

1. Purpose and intent

This policy supports Council's commitment to good governance. It reinforces the importance of open and accountable conduct and decision-making and describes how Council information is to be made publicly available.

Council must adopt and maintain a public transparency policy under section 57 of the *Local Government Act 2020* (the Act). Council commits to the 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.*

2. Scope

This policy applies to Councillors and Council staff.

3. Definitions

Municipal community	Is defined in the Act to include: <ul style="list-style-type: none">• People who live in the Frankston City Council municipality• People and bodies who are ratepayers of Frankston City Council• Traditional owners of land in the Frankston City Council municipality• People and bodies who conduct activities in the Frankston City Council municipality
Public Interest Test	There is no definition in the Act as to when public availability of information would be contrary to the public interest. Council must identify and balance the competing public interests in each case to make a determination. Council may decide not to make information publicly available if it determines that the public harm likely to be created by releasing the information will exceed the public benefit in being transparent.

4. Authorisation

This Policy is managed by the Governance and Information Department, and is approved by Frankston City's Mayor and Council's Chief Executive Officer (CEO):

S. Mayer

[Signature]

Mayor, Frankston City

CEO, Frankston City Council

in accordance with Frankston City Council resolution at its Ordinary Council meeting of 31 August 2020.

5. Policy

5.1 Transparent decision making

Decision making at Council meetings

- Will be undertaken in accordance with the Act and the Governance Rules.
- Will be conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules.
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- Will be undertaken fairly and on the merits. Where any person's 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.

5.2 Publicly available Council information

Council's Part II statement, published in accordance with the *Freedom of Information Act 1982*, lists publicly available Council information. This information includes but is not limited to:

Documents such as:

- Plans and Reports adopted by Council;
- Policies;
- Project and service plans;
- Relevant technical reports and / or research that informs decision making.

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.

Council records such as:

- Council meeting agendas;
- Minutes of Council meetings;
- Reports from Advisory Committees to Council;
- Audit and Risk Committee Performance Reporting;
- Terms of reference or charters for Advisory Committees;
- Register of gifts, benefits and hospitality offered to Councillors or Council Staff;
- Register of travel undertaken by Councillors or Council Staff;
- Register of Conflicts of Interest disclosed by Councillors or Council Staff;
- Submissions made by Council;
- Register of donations and grants made by Council;
- Register 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 returns
- Any other Registers or Records required by legislation or determined to be in the public interest.

Publications

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

5.3 Council information which is not publicly available

Some Council information is not publicly available, for example if the information is confidential information, or if its release would be contrary to the public interest or 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.

Type	Description
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.
Legally 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 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>

Council may decide, in the interests of transparency, to release information to the public even though it is confidential under the Act. However, this will not occur if release is contrary to law, likely to cause harm to any person, or is not in the public interest.

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

5.4 Access to information

Publicly available information will be made available on Council's website, at the Council Civic Centre, or by request.

Requests for information or documents not available on Council's website are to be directed to Council staff or Council's Freedom of Information Officer. Officers will endeavour to provide as much information as possible free of charge within the parameters of this policy and the requirements of legislation.

Consideration will be given to accessibility and cultural requirements in accordance with the *Charter of Human Rights and Responsibilities Act 2006*.

If a requested document is not publicly available, an application for access can be made under the *Freedom of Information Act 1982*, which provides a right to seek access to any document 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. Read more at www.ovic.vic.gov.au.

6. Responsibilities

Party/parties	Roles and responsibilities	Timelines
Council	Champion commitment to the public transparency principles through leadership, modelling best practice and decision-making.	Ongoing
Executive Management Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.	Ongoing
Management Team	Manage areas of responsibility to ensure public transparency, good governance and community engagement 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 the provision of information in consultation with their manager and in alignment with this policy.	Ongoing
Senior Freedom of Information and Privacy Officer	Provide guidance to staff for determinations regarding release of information.	Ongoing
Manager Governance and Information	Monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing

7. Human Rights Charter

This policy complies with section 13 of the *Charter of Human Rights and Responsibilities Act 2006*, as it recognises an individual's right not to have their privacy unlawfully or arbitrarily interfered with. It also aligns with section 18 which recognises a person's right to participate in the conduct of public affairs.

8. 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 matter remains unresolved and the member of the community wishes to contest the decision, this can be reported to the Manager Governance and Information.

If not satisfied with Council's response, the concerns can be raised directly with the Victorian Ombudsman's office on (03) 9613 6222 or via the website – www.ombudsman.vic.gov.au.

9. Review

A periodic review of this policy will be undertaken to ensure any changes required to strengthen or update the policy are made in a timely manner.

10. Related policies and legislation

Local Government Act 2020

Local Government Act 1989

Privacy and Data Protection Act 2014

Health Records Act 2001

Freedom of Information Act 1982

Charter of Human Rights and Responsibilities Act 2006

Governance Rules

Freedom of Information Part II statement

Privacy policy

Community Engagement policy

11. Document history

Date approved	Change type	Version	Next review date
31 August 2020	New	1	August 2024