

Public Transparency Policy

June 2024

DRAFT

Council respectfully acknowledges and recognises Wurundjeri and Bunurong peoples as the Traditional Custodians of this land and pays respect to their Elders past, present and future.

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.

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1 POLICY PURPOSE

Brimbank City Council (Council) is required by section 57 of the *Local Government Act 2020* (the Act) to have a public transparency policy in place.

The purpose of Council's Public Transparency Policy is to promote openness and transparency in Council decision-making and to ensure that the public is well-informed and able to participate in these processes.

Greater transparency in Council's decision-making processes serves several important purposes:

- **Accountability and Trust:** By making information about how Council manages public resources readily available, transparency promotes accountability and fosters public trust.
- **Information and Participation:** Transparency allows residents and stakeholders to stay informed about Council decisions, policies, and projects, empowering them to participate in the decision-making process.
- **Community Engagement and Trust:** By providing more opportunities for residents and stakeholders to engage in discussions, express their opinions, and contribute to local decision-making processes, transparency helps build community engagement and trust.
- **Enhanced Decision Making:** Involving diverse community perspectives in decision making leads to more comprehensive and thoughtful outcomes.
- **Compliance:** Transparency ensures compliance with laws and regulations, reducing the likelihood of legal issues and potential conflicts.

2 POLICY SCOPE

2.1 This policy applies to

Councillors, including the Mayor and Deputy Mayor, and staff of the Council.

2.2 This policy does not cover

Council information that not appropriate to be publicly availability because it is protected by privacy, confidentiality, legal privilege or otherwise contrary to the public interest.

3 DEFINITIONS

For the purposes of this policy, Council adopts the following definitions:

Term	Definition
Closed Meetings	When Council resolves to close the meeting to the general public
Consultation	The process of seeking input on a matter
Public Participation	Public participation involves various levels of engagement, including informing the public about government activities, providing timely and

	relevant information to facilitate participation, delegating decision-making power to the public, and engaging in community activities that promote the common good.
Stakeholder	An individual or group with a strong interest in the decisions of Council and are directly impacted by their outcomes.
Transparency	Transparency is the principle of having no hidden agendas or conditions. It involves providing all the necessary information to facilitate collaboration, cooperation, and effective, well-informed decision-making.

4 STATEMENT OF POLICY PRINCIPLES

4.1 Public Transparency Principles

The objective of this policy is to give effect to the following Public Transparency Principles 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; 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.

5 SPECIFIC REQUIREMENTS

5.1 Decision Making at Council Meetings

Council must make decisions in accordance with its obligations under law, rules and adopted policy.

5.2 Requirements for Decisions at Council Meetings

Council must ensure that decisions made at Council Meetings are:

- a) Undertaken in accordance with the Act, Regulations and the Governance Rules.
- b) Conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules.
- c) Informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- d) Made fairly and on the merits, and where any person whose rights will be directly affected by a decision of the Council, that person will be entitled to communicate their views and have their interests considered, in accordance with the law.

5.3 Records of Council Meetings

Council must display records of its meetings in accordance with its Governance Rules and Live Streaming of Council Meetings Policy. The public will be able to access the minutes and video recording of meetings.

5.4 Specifying the legal basis for closed Council Meetings

Where Council closes a meeting to the public, or closes part of a meeting to the public, on the grounds that an item is confidential, it will specify the legal basis upon which the meeting is closed in accordance with the Act. The Minutes will also show the basis on which the meeting is closed.

5.5 Resolutions at Closed Council Meetings

Decisions made in closed council, depending upon their nature, may then be reported in the minutes at the discretion of Council.

5.6 Publishing agenda prior to Council Meetings

Council will publish an agenda prior to the Council meeting, ensuring that the municipality may ask a public question in accordance with its Governance Rules, about items that will be considered at that meeting.

6 COUNCIL INFORMATION

6.1 Availability

Council ensures that information is made available on the Council website, open data, at Council offices, or by request.

6.2 Accessibility

Council seeks to ensure that its communications are able to be understood by the municipality. For this reasons Council Officers are required to draft their reports in plain English and avoid technical language where possible.

6.3 Inclusivity

Brimbank is an inclusive community and Council will seek to provide information to the community in a way suitable to their needs, this includes translation services and providing information in other forms.

6.4 Community feedback

Council is under statutory obligations to seek community feedback on relevant items. A Community Engagement Policy is also a mandatory requirement for Councils and sets out Council's commitment to letting the Community know about Council's decision making.

