

Data Exchange Policy 2022 - 2026

A4615564

1. Purpose and Intent

This Policy is intended to facilitate the controlled collection of **data** and proactive release of **Council data** as appropriate to provide benefit to **Council** and the community, while meeting legal and contractual obligations. There is an increasing mandate for local government to provide greater transparency to the community and deliver more value, and one way to do this is through the release and sharing of **Council data**. This Policy supports Council's obligation under section 3(2) of the Freedom of Information Act for the proactive release of information.

2. Scope

This Policy covers all **Council data**, except:

- **data** which **Council** does not own the copyright to or has **no right to share**
- internal working documents of **Council** such as drafts, working notes, and rough calculations
- **data** that is in an **unstructured** format
- **data** that is legislated to be shared or reported
- **data** that is shared for law enforcement purposes

This Policy also covers the sharing of **data** with Council by other organisations when that data is not already in the public domain.

3. Definitions

Classified as Public Data Council with a confidentiality Business Impact Level of Minor (1) that has been approved under this Policy for unlimited public release.

Confidential Information As defined in the Local Government Act 2020 (Vic). This means the following:

- (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;
- (j) Councillor Conduct Panel confidential information, being information specified in section 169;
- (k) information prescribed by the regulations to be confidential information for the purposes of this definition;
- (l) information that was confidential information for the purposes of section 77 of the Local Government Act 1989.

Council	means Frankston City Council.
Council data	means data created or collected by Council or on behalf of Council by a contracted service provider.
Data	means any facts, statistics, instructions, concepts or other information in a structured form that is capable of being communicated, analysed or processed (whether by an individual or by a computer or other automated means).
Data owner	defined as the Council Manager responsible for that service or department that the data relates to.
Data quality statement	An associated statement with published data that highlights any known issues with the data that is published to give users context on how to work with the data.
Data sharing body	As defined in the Data Sharing Act 2017 (Vic). This means: <ul style="list-style-type: none"> (a) a public service body; or (b) a public entity; or (c) Victoria Police; or (d) any of the following prescribed by the regulations for the purposes of this paragraph— <ul style="list-style-type: none"> (i) a body established or appointed for a public purpose by or under an Act;

- (ii) a body established or appointed for a public purpose by the Governor in Council, or by a Minister, otherwise than under an Act;
- (iii) a person holding an office or position established by or under an Act (other than the office of member of the Parliament of Victoria) or to which the person was appointed by the Governor in Council, or by a Minister, otherwise than under an Act.

EMT	Executive Management Team
EMT or its Delegate	The group or position who will determine which data will be made available under this policy and how.
Health Information	<p>As defined in the Health Records Act 2001 (Vic). This means:</p> <ul style="list-style-type: none"> a) information or an opinion about: <ul style="list-style-type: none"> i. the physical, mental or psychological health (at any time) of an individual; or ii. a disability (at any time) of an individual; or iii. an individual's expressed wishes about the future provision of health services to him or her; or iv. a health service provided, or to be provided, to an individual. b) that is also personal information; or c) other personal information collected to provide, or in providing, a health service; or d) other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances; or e) other personal information that is genetic information about an individual in a form which is or could be predictive of the health (at any time) of the individual or of any of his or her descendants. <p>but does not include health information, or a class of health information or health information contained in a class of documents, that is prescribed as exempt health information for the purposes of this Act generally or for the purposes of specified provisions of this Act.</p>
Machine-readable format	As defined by the Open Council Data Standards, spatial data containing lines and polygons this would be GeoJSON with latitude and longitude given in decimal degrees (EPSG:4326), for all other spatial data (point datasets) and those containing no spatial data CSV is the specified format.
Metadata	means descriptive information about the content, context, structure and management of data .
No right to share	Council has access to many datasets but some of them cannot be shared with the public or other entities due to copyright or licensing restrictions.

Personal Information As defined in the Privacy and Data Protection Act 2014 (Vic). This means information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include information of a kind to which the Health Records Act 2001 applies.

Note: These defined terms appear throughout the Policy in ***bold italic font***.

