



Mildura Rural City Council

Public Transparency Policy

Policy – CP067

Prepared	Reviewed	Approved	Date	Council Minute No.
Manager Corporate Administration		Council	August 2020	2020/0191
Trim File: 18/02/01		To be reviewed: July 2024		
Document Owner: General Manager Corporate		Review Frequency: Four yearly		

1. Purpose

The purpose of this policy is to outline the type of information we will make publicly available.

This policy gives effect to the Public Transparency Principles outlined in section 58 of the *Local Government Act 2020* (the Act) and have been included at Appendix One for ease of reference.

This policy applies to Councillors and Council staff of the Mildura Rural City Council.

2. Policy Statement

We are committed to transparency in our decision-making processes, and through this policy we will describe the ways in which Council information will be made publicly available.

This policy seeks to promote:

- a) Clarity in our decision-making processes;
- b) Confidence and trust from our community; and
- c) Access to information that is current, easily accessible and disseminated in a timely manner.

This policy applies to information and documents such as policies, plans, reports and registers required to be available under the Act or any other Act, and how that information will be made available.

3. Publicly Available Information – Statutory information

We make a range of information and documents available to the public under the *Local Government Act 2020* and a number of other Acts.

A table detailing the information available under these Acts is included at Appendix Two.

Included in the table is the relevant legislation and how you can access this information.

4. Publicly Available Information – Non-Statutory information

In accordance with the Public Transparency Principles, and in addition to the information listed in Appendix Two, we will also make the following information available either on request or on our website:

Document	How it can be accessed
Council meeting agendas and minutes, unless the information relates to confidential information as defined in the Act	On our website Printed copies are available upon request
Community Asset Committee Delegations	Printed copies are available upon request
Register of overseas and interstate travel undertaken by Councillors or Council staff	Inspection is available upon request
Register of Conflicts of Interest disclosures	Inspection is available upon request
Register of donations and grants made by Council	Inspection is available upon request
Register of leases entered into by Council, as lessor and lessee	Inspection is available upon request
Register of Authorised officers	Inspection is available upon request
Confidential Report Register	On our website
Council adopted strategies and plans	On our website
Council adopted policies	On our website

5. Release of Confidential Council Reports

In order to contribute to an environment of open and transparent decision-making, we will keep the number of matters considered in confidential Council to a minimum. In doing this, we will balance the need for Council to consider certain matters in confidential business, against the fundamental principle of open decision making.

We will, at times resolve to close a meeting to members of the public to deal with confidential business as defined in the Act.

Where possible, we will limit the period of confidentiality by incorporating either:

- a sunset provision, after which the information will no longer be confidential; or
- where it is not possible to stipulate a date after which the information is no longer confidential, specify a particular event, the occurrence of which removes the confidentiality restrictions.

We maintain a Confidential Report Register detailing the following information in respect to each Confidential Report considered by Council.

- Council meeting name and date;
- Title of the report;
- Nominated disclosure date;
- Date released to the public.

The Confidential Report Register is updated within two weeks following the Council Meeting and is available for viewing on Council's website.

Where a sunset provision or specified event has been reached, the Council Resolution as contained within the Minute document will be made available on Council's website within two weeks of the specified sunset provision or event.

In addition, a panel consisting of the Mayor, Deputy Mayor, Chief Executive Officer and General Manager Corporate will review the Confidential Report Register once each quarter to determine whether the information contained in the reports should be released.

Where the panel determines that a confidential decision should be released to the public, where a sunset provision or specified event has not been specified, a report will be prepared for the next Ordinary Meeting of Council seeking a resolution to release the Council Resolution as contained within the Minute document. A copy of the Council Resolution will be made available on Council's website within two weeks of Council's resolution to release the information.

A six monthly report will be prepared and presented to Council outlining the confidential items and the status of each item, including if they remain in confidential or have been released to the public.

The release of Confidential Council Reports will be facilitated and monitored by the Governance & Risk Unit.

