



14.4 **ADOPTION OF PUBLIC TRANSPARENCY POLICY**

EXECUTIVE MEMBER: **KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND ORGANISATIONAL CAPABILITY**

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1. PURPOSE

1.1 This report presents to Council a summary of feedback received through community consultation on the draft Public Transparency Policy and recommends adoption of the Policy required under section 57 of the Local Government Act 2020.

2. EXECUTIVE SUMMARY

2.1 The Local Government Act 2020 (the Act) requires Council to adopt and maintain a Public Transparency Policy. Council must adopt its first public transparency policy on or before 1 September 2020.

2.2 A public transparency policy adopted under the Act must—

- a) give effect to the public transparency principles;
- b) describe the ways in which Council information is to be made publicly available;
- c) specify which Council information must be publicly available, including all policies, plans and reports required under this Act or any other Act.

2.3 At its meeting of 1 July 2020, Council endorsed for community consultation the draft Public Transparency Policy and invited written submissions and community feedback on the draft Policy until 31 July 2020. Two submissions were received through the feedback process.

2.4 This report outlines the feedback received and recommends the adoption of the Public Transparency Policy.

3. RECOMMENDATION

That Council:

- 3.1 Adopts the proposed Public Transparency Policy required under section 57 of the Local Government Act 2020 (Attachment 1).
- 3.2 Thanks those who gave feedback for their contribution.
- 3.3 Delegates authority to the Chief Executive Officer to make minor amendments to the documents to correct drafting errors that do not materially alter the intent of the policy.

4. KEY POINTS/ISSUES

4.1 One of the overarching principles of the new Local Government Act 2020 is that “the transparency of Council decisions, actions and information is to be ensured”. The public transparency principles, at section 58 of the Act, must be applied to all aspects of a council’s operations and decision making. The public transparency principles are—

- (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.
- 4.2 The proposed policy covers documentary information, process information and how information will be made available to the public and once adopted will become an integral part of council's Good Governance.
- 4.3 The proposed Policy has been developed using a base template and guidance material released by State Government, and built upon by recognising and incorporating the additional transparency activities undertaken by Port Phillip, including:
- 4.4.1 Publishing a range of City of Port Phillip data sets through Open Data (Data.Vic)
 - 4.4.2 Mandatory reporting under Local Government Performance Reporting Framework (LGPRF)
 - 4.4.3 Releasing publicly, wherever possible, information that has previously been considered in confidence
 - 4.4.4 Reporting regularly on the performance of Council through the monthly CEO report, the annual report and a quarterly report of progress against Council decisions
- 4.4 Information requests
- Members of the public can make different kinds of information requests (e.g. informal requests for documents and information or formal FOI requests). Council will respond to requests for information in alignment with:
- the Act including the Public Transparency Principles, and this policy
 - Part II statement made under the *Freedom of Information Act 1982*
 - Public Interest Test
 - Accessibility and cultural requirements under the *Charter of Human Rights and Responsibilities Act 2006*
- 4.5 The Freedom of Information Act 1982 (FOI Act)
- The Public Transparency Principles provide significant parallels with Victoria's FOI Act. Councils must have regard to the principles underpinning the FOI Act, which establishes a "*general right of access to information... limited only by exceptions and exemptions necessary for the protection of essential public interests...*" and "*making available to the public information about the operation of agencies and, in particular, ensuring that rules and practices affecting member of the public in their dealings with agencies are readily available...*" (s 3, Freedom of Information Act 1982, Government of Victoria).
- 4.6 Confidential Information
- Under the previous Act certain matters were automatically considered confidential – this included personnel information, contracts, and matters that might prejudice the



council or any person. The new Act assumes, instead, that all matters must be public, except in very specific and limited circumstances. Detailed requirements included in the old Act are replaced as far as possible by high-level principles about transparency in decision making and community accountability.