6.5 Publication

Council's media team will facilitate the publication of Council Information on its website, social media channels, local newspapers or by public display on Council land.

7 COUNCIL RECORDS THAT ARE MADE PUBLIC

7.1 Accessing Council publications

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to Council. These publications can be downloaded from Council's website or by calling Council for a copy. Some of these publications are also available at Council's Libraries.

8 COUNCIL RECORDS THAT MAY BE AVAILABLE ON REQUEST

8.1 Accessing information under Freedom of Information

Some Council information will not be published but can be requested from Council. It may be required by Council to make a formal Freedom of Information application.

The *Freedom of Information Act 1982* (FOI Act) gives a right of access to documents held by Council. Council is committed to, where possible, proactive and informal release of information in accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner.

8.2 How Council will respond to requests for information

Council will respond to requests for information in accordance with the Act, the FOI Act, and this policy. Consideration will be given to accessibility and cultural requirements under the *Charter of Human Rights and Responsibilities Act 2006*.

8.3 Statement of information held by Council

A list of available information is provided in the FOI Act Part II Statement (Statement) published on Council's website. This Statement requires government agencies and local councils to publish statements about the type of information they hold to assist members of the public in accessing information.

8.4 Council publications generally available

The Council will make the following records available on Council's website or upon request:

- Council meeting agendas
- Reporting to Council
- Minutes of Council meetings
- Reporting from Advisory Committees to Council through reporting to Council
- Audit and Risk Committee Performance Reporting
- Terms of reference or charters for Advisory Committees
- Registers of travel undertaken by Councillors or Council Staff
- Registers of Conflicts of Interest disclosed by Councillors or Council Staff
- Submissions made by Council
- Registers of donations and grants made by Council
- Registers of leases entered into by Council, as lessor and lessee
- Register of Delegations
- Register of Authorised officers
- Register of Election campaign donations
- Summary of Personal Interests
- Any other Registers, Policies, Processes or Records required to be made public by legislation.

8.5 Other forms of information that may be requested

Other forms of information that Council creates that may be available upon request include:

- a) Documents such as:
 - Plans and Reports adopted by Council
 - Policies
 - Project and service plans
 - Grant application, tenders and tender evaluation material

- Service agreements, contracts, leases and licenses
- Council leases, permits and notices of building and occupancy
- Relevant technical reports and / or research that informs decision making.

b) Process information such as:

- Practice notes and operating procedures
- Application processes for approvals, permits, grants, access to Council services
- Decision making processes
- Guidelines and manuals
- Community engagement processes
- Complaints handling processes.

If a member of the community is unable to locate the desired information, they can contact Council directly for assistance. It is possible that Council can provide them with the requested information without the need for a formal freedom of information request.

9 CONFIDENTIALITY

Some Council information may not be made publicly available, this includes information that the Council considers confidential.

“Confidential information” is defined in section 3 of the Act and includes the types of information listed in the following table.

Table 1. Types of confidential information

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 or Local Government Act 2020	Information that was confidential information for the purposes of section 77 of the <i>Local Government Act 1989</i> or as defined in the <i>Local Government Act 2020</i> .

10 REVIEW OF DECISIONS ABOUT RELEASE OF INFORMATION

If a member of the community disagrees with a decision about the release of information, this should be raised directly with the officer handling the matter at first instance. If this does not resolve the issue, the concern may be reported to the Legal and Privacy Officer.

If the concern remains unresolved the matter may then be raised directly with the Victorian Ombudsman's office on 1800 806 314 or via the website www.ombudsman.vic.gov.au.

11 ROLES AND RESPONSIBILITIES

11.1 Council

Council is responsible for:

- Championing the commitment and principles for public transparency through leadership, modelling practice and decision-making.

11.2 Chief Executive Officer

The CEO is responsible for:

- Champion behaviours that foster transparency and drive the principles through policy, process and leadership.
- Monitor implementation of this policy.

11.3 Executive Management Team

The EMT is responsible for:

- Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.

11.4 Manager Governance and Risk

The Manager Governance and Risk is responsible for:

- Monitoring implementation of this policy and conducting periodic reviews to drive continuous improvement.

11.5 All Staff

Public transparency is the responsibility of all employees as appropriate to their role and function.

11.6 Chief Executive Officer

The CEO is responsible for:

- Champion behaviours that foster transparency and drive the principles through policy, process and leadership.
- Monitor implementation of this policy.

12 NON-COMPLIANCE WITH THIS POLICY

If a member of the community wishes to question a decision about the release of information, this should be raised directly with the officer handling the matter in the first instance. If the request is not resolved, this can be reported to the Senior Freedom of Information and Privacy Officer.