6. Information Not Available

We may determine not to make some information publicly available. This will occur if the information is deemed confidential information within the meaning of the Act, if its release would be contrary to the public interest, or in order to comply with the requirements of the *Privacy and Data Protection Act 2014*.

“Confidential information” is defined in section 3 of the *Local Government Act 2020*. It includes the types of information listed in the following table.

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	Information that was confidential information for the purposes of section 77 of the <i>Local Government Act 1989</i>

Where information is not confidential, and not already available, we will apply the principles of a public interest test and give consideration to the resources required to respond to the request.

Public Interest Test

We will not make publicly available, information if the release would be contrary to the public interest, which is in accordance with the *Local Government Act 2020*. When considering the public interest, we will apply the test that exists in the *Freedom of Information Act 1982*. We may refuse to release information if we are satisfied that the harm to the community likely to be created by releasing the information, will exceed the public benefit in it being released.

Information that might be withheld because it is contrary to the public interest may include:

- internal working documents that have not been approved or submitted to Council, especially where their release may mislead the public;
- directions to Council staff regarding negotiations in contractual or civil liability matters, where release may damage the Council's capacity to negotiate the best outcome for the community; and
- correspondence with members of the community, where release may inappropriately expose a person's private information or dealings.

7. Other ways to access information

The *Freedom of Information Act 1982* gives you a right of access to documents that we hold.

We are committed to, where possible, the proactive and informal release of information in accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner, you can read more at www.ovic.vic.gov.au.

In the interests of transparency, Mildura Rural City Council has compiled a Part II Freedom of Information Statement which includes the following information:

- Statement 1 – Organisation and Functions of Council
- Statement 2 – Categories of Documents
- Statement 3 – FOI Arrangements
- Statement 4 – Publications
- Statement 5 – Rules, Policies and Procedures
- Statement 6 – Report Literature

Documents listed in this Part II Statement are available for inspection and/or purchase either on Council's website or by contacting customer service.

If you can't find the information you require, call us directly so we can assist you.

8. Responsibilities

It is everyone's role to promote and facilitate access to Council information in accordance with the Public Transparency Policy.

Who	Roles and Responsibilities	Timelines
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.	Ongoing
Executive Leadership Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.	Ongoing
Strategic Management Team	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.	Ongoing
All Staff	Public transparency is the responsibility of all employees as appropriate to their role and function. All staff respond to requests for information and facilitate provision of information in consultation with their manager and in alignment with the Policy.	Ongoing
Manager Corporate Administration	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing
Governance & Risk Coordinator	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing

9. 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 you are still not satisfied, and would like to contest the decision, this can be addressed to the Manager Corporate Administration.

If you remain dissatisfied with our response, concerns can be raised directly with the Victorian Ombudsman's office on (03) 9613 6222 or via the website – www.ombudsman.vic.gov.au.

10. Implementation

The Manager Corporate Administration is responsible for implementing this policy.

11. Definitions

Community	<p>Community is a flexible term used to define groups of connected people. We use it to describe people of a municipality generally, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality.</p> <p>More specifically, it can refer to everyone affiliated with the municipality, or smaller groups defined by interest, identity or location, and not necessarily homogenous in composition or views. Different types of communities often overlap and extend beyond municipal boundaries. Communities may be structured, as in clubs or associations or unstructured, such as teens. Communities are flexible and temporary, subject individual identity and location</p>
Consultation	<p>The process of seeking input on a matter</p>
Community Engagement	<p>Community Engagement is a planned process that involves two way community between Council and the people who will be affected by the decision</p>
Public Participation	<p>Public participation encompasses a range of public involvement, from simply informing people about what government is doing, to delegating decisions to the public and community activity addressing the common good</p>
Stakeholder	<p>An individual or group with a strong interest in the decisions of Council and are directly impacted by their outcomes</p>
Closed Meetings	<p>When Council resolves to close the meeting to the general public, in order to consider confidential information as defined in section 3 of the Act, or any other Act</p>
Transparency	<p>A lack of hidden agendas or conditions, and the availability of all information needed in order to collaborate, cooperate and make decisions effectively. Importantly, “transparency” is also a human rights issue: the right to have the opportunity, without discrimination, to participate in public affairs (s.58 of the Act)</p>
Public Interest Test	<p>The test used to balance the factors for and against disclosure of the request information</p>