4. Authorisation

This Policy is managed by the Manager Business Transformation, and is approved by Frankston City's Mayor and Council's Chief Executive Officer (CEO):



Mayor, Frankston City



CEO, Frankston City Council

in accordance with Frankston City Council resolution at its Council meeting of Monday 6th June 2022.

5. Policy

5.1 Controlled Access

- 5.1.1 **Council** may make copies of **Council data** available under this Policy if the release is consistent with **Council's** legal obligations.
- 5.1.2 Access to **Council data** that is not approved under this Policy may be granted through a request made under the Freedom of Information Act 1982 (Vic).
- 5.1.3 **Council data** which has been **classified as Public** and approved to be open data under this Policy will be easy to find and accessible in **machine-readable formats** that promote its reuse.
- 5.1.4 Any **Council data** which is proposed to be shared with an individual or entity outside Council or made public under this Policy will be submitted to **EMT or its Delegate** for assessment.
- 5.1.5 **EMT or its Delegate** will assess all **Council data** proposed to be released and decide whether or not to make the data available for release.
- 5.1.6 **EMT or its Delegate** will determine whether **Council data** should be shared under this Policy, taking into account all relevant considerations, including but not limited to:
 - a) the risk of releasing the **data** in accordance with **Council's** Risk Management practices and **Council's** Business Impact Level Table;

- b) the nature of the **data** and the purpose for which the data was collected by **Council**;
- c) the views of the **data owner** who has responsibility for the **data**;
- d) whether or not the **data** includes any **confidential information** or information that Council has **no right to share**
- e) the potential for the **data** to be used for non-ethical purposes, including the risk of data re-identification for de-identified **personal information**;
- f) all other relevant consequences and benefits of making the **data** available;
- g) the audience which would likely have access to the **data**; and
- h) compliance with Council's Privacy Policy and applicable Privacy legislation if the **data** includes any **personal information or health information**.

5.1.7 **EMT or its Delegate** will document all assessments made under this Policy and keep them in Council's records to help justify the release of **Council data**.

5.2 Availability and Licensing

5.2.1 EMT or its Delegate may determine the terms and conditions on which Council data approved for sharing will be made available. If the data is deemed to be public then where possible, Creative Commons Attribution 4.0 International (CC-BY) or similar flexible license, allowing for unrestricted reuse by the public, is recommended.

5.3 Publishing of Public Data

Council may publish copies of **Council data classified as Public**, where the data is not already publicly available.

- 5.3.1 **Council data** which is made available to the public under this policy may be published at:
 - a) Frankston's website www.frankston.vic.gov.au;
 - b) The Australian Government open data portal www.data.gov.au;
 - c) The Victorian Government data directory www.data.vic.gov.au; or
 - d) Another suitable online location.
- 5.3.2 Where possible, automatic publishing tools will be used to keep published **data** current. Where automated publishing tools are not used, published **data** will be reviewed for currency.
- 5.3.3 **Council** will take reasonable steps to maintain the **data** and its quality to ensure that others can have confidence in the insights and decisions that they make on the basis of **Council data**. **Council** will be upfront about the quality of its **data** through an associated **data quality statement** published with its data. Users of the **data** can then take that into account when working with **Council data**.

5.4 Data Sharing Agreements for Non-Public Data

- 5.4.1 Council will take reasonable steps to ensure that **data** shared under this Policy is managed securely and in line with **Council's** legal obligations, including – where appropriate and necessary to do so – by entering into contractual arrangements with other parties (such as Data Sharing Agreements) which specify:
- the timeframe for access to the **data**;
 - where and how the **data** will be stored;
 - arrangements for access to the **data**;
 - permitted uses of the **data**;
 - whether the **data** will be destroyed after a given timeframe and if so how; and
 - data** security measures.
- 5.4.2 Where external **data** is shared with **Council**, **Council** will at a minimum uphold the standards we expect of other parties we share **data** with as well as conditions imposed or agreed with the **data sharing body**.
- 5.4.3 **Council** will only collect non-public external data containing **Personal Information** if it is permitted to collect it under **Council's** Privacy Policy and Privacy legislation.