While many of the matters that could be considered confidential under the old act will remain so under the new Act, this is now limited to matters that are either:

- confidential by virtue of the Local Government Act 2020 or any other Act, or
- public availability of the information would be contrary to the public interest.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 The Public Transparency Policy is a statutory document which incorporates prescribed requirements of the Local Government Act 2020.
- 5.2 Officers have worked closely with Local Government Victoria, legal advisors, sector bodies and colleagues at neighbouring Councils to interpret legislative requirements and develop the draft policy.
- 5.3 The draft policy was provided to the Council's Audit Committee for review. Feedback provided by the Committee has been incorporated into the final proposed document.
- 5.4 Following the adoption of the draft document, Council launched an online engagement page: <https://haveyoursay.portphillip.vic.gov.au/local-government-act-2020>. The page provided viewers with information on the new Act, draft documents, key dates in the process, and the opportunity to provide feedback. The page was circulated to community networks and promoted through Council's social media channels.
- 5.5 Formal Submissions

Two submissions were received through the feedback process:

Received From	Key themes	Officer comment
Chairperson of OPCC (Older Persons' Consultative Committee)	<p>I would encourage Council to be broad in its application of transparency, in particular how information is conveyed to the residents in CoPP.</p> <p>As current Chairperson of OPCC (Older Persons' Consultative Committee) I have (as do all members of our committee) an interest in how the older residents will be informed.</p> <p>While there are good information conduits online, I would ask that notice be taken of those residents who do not, or cannot, access online services.</p> <p>The printed publication <i>Diversity</i> is a good information channel. It</p>	<p>This feedback engages the principles of accessibility and awareness of Council information.</p> <p>While Council records will, at a minimum, be available on Council's website, hard copy documents will also be made available on request.</p> <p>Council previously agreed to discontinue <i>Diversity</i> as a print publication and move to an online version but will make physical copies available at libraries and community centres. Council publishes a range of other newsletters, reports and handbooks for residents, businesses and visitors to Council. These can be downloaded from the website or members of the community can call Council for a copy. Some of these publications are available at Council's Libraries.</p>

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	<p>is understood the publication is popular with residents.</p> <p>Perhaps some thought could be given to personal presentations (with visual aids) in strategic points of the CoPP. Eg., Mary Keogh Centre, Libraries, Learning Centres, & Club premises where seniors congregate, to name a few.</p> <p>As the population ages, it is important to be innovative in disseminating information; to think 'outside the box', & to reach out.</p>	<p>Council will continue to utilise its networks – including advisory committees such as the OPCC, to ensure information is shared broadly across the municipality.</p> <p>Under the new Act, Councils must have a Community Engagement Policy in place by 1 March 2021, to be applied in the development of planning and financial management, community vision, council plan, financial plan, revenue and rating planning, asset plan.</p> <p>The feedback that relates to communications will be referred to the development of the Community Engagement Policy, and officers will work further with the OPCC in seeking their views on Council's engagement with older persons in the community.</p>
<p>PECAN (Port Phillip Emergency Climate Action Network)</p>	<p>Recommendation 1: That we support the intention of the Act and the additional explanatory provisions of the CoPP which include the right to fully participate in the Council decision making processes.</p> <p>Recommendation 2: The intention of this section is generally supported.</p> <p>Recommendation 3: A time framework to be provided for all Policies Plans and Reports including a requirement for an annual summary of all items including the project specification, original date for completion and current status.</p> <p>Recommendation 4: That all technical Reports (including Consultants reports with their project specification) be listed and released in a timely manner.</p> <p>Recommendation 5: That principles for data collection be adopted in line with those of the CoM. All the matters listed by CoM on open data are imperative if the CoPP is to progress to the stage of responding to community priorities</p> <p>Recommendation 6: The requirement for release of data</p>	<p>A number of control mechanisms have been introduced to govern the creation and management of artefacts for City of Port Phillip. The Policy Architecture Framework provides clear hierarchy, definitions and document lifespans. This streamlined approach will clarify artefact creation and management, and introduce stakeholder engagement, document lifespan, associated strategic direction, overarching/associated documents and required reporting. This framework applies to all policy, strategy and plan documents.</p> <p>The Public Transparency Policy picks up that Relevant technical reports and / or research that informs decision making will be available information wherever possible noting that some reports are not the intellectual property of Council but that of other organisations, and Council is bound by the conditions in which it receives the reports from these third parties. Wherever possible Council will endeavour to seek permission from third parties to release all or part of the various reports as appropriate.</p> <p>The Australian Government Public Data Policy is administered through the federal Digital Transformation Agency (DTA), who also maintains the primary gateway to government data – www.data.gov.au.</p> <p>The federal government's public data policy statement requires all government agencies to make non-sensitive data open by default.</p>