12. Legislation and other references

12.1 Legislation

For further information related to this policy see:

- *Local Government Act 2020*
- *Local Government Act 1989*
- *Freedom of Information Act 1982*
- *Privacy and Data Protection Act 2014*
- *Equal Opportunity Act 2010*
- *Charter of Human Rights and Responsibilities Act 2006*

12.2 Documents

This Policy is implemented in conjunction with the following documents:

- Governance Rules
- Public Transparency Principles
- Good Governance Framework
- Community Engagement Policy
- Privacy and Data Protection Policy

12.3 Risk Assessment Reference

Risk Category	✓	Risk Category	✓
Asset Management		Financial Sustainability	
Committees		Human Resource Management	
Compliance – Legal & Regulatory	✓	Leadership & Organisational Culture	✓
Contract Management		Occupational Health & Safety	
Contract Tendering & Procurement		Organisational Risk Management	
Corporate Governance	✓	Project Management	
Environmental Sustainability		Public Image and Reputation	✓

Appendix One – Public Transparency Principles

In accordance with section 58 of the *Local Government Act 2020*, the following are the public transparency principles –

- (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

Appendix Two – Public Transparency Principles

As indicated in section 3 of this policy, we make a range of information and documents available to the public under a number of Acts. This table outlines the documents that are available and how you can access them.

Section	Document/information	How it can be accessed
BUILDING ACT 1993		
s.11(2)	Notice of the fact that a regulation under this Part has ceased to have effect in the municipal district or part of it	Will be published in a newspaper circulating in the municipal district
s.31	Register of all building permits under this division	Available for inspection at the Madden Avenue Council Office, by any person during normal office hours
s.74	Register of all occupancy permits and temporary approvals/amendments given to it under this Division	Available for inspection at the Madden Avenue Council Office, by any person during normal office hours
s.126	Register of all emergency orders, building notices or building orders given to Council under this Part	Available for inspection at the Madden Avenue Council Office, by any person during normal office hours
s.192A(8)	Copy of the most recent map given to Council under subsection 192A(7)	Available for inspection at the Madden Avenue Council Office, by any person during normal office hours free of charge
s.216D	Register of swimming pools and spas located in the municipal district	Certain persons may inspect in accordance with subsection s.216D(7)
s.230	Register of exercise of powers of entry	Made available for inspection by the Authority on request
BUILDING REGULATIONS 2018		
r.50	Copy of any documents submitted with an application for a building permit	On request of an owner/mortgagee of the building/land or person authorised in writing by such person
rr.51 & 52	Certain information on request	On request and payment of a fee
r.149(4)	Copy of each designated special area map applicable	Available for inspection at the Madden Avenue Council Office, by any person during normal office hours free of charge
CATCHMENT AND LAND PROTECTION ACT 1994		