5.5 Standards, Metadata and Administration

- 5.5.1 **Council** will follow Australian Open Council Data Standards and industry best practice relating to the release of **data** and accountability for that release. **Metadata** will be provided to inform users of the context and any gaps or limitations in the **data**.
- 5.5.2 **Council** will maintain a central register listing all **data** that is approved for release.

6. Roles and Responsibilities

EMT or its delegate is:

- Responsible for ensuring that they are familiar with the requirements of this Policy;
- Accountable for **Council's** overall compliance with this Policy;
- Responsible for ensuring that **Council** meets all its legal obligations relating to the sharing of **data**;
- Responsible for maximising the value of its **data** and the benefit to **Council** and community through sharing; and
- Responsible for assessing and advising on proposals for the release of **Council data**.

Data owners are:

- Responsible for ensuring that they are familiar with the requirements of this Policy;
- Accountable for the **data** quality and ensuring that it is fit for purpose;
- Accountable for changes affecting the **data** and notification of affected parties;

- Responsible for the security classification assigned to their **data** and who has what access; and
- Responsible for referring requests or proposals for the release of **Council data** to **EMT or its Delegate**.

Manager Business Transformation is:

- Responsible for providing clarification or advice about the interpretation of this Policy; and
- Responsible for ensuring Data Sharing Agreements for non-public **data** are established, legally binding and provide adequate cover for **Council**.

Coordinator Digital and Data is:

- Accountable for maintaining a central Register of all shared **data**; and
- Responsible for providing clarification or advice about the interpretation of this Policy.

Coordinator Freedom of Information and Privacy is:

- Responsible for providing clarification or advice about **Council's** privacy and FOI legislation obligations.

All other staff are:

- Responsible for referring any requests or proposals for the release of **Council data** to the **Data owner**. If the data owner is not known, advice should be sought from the Coordinator Digital and Data.

7. Policy Non-compliance

Failure to comply with this Policy may constitute a breach of the Staff Code of Conduct, legislative requirements such as (but not limited to) the Privacy and Data Protection Act 2014 (Vic), legislation specifically associated with the relevant **data**, and Data Sharing Agreements with other entities.

Non-compliance with this Policy has the potential to negatively impact financially, and on the reputation of the relevant individuals, and of **Council**.

8. Related Documents

- Data Sharing Act 2017 (Vic)
- Freedom of Information Act 1982 (Vic)
- Health Records Act 2001 (Vic)
- Local Government Act 2020 (Vic)
- Privacy Act 1988 (Cth)
- Privacy and Data Protection Act 2014 (Vic)
- Public Records Act 1973 (Vic)
- Privacy Policy
- Public Transparency Policy
- Records Management Policy

- Australian Government Open Data portal www.data.gov.au
- Best Practice Guide to Applying Data Sharing Principles <https://www.pmc.gov.au/resource-centre/public-data/data-sharing-principles>
- Creative Commons Attribution 4.0 International www.creativecommons.org/licenses/by/4.0/
- Data on the Web Best Practices <https://www.w3.org/TR/2017/REC-dwbp-20170131/>
- Open Council Data www.opencouncildata.org
- Open Council Data Standards <https://standards.opencouncildata.org/>
- OVIC Business Impact Level Table <https://ovic.vic.gov.au/resource/vpdsf-business-impact-level-table-v2-0/>
- Victorian Government Data Directory www.data.vic.gov.au
- Victorian Government Data Directory Metadata <https://www.enterprisesolutions.vic.gov.au/wp-content/uploads/2018/09/IM-STD-09-Victorian-Government-Data-Directory-Metadata-Standard2.pdf>
- Victorian Government Data Exchange Framework <https://www.vic.gov.au/data-policies-and-standards#data-exchange-framework>

9. Implementation of the Policy

This Policy (in conjunction with other Related Documents) will be made available on **Council's** website and intranet so that it can be used by employees of **Council**, including contractors and agency and/or labour hire staff engaged by **Council**, to understand the requirements for how **data** can be exchanged.

10. Document History

Date approved	Change Type	Version	Next Review Date
6/6/2022	New	1	June 2026