Unresolved concerns about release of information can then be raised directly with the Office of the Victorian Information Commissioner on 1300 006 842 or by email enquiries@ovic.vic.gov.au.

13 MONITORING, EVALUATION AND REVIEW

Council commits to monitoring processes to understand the success of implementation of this policy.

A periodic review of this policy will be undertaken in line with Council's Policy Management Framework to ensure any changes required to strengthen or update the policy are made in a timely manner.

14 POLICY OWNERSHIP

Responsible Director: Director, People, Partnerships and Performance

Responsible Officer: Manager, Governance and Risk

Directorate: People, Partnerships and Performance

Unit: Governance and Risk

15 APPROVAL

Approved by:

Date:

16 RELATED POLICIES & LEGISLATION

- *Local Government Act 2020*
- *Freedom of Information Act 1982*
- *Privacy and Data Protection Act 2014*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Equal Opportunity Act 2010*
- Freedom of Information Operational Policy
- Information Privacy and Health Records Policy

INTERNAL USE ONLY

Version	Version notes	Adopted	Review
1	New Policy	10/06/2015	10/06/2016
2	Review	2/11/2016	2/11/18
3	Review (Local Government Act 2020)	20/04/2021	20/04/2023
4	Review	5/02/2024	5/2/2026
5			

Local Government Act 2020 Compliance Statement

Section 9(1) of the *Local Government Act 2020* (the Act) requires Council to give effect to the overarching governance principles, in the performance of its role. Section 9(2) of the Act specifies the governance principles as follows:

- a) Council decisions are to be made and actions taken in accordance with the relevant law **(Compliance with the law)**;
- b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations **(Achieve best outcomes for the community)**;
- c) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted **(Promote the sustainability of the municipality)**;
- d) The municipal community is to be engaged in strategic planning and strategic decision making **(Engage the community in strategic planning and decision making)**;
- e) Innovation and continuous improvement is to be pursued **(Strive for innovation and continuous improvement)**;
- f) Collaboration with other Councils and Governments and statutory bodies is to be sought **(Collaborate with all other levels of government and government agencies)**;
- g) The ongoing financial viability of the Council is to be ensured **(Secure the ongoing financial viability of Council)**;
- h) Regional, state and national plans and policies are to be taken into account in strategic planning and decision making **(Strategic planning and decision making must take into account plans and policies in operation at all levels)**;
- i) The transparency of Council decisions, actions and information is to be ensured **(Council decisions, actions and information must be transparent)**.

Governance Principles

In developing the Public Transparency Policy, Council has considered and given effect to the overarching governance principles, as summarised below:

Governance Principle	Considerations
(a) Compliance with the law	All relevant legal requirements have been considered in developing the Policy. In particular, and without limitation, the Policy complies with the requirements in Part 6 of the Act, the public transparency principles at section 58 of the Act, and the <i>Local Government (Governance and Integrity) Regulations 2020</i> .
(b) Achieve best outcomes for the community	The Policy achieves better outcomes by promoting accountability and openness and allowing the community to have access information and opportunities to provide feedback and participate in decision-making.
(c) Promote the sustainability of the municipality	Not applicable for the Policy.
(d) Engage the community in strategic planning and decision making	In developing the Policy, Council undertook a community consultation process, in accordance with Council's Community Engagement Policy. Council will ensure that the community are consulted in the review of the Policy in accordance with the Community Engagement Principles in section 55 of the Act and Council's Community Engagement Policy.
(e) Strive for innovation and continuous improvement	Council will review the Policy on a no less than biennial basis, and pursue innovation and continuous improvement during every review.
(f) Collaborate with all other levels of government and government agencies	In developing the Policy, Council considered the Office of the Victorian Information Commissioner's <i>Framework for Releasing Council Information Proactively and informally under the Local Government Act 2020 (Vic) and the Freedom of Information Act 1982 (Vic)</i> .
(g) Secure the ongoing financial viability of Council	Not applicable for the Policy.
(h) Strategic planning and decision making must take into account plans and policies in operation	Not applicable for the Policy.
(i) Council decisions, actions and information must be transparent	The purpose and intent of this Policy is to promote openness and transparency.

Brimbank City Council

Telephone 9249 4000

Email info@brimbank.vic.gov.au

Post PO Box 70, Sunshine, VIC 3020

Hearing or speech impaired?

- TTY dial 133 677
- Speak & Listen 1300 555 727
- www.relayservice.gov.au, then enter 03 9249 4000



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