Section	Document/information	How it can be accessed
s.22I(1)	Approved roadside weed and pest animal management plan	Available for inspection at the Madden Avenue Council office during normal office hours, and published on Council's website as soon as practicable after the plan is approved
s.22M(1)	Consolidated version of approved roadside weed and pest animal management plan	Available for inspection at the Madden Avenue Council office during normal office hours, and published on Council's website as soon as practicable after the plan is approved
COUNTRY FIRE AUTHORITY ACT 1958		
s.50F(4)	Municipal Council Neighborhood Safer Places Plan	Available for inspection at the Madden Avenue Council Office, by any person during normal office hours and published on Council's website
DEVELOPMENT VICTORIA ACT 2003		
s.56E(3)	Register of Certificates	Made available for inspection by Development Australia or any other interested person
DOMESTIC ANIMALS ACT 1994		
s.10A(3)(a)	Resolution made by Council under s.10A	Published in the Government Gazette and a newspaper circulating in the municipal district
s.10C(5)	Resolution made by Council under s.10C	Published in the Government Gazette and a newspaper circulating in the municipal district
s.10D(6)	Resolution made by Council under s.10D	Published in the Government Gazette and a newspaper circulating in the municipal district
s.18	Register of all registered dogs and cats	Available for inspection at the Madden Avenue Council Office, by any person during normal office hours
s.25(3)	Orders made by Council under s.25(3)	Published in the Government Gazette and a newspaper circulating in the municipal district
s.26(3)	Orders made by Council under s.26(3)	Published in the Government Gazette and a newspaper circulating in the municipal district
s.68A	Publish an evaluation of its implementation of the domestic animal management plan	Annual Report
FILMING APPROVAL ACT 2014		

Section	Document/information	How it can be accessed
Sch 1 Principle 7	Film permits issued and any other relevant information	Available on Council's website
FOOD ACT 1984		
s.19U(4)	The method of determining the reasonable costs of an audit payable under subsection 19U(2) and the criteria fixed under subsection 19U(3)	Available for inspection at the Madden Avenue Council Office, by any person during normal office hours
s.19UA(5)	The method of determining a fee under subsection 19UA(3)(a) and the considerations that apply under subsection 19UA(4)	Available for inspection at the Madden Avenue Council Office, by any person during normal office hours
s.43	Records of registrations, renewals and transfers in relation to a particular food premises, including details of any relevant orders	Available free of charge on request
FREEDOM OF INFORMATION ACT 1982		
Part II	Information concerning functions etc and documents available for inspection and purchase	In the Annual Report or on Council's website
GENDER EQUALITY ACT 2020		
s.12(3)(a)	Gender Equality Action Plan	Available on Council's website (in force from 31 March 2021)
s.13(3)	A report or other document taken to be a Gender Equality Action Plan	Available on Council's website (in force from 31 March 2021)
s.15(2)(b)	Amended Gender Equality Action Plan	Available on Council's website (in force from 31 March 2021)
s.20	Progress Report	Available on Council's website (in force from 31 March 2021)
INFRINGEMENTS ACT 2006		
s.9	Enforcement Agency Guidelines and Policies	Can be published at Council's discretion
LAND ACQUISITION AND COMPENSATION ACT 1986		
ss.19 & 23	Notice declaring interest in land to be acquired	Published in the Government Gazette and a newspaper circulating in the municipal district
LOCAL GOVERNMENT ACT 2020		
s.11(8)	Public register of delegations	Unspecified
s.18(1)(d)	Mayor must report on implementation of the Council Plan	Must report to the municipal community at least once a year

Section	Document/information	How it can be accessed
s.40(2)	Details of reimbursements	Must be provided to the Audit and Risk Committee
s.41(1)	Expenses policy in relation to reimbursement of out of pocket expenses	Unspecified
s.45	CEO Employment and Remuneration Policy	Unspecified
s.47(7)	Register of CEO's delegations	Unspecified
s.48	Recruitment policy for members of Council staff	Unspecified
s.49	Code of Conduct for members of Council staff	Unspecified
s.57	Public transparency policy	Unspecified
s.60	Governance Rules	Unspecified
s.63	Delegated Committee	Unspecified
s.64	Joint Delegated Committee	Unspecified
s.65	Community Asset Committee	Unspecified
s.66(5)	Must record in the minutes of closed meetings certain information	Minutes made available for public inspection
s.73	Proposing a local law	Made available for inspection at Council's office and website [Publish notice of proposed local law until made or altered]
s.74(4)	Making a local law	Copy made available for inspection at Council's office and website
s.74(5)	Notice of local law made	Published in the Government Gazette, website and in any other manner prescribed by the regulations
s.75	Local law as made	Copy of local law as long as local law is in force made available for inspection at Council's office and website

