following transparency principles, as outlined in section 58 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 by virtue of this Act or any other Act;*
 - 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.*

Policy Statement

Council is committed to the principles of public transparency established in section 58 of the Act and commits to making all Council decision making processes transparent and Council information publicly available, except where the information is:

- Confidential information,¹ unless Council has determined by resolution that the information should be made publicly available; or
- confidential by virtue of any other Act; or
- such that making it publicly available would be contrary to the public interest test².

Policy Initiatives

1. Council will make available on its website, where possible, Council information that is publicly available and it will be regularly reviewed, updated, understandable and accessible.

¹ Within the meaning of the Act – see the definition of ‘Confidential information’.

² See definitions section for the meaning of this term, including examples of where the public availability of information would be contrary to the public interest.

2. Information not able to be placed on the website, may be accessed, on request, by viewing in-person.
3. Council will use digital media channels to share Council information that is publicly available, such as Council meetings, and to encourage community engagement and consultation on projects and community related matters.
4. Council will make available on the website information outlined in the East Gippsland Shire Council Part II Statement³ required under the *Freedom of Information Act 1982*.
5. Council will facilitate the awareness of access to publicly available information through its website, social media and through community engagement opportunities.
6. Council will make publicly available information obtainable at Council's Customer Service Centres and libraries.
7. Council will apply the presumption of openness to information and adopt a proactive publication position within the parameters outlined in this Policy.
8. Council may charge for printing large documents or large volumes of publicly available information.
9. Council will assist the community in accessing its publicly available information and will inform the community of their right to make an application under the *Freedom of Information Act 1982* for information which is not considered publicly available information.
10. Where requested, Council will endeavour to convert Council information to different accessible formats where necessary for members of the municipal community for whom either English is their second language, or their disability requires an alternative means of access be provided.

Publicly available information

11. Under the Act (and in some cases the *Local Government Act 1989*), Council will, subject to the exceptions of confidentiality and public interest (section 58(b) of the Act), make the following Council information publicly available (either on the website or for viewing in-person by request) to give effect to the transparency principles and to ensure the community is informed and can benefit from access to information regarding Council's functions and operations:
 - Register of delegations made by the Council
 - Local laws and any documents incorporated
 - Proposed local laws
 - Council budget and quarterly budget reports as presented to Council
 - Council's annual report
 - Submissions made under s223 of the *Local Government Act 1989*

³ Available at
https://www.eastgippsland.vic.gov.au/files/assets/public/documents/corporate_directorate/egscfreedomofinformationactpart11statement.pdf

- Summary of campaign donation returns
- Summary of Personal Interest Returns⁴
- All adopted Council policies, plans, codes and strategies
- Governance Rules, including the Election Period Policy
- Agendas and minutes of Council and delegated committee meetings
- Reappointment of the Chief Executive Officer without advertisement
- Livestreams and records of Council meetings
- Live streams of Council meetings, if Council chooses to close physical attendance at Council meetings in accordance with Part 12 of the Act (COVID-19 temporary measures)
- Electronic recordings or live streams of delegated committee meetings, if the delegated committee chooses to close physical attendance at delegated committee meetings in accordance with Part 12 of the Act (COVID-19 temporary measures)
- Membership of, terms of reference for, and agendas and minutes of meetings of Council delegated committees and community asset committees.
- Composition and terms of reference for advisory committees
- Register of delegations made by the Chief Executive Officer
- Register of authorised officers
- Register of interstate and overseas travel by Councillors and staff
- Register of land leases entered into by Council
- Register of donations and grants made by Council
- Contracts awarded by Council
- Details of any Council land proposed for sale or exchange
- Allowances for the Mayor and Councillors
- Summary of reimbursements made to Councillors and members of delegated committees
- Summary of the conflicts of interest register
- Summary of Gifts, Benefits and Hospitality disclosures
- During an election period, the Request for Information Register recording all requests relating to electoral matters and non-routine requests for information by Councillors and election candidates, as well as the responses provided
- Any other Information requested that is eligible for public disclosure in accordance with sections 57 and 58 of the Act

12. Under various other Acts administered by Council the following information will be made publicly available:

- Register of planning permits

⁴ Which must include the details set out in section 135 of the Act and be in accordance with section 10 of the *Local Government (Governance and Integrity) Regulations 2020*.