	<p>within set standards and accountabilities is especially important and relates to the capacity of the community to make considered responses to Council services planning, operational and Budget discussions. See Recommendations 3 and 4 above.</p> <p>Recommendation 7: Careful consideration should be given to using the New Zealand Model of developing priorities using the NAMS accounting principles and practices (or their equivalent).</p> <p>Recommendation 8: That councillors are encouraged to review current administrative procedures to better engage their community in decision making. Ward meetings, workshops, Deliberative panels and place-based planning on key issues would all bring a new sense of engagement and involvement between residents, community groups and Council and promote improved decision making to achieve better outcomes.</p> <p>Recommendation 9: That CoPP re-think the role of libraries to facilitate information sharing and provide resources to assist its citizens in participation in the decisions making of the City.</p> <p>Recommendation 10: The City urgently needs spaces for people (information research and communication hubs).</p>	<p>The public data policy statement determines that agencies should publish anonymised data -</p> <ul style="list-style-type: none"> • on or linked through data.gov.au for discoverability and availability • in a machine-readable, spatially-enabled format • with high quality, easy to use and freely available API access • with descriptive metadata • using agreed open standards • kept up to date in an automated way • under a Creative Commons By Attribution licence unless a clear case is made to the Department of the Prime Minister and Cabinet for another open licence. <p>Data available is as complete and granular as possible. The data is made available freely, without the need to register details and without any licences that restrict how data is reused.</p> <p>To be considered 'open', data needs to be:</p> <ul style="list-style-type: none"> • published as close to its time of collection as possible • organised in a format that allows for machine processing • available in an open file format • made available in a permanent and stable format online <p>Officers note the recommendations relating to New Zealand accounting practices; and the need for research and communication hubs.</p> <p>The feedback relating to engagement and communications will be referred to the development of the new Community Engagement Policy, required to be in place by 1 March 2021 under the new Act, and officers will work further with PECAN in seeking their views on Council's engagement with the community.</p>
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6. LEGAL AND RISK IMPLICATIONS

6.1 Adoption of a Public Transparency Policy by 1 September 2020 ensures Council's compliance with the requirements of section 57 of Local Government Act 2020.



7. FINANCIAL IMPACT

7.1 Funding for the development of Policies required under the Local Government Act 2020 has been provided for in existing budgets.

8. ENVIRONMENTAL IMPACT

8.1 There is no direct environmental impact resulting from Council adopting a Public Transparency Policy.

9. COMMUNITY IMPACT

9.1 Good governance helps people feel that Council will act in the community's overall interest. It also encourages Councils to remember that they are acting on behalf of their community and helps them to understand the importance of having open and ethical processes which adhere to the law and stand up to scrutiny.

9.2 The Policy seeks to raise awareness of the information held by Council and the ways information can be accessed by the community and acknowledges that public sector information is an important community asset that wherever possible should be available for access and use by our community.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 Adoption of the Public Transparency Policy aligns with Direction 6 of the Council Plan (Our Commitment to You), by providing a transparent and good governance approach to decision making and aids in achieving a financially sustainable, high performing, well governed organisation that puts the community first.

11. IMPLEMENTATION STRATEGY

11.1 The Policy takes effect once adopted. Officers will commence working on making publicly available on Council's website the documents and information outlined in the Policy.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

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ATTACHMENTS 1. Public Transparency Policy