Section	Document/information	How it can be accessed
s.76(3)	Notice of amendment of any document, code, standard, rule, specification or method which contains any matter incorporated in a local law	Published on Council's website
s.76(4)	Copy of any document, code, standard, rule, specification or method which contains any matter incorporated in a local law	Made available for inspection at Council's office and website
s.90	Council Plan	Unspecified (in force from 24 October 2020)
s.91	Financial Plan	Unspecified (in force from 24 October 2020)
s.92	Asset Plan	Unspecified (in force from 24 October 2020)
ss.94 & 95 & 96 & 97?	Budget	Unspecified (in force from 24 October 2020)
s.98 & 99 & 100	Annual Report	Unspecified (in force from 24 October 2020)
s.107	Complaints Policy	Unspecified (in force from 24 October 2020)
ss.108 & 109	Procurement	Unspecified (in force from 24 October 2020)
s.114	Selling or exchanging land	Publish notice 4 weeks prior to leasing on website and in any other manner prescribed by the regulations
s.115	Lease of land	Unspecified [If lease not included in budget, must engage community engagement process in accordance with community engagement policy]
s.130(2)	Disclosure of conflicts of interests at meetings	Unspecified [In accordance with Governance Rules]
s.135(3)	Summary of personal interest returns	Made available for inspection at Council's office and website
s.138	Councillor Gift Policy	Unspecified (in force from 24 October 2020) Must be adopted within 6 months of commencement of this section
s.139	Councillor Code of Conduct	Unspecified (in force from 24 October 2020) Must be reviewed and adopted within 4 months after a general election

Section	Document/information	How it can be accessed
s.307	Summary of each election campaign donation return	Summary made available on Council's website
s.308	Copy of election campaign donation return	Summary made available on Council's website until the close of the roll for the next election Copy made available for inspection at Council's office for 4 years.
LOCAL GOVERNMENT ACT 1989		
s.76C(6)	Copy of current Councillor Code of Conduct	Available for public inspection at Council office and website
s.94(6)	Resolution to reappoint a CEO	Available for public inspection within 14 days after passing of the resolution
s.119(2A)	Copy of proposed local law	Available for public inspection at the Council office during ordinary business hours
s.120	Copy of every local law	Available for public inspection at the Council office during office hours and can be purchased on demand
s.120(3)	Copy of every document incorporated by a local law	Available for public inspection at the Council office during office hours
s.125(3A)	Proposed Council Plan	Available on our website and for public inspection at the Council office and any other place required by the regulations
s.125(11)	Current Council Plan	Available on our website for public inspection at the Council office and any other place required by the regulations
s.126(4)	Strategic Resource Plan	Available for public inspection at the Council office and any other place required by the regulations
s.129(3)(b)	Proposed budget or revised budget	Available for public inspection for at least 28 days at the Council office and any other place required by the regulations
s.130(9)	Budget or revised budget	Available for public inspection at the Council staff and any other place required by the regulations
s.133(3)	Annual report	Available on our website and for public inspection at the Council staff and any other place required by the regulations