- Register of planning applications on advertising
- Copy of planning permits and endorsed plans (by application, subject to copyright, charges will apply)
- Register of building permits, occupancy permits and temporary approvals
- Copies of building permits, plans and other documentation (by application, charges will apply)
- Register of animal registrations
- Register of public roads
- Freedom of Information Part II Statement⁵
- Any other information that is eligible for public disclosure in accordance with the Acts administered by Council.

Procedural guidelines

13. Requests for Council information not available on Council's website are to be directed to the relevant Council staff member, the Governance and Compliance Coordinator or the Freedom of Information Officer.
14. The Freedom of Information Officer will endeavour to provide as much information as possible free of charge within the parameters of this Policy, prior to processing the Information under the *Freedom of Information Act 1982*.
15. Requests for information that include exempt under the *Freedom of Information Act 1982* or documents which are not available under this Policy will be processed by application under that Act.
16. Requests for publicly available information that requires Council to redirect resources to the sourcing and preparing large volumes of information may incur a processing charge.
17. Where a request is made for access to Council information that is not on the Council website or otherwise available at Council Offices, the Manager Governance or Governance and Compliance Coordinator will:
 - a. review the request;
 - b. assess whether the Council information being requested is confidential information, or its release would be contrary to public interest, or whether access should be disallowed for another reason allowed under legislation; and
 - c. notify the person requesting the Council information of the outcome of the assessment (in accordance with clause 19 below) and, if the outcome is that the Council information is to be provided to the person, provide the person with the Council information.

⁵ Available at
https://www.eastgippsland.vic.gov.au/files/assets/public/documents/corporate_directorate/egscfreedomofinformationactpart11statement.pdf

18. The Council information requested will be provided by email unless:
 - a. the person requesting the Council information seeks access to the Council information in a different form, in which case the Council information will be provided in that form, unless it would be impractical to do so; or
 - b. the Manager Governance or Governance and Compliance Coordinator, having regard to the nature of the Council information requested, determines that the Council information would be better provided in a different form, such as by inspection.
19. Should the request for Council information be assessed to as being confidential information or the release of such information to be contrary to public interest, the person requesting the Council information will be informed:
 - a. that the request has been denied;
 - b. of the reasons for the denial; and
 - c. of any alternative mechanisms by which they may seek access to the Council Information (e.g. by making a request under the *Freedom of Information Act 1982*).
20. Chief Executive Officer to review and approve all decisions to deny access to information prior to the person making the request being notified in accordance with clause 20 above.
21. For all requests for information that is not on the Council website or otherwise available, the request whether released or denied will be recorded on the Public Transparency Register.

Review

The Policy will be reviewed every three years or as legislative changes occur requiring further information to be made publicly available

Administrative Updates

From time-to-time circumstances may change, leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively.

Administrative changes include updating to the latest style or template for policy, change to the name of Council directorate or business unit, change to the name of responsible person or position title, change to State or Federal department or minor update to legislation which does not have a material impact such as the section or definition changes in the Act.

Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the Policy in their work areas:

Party / Parties	Roles and Responsibilities
Council	Champion the commitment to the principles of public transparency in decisions, actions and information.
Chief Executive Officer	Champion the behaviours that foster transparency and drive the principles in the <i>Local Government Act 2020</i> through policy, process and leadership. Monitor the implementation of the policy. To review and approve all decisions denying information requests under this Policy.
General Managers	Manage areas of responsibility to ensure consistency with the public transparency principles and this policy.
Staff	Public transparency is the responsibility of all Council staff as appropriate in their role and function. All staff will respond to requests for information and facilitate the provision of information in alignment with this Policy and in consultation with their manager and, where required, the Governance and Compliance Coordinator and the Freedom of Information Officer.
Manager Governance	Monitor the implementation of this Policy and conduct reviews to drive continuous improvement in the application of the public transparency principles. Provide advice to Council and staff on the application of public transparency principles and this Policy in Council decisions and actions and to ensure information is publicly available where appropriate. Review and assess requests for information under this Policy.
Governance and Compliance Coordinator	Review and assess requests for information under this Policy. Maintain a register of information released or denied under this Policy.
Freedom of Information Officer	Provide advice to Council staff on when a request for information should be made and assessed under the <i>Freedom of Information Act 1982</i> . Make available information that is not subject to the <i>Freedom of Information Act 1982</i> .

