

PUBLIC TRANSPARENCY POLICY



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| Directorate: | Corporate Performance |
| Responsible Manager: | Manager Governance, Property and Risk |
| Review Due: | August 2024 |
| Adoption: | Council |
| Date Adopted: | 25 August 2020 |

Acknowledgement

Central Goldfields Shire Council acknowledges that we are situated on the traditional lands of the Dja Dja Wurrung people, and we offer our respects to their elders past, present and emerging.

1. Purpose

This purpose of this Policy is to:

1. give effect to the Public Transparency Principles;
2. describe the ways in which Council Information will be made publicly available;
3. specify which Council Information will be made publicly available as a matter of course; and
4. describe the categories of Council Information that may be unavailable to the public.

This Policy is adopted under section 57 of the Local Government Act 2020.

2. Application and Scope

This Policy applies to Council, Councillors and Council Officers.

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).

Without limiting the generality of the above, this Policy does not apply to Council Information which is:

- required to be made available under the Planning and Environment Act 1987;
- required to be made available under the Building Act 1993; or
- otherwise required to be made available on payment of a fee or charge.

3. Definitions

Act means the *Local Government Act 2020*.

CEO means the Chief Executive Officer includes an Acting Chief Executive Officer.

Community means municipal community.

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

Council means Central Goldfields Shire Council.

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

Council Offices means the offices of Council located at 22 Nolan St, Maryborough VIC 3465.

Council Website means Council's website at www.centralgoldfields.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 Community means:

- a) people who live in the municipal district of the Council;
- b) people and bodies who are ratepayers of the Council;
- c) traditional owners of land in the municipal district of the Council; and
- d) people and bodies who conduct activities in the municipal district of the 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 section 4 of this Policy.

4. General Provisions

4.1. Public Transparency Principles

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

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.
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.
3. Council Information must be understandable and accessible to members of the municipal community;
4. Public awareness of the availability of Council Information must be facilitated.

Council will give effect to and implement the Public Transparency Principles in accordance with this Policy.

4.2. Council Decision Making Processes

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

Without limiting the generality of the above, Council's decision-making processes will:

- be conducted in accordance with the Act and the Governance Rules;
- unless considering Confidential Information, be conducted in a forum that is open to, and accessible by, the Community; and
- be informed by the:
 - views of those members of the Community whose rights and interests will be directly affected by the decision; and
 - 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 process can be found in Chapter 1 of the Governance Rules.

4.3. Availability of Council Information

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 CEO as being contrary to the public interest.

4.3.1. Publicly available information

A non-exhaustive list of the categories of Council Information which will generally be made available either on the Council Website, at the Council Offices or on request is set out at in Appendix 1.

4.3.2. Freedom of Information (FOI)

The Freedom of Information Act 1982, establishes a general right of access to information. This is limited by exceptions and exemptions necessary for the protection of essential public interests including access to personal information, commercially sensitive or legal information.

For information on how to access information or make an FOI Application please see our website <https://www.centralgoldfields.vic.gov.au/Council/Governance/Freedom-of-Information>

4.4. 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.

4.4.1. Confidential Information

What constitutes Confidential Information is set out in section 3(1) of the Act and includes information within the categories listed in Appendix 2.

In the interests of transparency, Council may, by resolution, determine to release information to the public even though it is Confidential Information. A decision will generally only be made if Council, on the advice of the CEO, is satisfied that releasing the Confidential Information would not:

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

4.4.2. Contrary to the 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 CEO will have regard to, among other things:

1. the sensitivity of the Council Information including:
 - the type of information being requested e.g. is the information Personal Information or Health Information;
 - the status of the information being requested such as whether the Council Information comprises a draft, or otherwise is no longer current or the information is of a preliminary nature such that they might:
 - mislead the Community with respect to Council's position on a matter; or
 - have a substantial adverse effect on the economy of the Municipal District;
 - whether releasing the information would prejudice discussions or negotiations between Council and any other party, in relation to a contract, legal proceedings or any other matter;
 - whether releasing the information would impair or otherwise impact defence, prosecution and settlement of legal proceedings;
2. whether the request for information would impair or otherwise impact on Council's ability to obtain information in future that is similar in nature to the Council Information;
3. whether the request for information would impair or otherwise impact on the reasonable allocation of Council's resources, including in responding to requests for Council Information that are assessed by the CEO as being frivolous, vexatious or repetitious in nature;
4. any adverse effect that releasing the Council Information would have on the effectiveness of Council's decision-making processes.

4.5. Accessibility of Council Information

Council Information will be made available on the Council Website, at the Council Offices and/or on request.

Council will, to the extent possible, facilitate access to Council Information by:

- Endeavouring to make Council Information accessible electronically and in hard copy, where requested;
- Endeavouring to convert Council Information to different accessible formats where necessary for members of the Community for whom:
 - English is their second language; or
 - Have a disability which requires an alternative means of access to be provided;
- Provided in formats that reduce costs to individuals as far as is practicable; and
- Provided using a wide range of tools including Council's website, social media and print media.

4.6. Public Awareness of Availability of Council Information

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

- publishing this Policy on the Council Website;
- making this Policy available for public inspection at Council's offices;
- converting this Policy to such accessible formats; and
- ensuring that all Officers:
 - are aware of this Policy and its effect; and
 - direct members of the Community to this Policy when access to Council Information is sought.

4.7. Roles and Responsibilities

The CEO is responsible for the application and operation of this Policy.

The CEO may, from time to time, authorise another Officer or Officers to fulfil any of the CEO's functions and duties under this Policy.

Where another Officer is or other Officers are authorised any reference in this Policy to the CEO is to be read as a reference to that Officer or those Officers.

4.8. Dissatisfaction with the Application of this Policy

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 Manager Governance, Property and Risk by contacting:

Manager Governance Property and Risk
mail@cgoldshire.vic.gov.au
5461 0610
22 Nolan Street, Maryborough VIC 3456

If the Requestor believes that the matter remains unresolved, it can be reported to the Victorian Ombudsman by making a complaint online at <https://www.ombudsman.vic.gov.au/complaints> or via telephone on 03 9613 6222.

5. Review

This Policy must be reviewed a minimum of once every 4 years or in line with legislative changes.

6. Human Rights Statement

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:

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

7. Relevant Legislation and Council Policies

- Local Government Act 2020
- Freedom of Information Act 1982
- Central Goldfields Shire Council Governance Rules
- Privacy Policy

Appendix 1

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

- Council Plan;
- Annual Action Plan;
- Annual Budget;
- Strategic Resource Plan;
- Annual Report;
- Disability Action Plan;
- Municipal Health and Wellbeing Plan;
- Local Laws;
- Public Road Register;
- Road Management Plan;
- Emergency Management Plan;
- Procurement Policy;
- Plans, Policies and Strategies adopted by Council;
- Meeting Agendas;
- Minutes of Meetings;
- Audit and Risk Committee Charter;
- Terms of Reference for Delegated Committees;
- FOI Part II Statement; and
- Councillor Code of Conduct.

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 information will be available for inspection if not available on Council's website

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

4. 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.

Appendix 2

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

| 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. |
| Councillor Conduct Panel information | Information: <ul style="list-style-type: none"> 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> . |