Section	Document/information	How it can be accessed
s.157(2)	Notice of change to valuation system	Publish public notice – can be via website as per definition
s.161(3)	Differential rates	Made available for inspection at Council's office and website
s.163(1B)	Special rate and special charge – public notice	Available for public inspection at the Council office for at least 28 days after the publication of the notice
s.186A	Procurement policy	Available for public inspection at the Council office and website In force until 1 July 2021
s.208F	Any quality or cost standards adopted	Public inspection Section to be repealed on 1 July 2021
s.223(1)(a)	Right to make a submission	Publish public notice – can be via website as per definition
s.224	Register of Authorised Officers	Unspecified
Sch 10 Cl 2(3)	Deviation of roads – publish notice	Government Gazette
Sch 10 Cl 8(3)	Narrow or widen roads – publish notice	Government Gazette
LOCAL GOVERNMENT (ELECTORAL) REGULATIONS 2020		
r.35	Register of attendance of Local Government Candidate Training	On request from the Chief Municipal Inspector or the Victorian Electoral Commission
PLANNING AND ENVIRONMENT ACT 1987		
s.4H	Copy of approved amendment	Made available for inspection free of charge at Council's office during office hours for two months after the amendment comes into operation and after that period on payment of the prescribed fee
s4I	Copy of the Victoria Planning Provisions incorporating all amendments to them and of all documents lodged with those amendments	Made available for inspection free of charge at Council's office during office hours

Section	Document/information	How it can be accessed
s.18	Amendment, the explanatory report, any document applied, adopted or incorporated in the amendment and any accompanying agreement	Made available for inspection free of charge at Council's offices during office hours until the amendment is approved or lapses
s.21	Copy of every submission	Made available for inspection free of charge at Council's office during office hours until the end of two months after the amendment comes into operation or lapses
s.26	Panel hearing reports	Made available for inspection free of charge at Council's office during office hours until the end of two months after the amendment comes into operation or lapses
s.41	Copy of approved amendment lodged under s 40 and any documents lodged with it	Made available for inspection free of charge at Council's office during office hours for two months after the amendment comes into operation and after that period on payment of the prescribed fee
s.42	Copy of the planning scheme incorporating all amendments to it and of all documents lodged with those amendments	Made available for inspection free of charge at Council's office during office hours
s.49	Register of all applications for planning permits and decisions/determinations relating to permits	Made available for inspection free of charge at Council's office during office hours
s.51	Copy of every application and the prescribed information supplied in respect of it	Made available for inspection free of charge at Council's office during office hours until: (a) the end of the latest period during which an application for review may be made under ss 77, 79, 80 or 82 in relation to the application or the permit; or (b) if an application for review is made to VCAT within that period, the application is determined by VCAT or withdrawn
s.57(5)	Copy of objection to planning permit	Made available for inspection free of charge at Council's office during office hours until the end of the period during which an application may be made for review of a decision on the application
s.70	Copy of every permit issued	Made available for inspection free of charge at Council's office during office hours
s.97G(6)	Copy of every permit issued under s 97F	Available for inspection at the Council's office during office hours free of charge and/or via website (s 205)

Section	Document/information	How it can be accessed
PUBLIC HEALTH AND WELLBEING ACT 2008		
s.26(7)	Municipal Public Health and Wellbeing Plan [unless s 27 applies]	Made available for inspection at the places at which the current Council Plan is available
ROAD MANAGEMENT ACT 2004		
s.19	Register of public roads	Available for inspection by any person during normal office hours
s.86	Register of exercise of powers of entry	Unspecified
s.22(4)	Copy or summary of Ministerial direction	Annual report
Sch 2 Cl 5(1)	Notice of the making, amending or revoking of a declaration made under s 42	Government Gazette
SEX WORK ACT 1994		
s.81(1)(a)	Notice of the making of the declaration made under s 80	Newspaper generally circulating in the area in which the premises is situated
RESIDENTIAL TENANCIES (CARAVAN PARKS AND MOVABLE DWELLINGS REGISTRATION AND STANDARDS) REGULATIONS 2020		
r.17	Register of caravan parks	Unspecified
SUBDIVISION (PROCEDURES) REGULATIONS 2011		
r.33	Register of all applications [Kept in conjunction with the register of permit applications required to be kept under s 49(1) of the <i>Planning and Environment Act 1987</i>]	Available for inspection by any person during normal office hours
WATER ACT 1989		
s.32H	Copy of approved management plan	Available for public inspection at the Council office during office hours free of charge