References and Supporting Documents

Applicable Legislation:

Local Government Act 2020

Local Government Act 1989

Privacy and Data Protection Act 2014

Health Records Act 2001

Freedom of Information Act 1982

Charter of Human Rights and Responsibilities Act 2006

Applicable Policy and Procedure:

Access to Information (Records) Policy

Information Privacy Policy

Information Privacy Guidelines

Complaints Management Policy

Supporting Documents:

East Gippsland Shire Council Part II Statement the *Freedom of Information Act 1982*

Documents for Public inspection list

Privacy and Human Rights Consideration

Council will provide access to personal information only where legislation permits and where circumstances are appropriate, as outlined in Council's Information Privacy Policy. This Policy has been assessed against and complies with the *Charter of Human Rights and Responsibilities Act 2006* (the **Charter**). In accordance with section 13 of the Charter this Policy provides for the protection of an individual's right to not have their privacy unlawfully or arbitrarily interfered with. In accordance with section 16 of the Charter this Policy supports the right of every person in Victoria to participate in the conduct of public affairs.

Definitions

Term	Meaning
Act	The <i>Local Government Act 2020</i> (Vic).
Confidential information	As defined in section 3 of the <i>Local Government Act 2020</i>, confidential information means: (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released; (b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person; (c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values; (d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person; (e) legal privileged information, being information to which legal professional privilege or client legal privilege applies; (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs; (g) private commercial information, being information provided by a business, commercial or financial undertaking that– i. relates to trade secrets; or ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; (h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a); (i) internal arbitration information, being information specified in section 145 of the Act; (j) Councillor Conduct Panel confidential information, being information specified in section 169 of the Act; (k) information prescribed by the regulations to be confidential information for the purposes of this definition; (l) information that was confidential for the purposes of section 77 of the <i>Local Government Act 1989</i>.
Contrary to the Public Interest Test	Where, according to the relevant Council staff member, the net negative effect to the public of the publication of certain Council information would outweigh the net positive effect to the public of the publication of certain Council information. Examples of where the public availability of information would be contrary to the public interest include but are not limited to: (a) where disclosure of the information would divulge any information or

Term	Meaning
	matter communicated in confidence by or on behalf of a person or a government and be reasonably likely to impair the ability of Council to obtain similar information in the future; or (b) where disclosure of the information would be reasonably likely to have a substantial adverse effect on the economy of the municipal district, including but not limited to, revealing consideration of a contemplated movement in rates, fees, charges, interest charges or other levies, the sale or acquisition of land or property by the Council, urban re-zoning, the formulation of land use and planning controls and formation of imposts; or (c) where it would disclose instructions issued to, or provided for the guidance of, Council officers on the procedures to be followed or the criteria to be applied in negotiation, including financial, commercial and labour negotiation, in the execution of contracts, in the defence, prosecution and settlement of cases, and in similar activities relating to the financial property and personnel management of Council; or (d) where the information is subject to a secrecy provision in another Act; or (e) where disclosure of the information may constitute a contravention of the <i>Health Records Act 2001</i> or the <i>Privacy and Data Protection Act 2014</i>; or (f) where disclosure of the information would impede the administration of justice generally, including procedural fairness; or (g) where disclosure of the information would prejudice inter-governmental relations or otherwise affect relations with other governments; or (h) where disclosure of the information would prejudice or otherwise affect the conduct of investigations, audits or reviews by Council or integrity bodies; or (i) where disclosure of the information would prejudice the effectiveness of testing or auditing procedures, or (j) where disclosure of the information would prejudice the deliberative process of government. These are examples only and not exhaustive of the circumstances in which the public availability of information would be contrary to the public interest. Note that the Act provides no definition as to when the public availability of information would be contrary to the public interest. Council Staff will need to determine this on a case-by-case basis.
Community	People who live in East Gippsland; People and organisations who are ratepayers in East Gippsland; and People and organisations who conduct activities in East Gippsland.
Council	East Gippsland Shire Council.
Councillor	A person who has been elected to the office of Councillor of East Gippsland Shire Council.
Information	As defined in section 57(4) of the <i>Local Government Act 2020</i> .

Term	Meaning
Policy	This Public Transparency Policy.
Shire	The geographic area of East Gippsland Shire Council.
Staff	All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors and volunteers.
Transparency	Openness that enables accountability in Council decision making, actions and information.

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	25/08/2020	Council	8634750	New Policy. Council must adopt and maintain a Public Transparency Policy under section 57 of the <i>Local Government Act 2020</i> .
2	Approved	05/10/2021	Council		Revised to improve clarity and outline processes.